

system technology that has recently become available, combined with further improvements that are scheduled to be available within the next 24 months (i.e., by approximately the beginning of 1998), will significantly reduce air bag injuries without the need for any changes to Standard No. 208. Takata stated that it is concerned that the process of developing improved technology to eliminate air bag injuries will be delayed if Standard No. 208 is changed in response to the present concerns.

Advocates opposed reducing Standard No. 208's unbelted test speed. That organization claimed that there are several flaws in the Ford recommendation. According to Advocates, altering the inflation rate of air bags may only address a portion of the problem, may not make any difference at all, or may even create other safety concerns. Advocates also stated that the Ford recommendation is based entirely on static computer modeling that is limited to a single variable, air bag inflator rise rates, and that the recommendation is modeled on only an adult driver. Advocates stated that NHTSA should be reluctant to predicate major regulatory changes on anything less than clear and convincing evidence that a modification will improve safety.

Center for Auto Safety (CFAS) submitted a comment in August 1996 expressing a variety of concerns about the Ford recommendation, and arguing that other means of reducing air bag aggressivity should be used before manufacturers resort to decreasing the inflation rates. CFAS also stated that initial analysis of the limited data available strongly suggests that if NHTSA does anything, it should set a minimum threshold speed below which an air bag should not deploy.

Mercedes Benz suggested that, as a short-term solution, the agency consider higher deployment thresholds, as well as the use of weight sensors (a type of smart air bag) for passenger air bags. Mercedes noted that it currently uses a 12 mph delta V threshold for unbelted occupants, and an 18 mph delta V threshold for belted occupants. That company indicated that it could use the 18 mph delta V threshold for all occupants. Mercedes asserted, however, that this would not currently be permitted by Standard No. 208.<sup>1</sup>

<sup>1</sup> Mercedes did not explain the basis for this assertion. The Standard does not expressly prohibit such a threshold. Further, with appropriate interior design, including energy absorbing materials, it should be possible to meet the Standard's performance criteria.

#### B. August 1996 NPRM

As discussed above, subsequent to the agency's publication of the August 1996 NPRM, but before the comment closing date, AAMA submitted a petition for rulemaking concerning depowering air bags. AAMA requested that NHTSA immediately announce, by means of a "direct final rule," an amendment to Standard No. 208 to replace the current 30 mph unrestrained dummy barrier crash test requirement with a "standard 30 mph unrestrained dummy sled test" requirement. The petitioner contended that the standard's current requirement "directly dictates the level of the air bag's inflator power and it is the level of inflator power that unnecessarily increases the risk of injury to vehicle occupants during air bag deployment."

AAMA and each of its member companies cited the AAMA petition in their comments on the August 1996 NPRM and urged that the agency favorably respond to the petition.

The Association of International Automobile Manufacturers (AIAM) stated that until smart air bag systems are available and become widespread in the fleet, it believes that Standard No. 208 should be changed to modify or eliminate the 30 mph unbelted occupant protection requirement so that air bags could be made less aggressive. That organization stated that not only would this allow less aggressive air bags with less risk to out-of-position occupants, but also it would allow manufacturers to provide better occupant protection for belted occupants through such things as a combination of depowered air bags and other restraint system enhancements. AIAM stated that unbelted occupants would still have the benefits of air bag protection and a lowered risk of out-of-position injury in many frontal crashes.

Honda stated that it believes the passenger air bag system in its vehicles is presently one of the least aggressive relative to the air bags on other cars in North America. That company stated, however, that still lower inflator output is necessary to ensure reduction of the aggressiveness of the passenger air bag. Honda stated that if Standard No. 208 were amended to eliminate unbelted testing or to reduce the crash test speed, inflator output could be adjusted accordingly, reducing the risk of air bag induced injury to out-of-position or unbelted occupants.

Takata stated again that it strongly urges NHTSA not to tamper with the 30 mph unbelted barrier test as a short-term expedient to reduce the risk of air bag injuries to children. That company stated that it does not believe this would

produce a sufficient reduction in the risks to children to jeopardize the proven life saving benefits of air bags in high speed crashes.

The Insurance Institute for Highway Safety (IIHS) stated that although changes in the unbelted test requirements in Standard No. 208 alone will not eliminate all the air bag related fatalities, less aggressive inflators have the potential to reduce the risk for infants and children as well as for adults. That organization stated that as other air bag technology evolves to permit variable levels of protection based on crash severity and occupant characteristics, it will be possible to further enhance protection for unbelted occupants over a wide range of crash severities. IIHS stated that, in the meantime, the first and immediate step NHTSA could take would be to make appropriate changes to Standard No. 208 that would allow manufacturers to reduce the energy in current air bag systems.

The National Association of Independent Insurers (NAII) stated that it believes changing the unbelted test requirements in Standard No. 208 to permit less aggressive inflators should be a central part of NHTSA's efforts to encourage smart systems, and cited concerns expressed by IIHS.

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#### 49 CFR Part 595

[Docket No. 74-14; Notice 107]

RIN 2127-AG61

#### Air Bag Deactivation

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** As part of its efforts to address the problem of the adverse effects of current air bag designs on children and certain adults, NHTSA is issuing this proposal to make it possible for vehicle owners to have their air bags deactivated by vehicle dealers and repair businesses.

Specifically, the agency is proposing to allow dealers and repair businesses, upon written authorization of a vehicle owner, to deactivate either the passenger-side air bag, the driver-side air bag, or both. Dealers and repair businesses are statutorily prohibited from making Federally required safety equipment inoperative, but NHTSA may exempt them from the prohibition in appropriate circumstances. In order to

qualify for the exemption, the dealer or repair business would be required to provide the owner with a NHTSA information sheet describing the circumstances in which deactivation may be appropriate, based upon the comparison of the risks in those circumstances of turning the air bag off versus leaving it on. The authorization would contain a statement that the owner has received and read that sheet. The agency is proposing to require that warning labels be installed as a condition of deactivation.

Deactivating an air bag would not be permitted if the vehicle were equipped with a manual cutoff switch for the air bag, or if the air bag were a "smart" air bag, i.e., one capable of either shutting off in appropriate circumstances or controlling its deployment so as to protect against injuring a wide range of occupants.

**DATES:** Comments must be received by February 5, 1997. Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590 (Docket Room hours are 9:30 a.m.– 4 p.m., Monday through Friday.)

**FOR FURTHER INFORMATION CONTACT:** For information about air bags and related rulemaking: Visit the NHTSA web site at <http://www.nhtsa.dot.gov> and click on the icon "AIR BAGS—Information about air bags."

For non-legal issues: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS-11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366-2264. Fax: (202) 366-4329.

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

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#### I. Background

While air bags are providing significant overall safety benefits, NHTSA is very concerned that current designs have adverse effects in some situations. This notice proposes one of several actions that the agency is taking to mitigate these effects.

To address those effects, the agency published in the Federal Register (61 FR 40784) a notice of proposed rulemaking (NPRM) on August 6, 1996 to amend Standard No. 208, *Occupant Crash Protection*, and Standard No. 213, *Child Restraint Systems*.

The NPRM proposed several amendments to reduce the adverse effects of air bags, especially those on children.

The agency explained that eventually, either through market forces or government regulation, it expects that "smart" passenger-side air bags will be installed in passenger cars and light trucks to mitigate these adverse effects. NHTSA proposed that vehicles lacking smart passenger-side air bags would be required to have new, attention-getting warning labels and be permitted to have a manual cutoff switch for the passenger-side air bag. Currently, only vehicles lacking a rear seat large enough to accommodate a rear-facing infant restraint are permitted to have such a switch. The agency also requested comments concerning whether it should require installation of smart air bags and, if so, on what date such a requirement should become effective. NHTSA also requested comments on whether it should, as an alternative, set a time limit on the provision permitting manual cutoff switches in order to assure the timely introduction of smart air bags. Finally, the agency proposed to require rear-facing child seats to bear new, enhanced warning labels.

#### II. Scope of Problem

##### A. Deaths and Injuries

Based on data available as of November 1, 1996, NHTSA estimates that driver-side air bags have saved a net of 1,481 lives (1,500 drivers saved, minus 19 driver deaths caused by air bags), with 826 of those lives saved in 1995 and 1996 alone. The dramatic increase in lives saved in the last two years is due both to the increased

number of air bags in vehicles and improved technology. For persons aged 13 and older, passenger-side air bags have saved a net of 164 lives to date. The number, if any, of passengers aged less than 13 saved by air bags is unknown. What is known is the loss of 32 children. Thus, the net figure for passengers of all ages could be as low as 133.

This disparity between driver and passenger air bags in the number of lives saved is due in part to the fact that there are approximately twice as many vehicles with driver air bags as there are vehicles with passenger air bags. Passenger-side air bags have only been widely available since the 1994 model year. Further, the driver seat is occupied more frequently than the front passenger position.

As of November 30, 1996, however, 32 children have been killed as the result of air bag deployment in low speed collisions. Nine of these children were in rear-facing infant restraints. The number of deaths is steadily climbing. Ten of the 32 died in calendar year 1995 and another 18 have died so far in calendar year 1996. Additionally, eight children are known to have been seriously injured as a result of air bag deployment, five of whom were in rear-facing infant restraints. One adult passenger, a woman in her 90's, has been killed by an air bag.

Fewer drivers than passengers have been killed by air bags despite the fact that there are approximately twice as many vehicles with driver air bags as there are with both driver and passenger air bags. The agency has verified the deaths of 19 drivers as the result of air bag deployments in low to moderate speed collisions. Of these, 10 were women 5'2" or under, five were taller women, and four were men, all of them at least 5'9". One instance of a placental abruption, leading to stillbirth, has been reported; injuries to the pregnant woman were minor. Of the 19 adults killed by air bags, seven were age 64 or above. The agency notes that older drivers are more at risk than the average adult under most circumstances, regardless of type of restraint used. Over half the fatalities (10 out of 19) were in calendar years 1994 and 1995. Only two drivers are known to have been killed as a result of air bag deployment in 1996. Most of the driver fatalities occurred in vehicles manufactured in model years 1990 and 1991. Only four drivers have been killed in vehicles manufactured after model year 1992. The absence of any upward trend in driver fatalities contrasts sharply with the growth in the number of child fatalities.

For a more detailed discussion of the air bag deaths, and for tables that facilitate identifying the patterns associated with the occurrence of those deaths, see Appendix A of this notice.

#### *B. Public Concerns Regarding Those Deaths and Injuries*

NHTSA emphasizes that the vast majority of people, both drivers and passengers, are much safer with an air bag than without. Nevertheless, the current number of deaths and serious injuries attributed to air bag deployment in low speed crashes is disturbing.

There are particular concerns about small children, short-statured women, pregnant women, and elderly individuals. In the aggregate, this group constitutes a significant percentage of the total U.S. population.

#### *C. Other Health Concerns*

A large number of arm injuries have also been attributed to air bag deployment, both in low speed and higher speed crashes. Additionally, numerous individuals have contacted the agency regarding their concerns that a preexisting medical condition, such as a degenerative bone disease or hearing problem, could be aggravated by air bag deployment. The agency has no real-world data on how air bags aggravate preexisting medical conditions.

#### III. Overview of Other Agency Responses to Problem

On November 27, 1996, a separate final rule was published in the Federal Register (61 F.R. 60206) amending Standard No. 208 and Standard No. 213 to require improved labeling to better ensure that drivers and other occupants are aware of the dangers posed by air bags to children who occupy the front seat. The agency is also issuing a final rule extending, until September 1, 2000, the permission granted to manufacturers to install manual cutoff switches for the passenger-side air bag for vehicles without rear seats or with rear seats that are too small to accommodate rear-facing infant seats.

NHTSA has decided to terminate rulemaking on that part of the August 1996 NPRM that would have permitted all air bag vehicles to be equipped with manual cutoff switches. This decision to terminate is based on the agency's belief that informed deactivation is an option that is easier and quicker to implement and that would not divert manufacturing resources from smart air bag technology.

Today NHTSA is also issuing an NPRM proposing to amend Standard No. 208 to permit or facilitate depowering of air bags by 20 to 35

percent across the fleet. NHTSA expects, in the near future, to issue separate supplemental notice of proposed rulemaking (SNPRM) proposing performance requirements for smart air bags and a phase-in schedule for requiring installation of those devices.

#### IV. Statutory Prohibition Against Deactivating Air Bags; Statutory Authorization for Exemption From Prohibition

Manufacturers, distributors, dealers<sup>1</sup> and motor vehicle repair businesses<sup>2</sup> are prohibited by 49 U.S.C. § 30122 from knowingly making inoperative any part of a device or element of design installed on or in a motor vehicle in compliance with an applicable Federal Motor Vehicle Safety Standard. The statute, however, allows the agency to prescribe regulations to exempt a person from the "make inoperative" provision if such an exemption is consistent with safety concerns.

#### Suggestions by Public Concerning Air Bag Deactivation

In response to the August 1996 NPRM, BMW and Volvo recommended that the agency develop procedures similar to those being used in Europe for temporarily deactivating air bags. According to BMW,

(i)n Europe, a BMW dealer is allowed to temporarily deactivate the passenger air bag for individuals who may have a special need or normally transport children after advising them of the benefits of air bags and approval forms are signed.

BMW attached to its comment copies of the approval forms and the warning label ("Front passenger airbag deactivated") that is placed in the vehicle to indicate that the air bag has been deactivated. The "formal obligation concerning deactivation of front passenger airbag" form states that the owner of the vehicle is obliged

(N)ot to modify the airbag system in any way or alter/remove the warning label,

(T)o ensure that every front passenger in the above vehicle is aware that the front passenger airbag has been deactivated,

(T)o have the front passenger airbag reactivated by an authorized BMW service station and

<sup>1</sup>Section 30102 defines "dealer" as "a person selling and distributing new motor vehicles or motor vehicle equipment primarily to purchasers that in good faith purchase the vehicles or equipment other than for resale."

<sup>2</sup>Section 30122(a) defines "motor vehicle repair business" as "a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment." NHTSA has interpreted this term to include businesses that service vehicles with which there is nothing wrong by adding features or components to or otherwise customizing those vehicles.

(If selling the vehicle, to inform the new owner of the current state of the front passenger airbag and to hand over all relevant documentation.

BMW's comments may be found at Docket 74-14, Notice 100, item 40.

In its comment, Volvo stated that

(i)n Europe, due to consumer requests, most manufacturers have developed new car retail service procedures for deactivation and reactivating of passenger side air bags. This is usually accompanied by clearly visible labels stating if any measures have been taken to change the air bag readiness status.

Letters are sent to customers, at regular intervals, to remind them of the system status. Letters are also sent to new vehicle owners, when the car is sold, to inform them of this.

Volvo's comments may be found at Docket 74-14, Notice 100, item 22.

On October 28, 1996, Ms. DeeAnn DePaul of Tacoma, Washington, filed a petition for rulemaking to provide an exemption under 49 U.S.C. 30122 allowing motor vehicle dealers and repair businesses to respond to requests by vehicle owners to have their driver-side air bag deactivated. This notice grants that petition.

#### VI. Granting of Exemptions From State Safety Belt Use Laws for Medical and Psychological Reasons

State safety belt use laws present a fairly analogous problem of accommodating people with special problems that may make occupant restraint use inappropriate. Virtually all States have provisions in their safety belt use laws for granting medical exemptions to persons who obtain a statement from their physician certifying their patient's medical condition and stating why safety belt use by their patient is inappropriate. Some States also provide for exemptions based on psychological reasons.

#### VII. NHTSA's Use of Prosecutorial Discretion With Respect to Air Bag Deactivation

In 76 instances to date, the agency has exercised its prosecutorial discretion with respect to requests to deactivate an air bag. Eighteen of the cases involved children. NHTSA told vehicle owners whose vehicle lacked a back seat in which to carry an infant or who needed to monitor closely a child with a special medical condition<sup>3</sup> that the agency would not regard the temporary deactivation of the passenger-side air bag by a dealer or repair business as grounds for an enforcement proceeding.

<sup>3</sup>The majority of medical conditions were related to apnea, although exemptions have also been granted for children in wheelchairs, and children with a tendency to spit up and choke.

The agency urged that the air bag be reactivated when the circumstances necessitating its deactivation ceased to exist. Additional requests, based on medical conditions or the absence of a rear seat, are pending.

Similarly, in the other instances, the agency told owners that if their physicians concluded that the risks associated with their medical condition and the deployment of their driver-side air bag exceeded the risks to their safety from the air bag's not deploying, NHTSA would not regard deactivation of the air bag as grounds for an enforcement proceeding.<sup>4</sup> There are a large number of pending requests from women of small stature and a smaller number from adults with various medical conditions.

The volume of these requests for deactivation, and the variety of concerns underlying them, necessitate a rulemaking response, as opposed to individual, case-by-case resolution.

#### VIII. Proposal To Permit Deactivation

NHTSA has tentatively decided to exempt dealers and motor vehicle repair businesses conditionally from the "make inoperative" prohibition so that they can deactivate either or both the driver- and passenger-side air bags at the request of a vehicle owner.

##### *Passenger Air Bag Deactivation*

While NHTSA expects that smart passenger-side air bags will, within several model years, offer a means for significantly reducing or eliminating the risk of adverse side effects to children from air bags, the agency believes that, in the interim, steps need to be taken to minimize the possibility that air bags will harm children. Fortunately, in the vast majority of cases, this can easily be accomplished by placing children in the back seat. This is the safest place for children, regardless of whether a vehicle has a passenger air bag.

However, some vehicles either do not have rear seats or have rear seats too small to accommodate rear-facing infant seats. In addition, NHTSA believes it is necessary to recognize that in a variety of circumstances and for a variety of reasons, parents sometimes need to place children in the front seat of vehicles that have back seats. In some cases, such as situations involving infants with a special medical condition, there may be a need for placing an infant in the front seat. The

<sup>4</sup>Some waivers were granted, without the submission of a physician's statement, based upon either the unique characteristics of the medical condition involved or the existence of physician's statements attached to the deactivation requests of other individuals with the same medical condition.

American Academy of Pediatrics indicated in its comments on the agency's August 6, 1996 NPRM (61 F.R. 40784) regarding the adverse effects of air bags that cases involving medical conditions are relatively few in number. The National Association of Pediatric Nurse Associates & Practitioners estimated that as many as 20,000 children under the age of 5, as well as 5,000 infants, require some type of medical technology assistance, but did not suggest how many of these children have conditions requiring them to be carried in the front seat. In still other cases, parents may need to transport a number of children greater than the number of rear seats in their vehicles. Parents may also permit children older than infants to ride in the front seat because the children strongly desire to do so.

NHTSA believes that, in the situations involving infants in the front seat, deactivation would provide parents a means of ensuring that their children would not be harmed by the air bag. Rear facing infant seats can never be placed in front of an activated passenger air bag without creating a risk of serious injury or death.

Deactivation is more problematical with respect to older children. Most of the children who were older than infants and were killed by air bags were not using any type of occupant restraint.<sup>5</sup> Most of the rest were using only a lap belt. Moreover, the agency believes that some properly positioned and restrained children will benefit from an air bag in some types of crashes. Nevertheless, the agency recognizes that not all older children are properly restrained and that particularly children not using any restraint at all or using only a lap belt are at some risk of being killed by an air bag. Further, there have been two instances in which a child using a lap and shoulder belt was killed, and three reports of serious injuries to children using lap and shoulder belts. NHTSA also realizes that parents may find it is difficult to keep their children properly positioned and restrained, e.g., some children may tend to remove their shoulder belt and/or move forward

<sup>5</sup>For situations in which there is no option other than to place children in the front seat (*not* including infants in rear facing infant seats who can *never* safely be put in the front seat in front of an air bag), NHTSA recommends the following: (1) The child should be properly restrained. This means, depending on the size of the child, a forward-facing child seat, a booster seat plus a lap/shoulder belt, or a lap/shoulder belt alone (for larger children); (2) The seat should be pushed all the way back, to maximize the distance between the child and the air bag; (3) The child should be sitting with his/her back against the seat back, and with any extra slack removed from the safety belt.

away from the vehicle seat back and sit on or near the front edge of the vehicle seat. An activated air bag would create an added safety risk in these situations.

In issuing this proposal, NHTSA does not wish to encourage parents to place children in the front seat. Regardless of whether a vehicle is equipped with a passenger air bag, the rear seat is the safest place for a child to sit. However, the agency believes it is necessary in establishing safety requirements to take into account how people behave in the real world.

NHTSA anticipates that depowering air bags will be the first step in reducing the risk of air bag injuries in future vehicles. A depowered air bag is intended to ensure the safety of restrained children in the front seat, but even a depowered air bag could present a risk to an infant in a rear-facing infant seat or to an unrestrained child who is thrown onto the dash as the result of pre-crash braking. Deactivation would thus continue to be permitted with depowered air bags.

However, the purpose of smart air bag technology is to eliminate the risks of deployment from passenger-side air bags by either preventing them from deploying at all or deploying them safely in situations in which children would otherwise be at risk. Accordingly, the agency proposes that deactivation of a passenger-side air bag would not be permitted if the air bag were equipped with a cutoff switch or met the criteria established by the agency for smart air bags.

While some adult passengers may be at risk from air bag deployment, NHTSA emphasizes that it is aware of only one adult passenger, a woman in her 90's, who has been killed by an air bag. Additionally, since most vehicles are now equipped with a bucket seat or split-bench seat for the front passenger, a passenger in that seat would not have to position the seat all the way forward, as some short-statured drivers must in order to drive, and would thus usually be able to keep the seat far away from the dashboard. This should eliminate potential risks in such vehicles and the need for deactivating the passenger-side air bag for reasons relating solely to stature. The distance of an adult passenger from the dashboard would likely be sufficient even in the case of a passenger sitting on a bench seat in a vehicle being driven by a person of short stature. To reinforce the need for a safe distance, the new warning labels stress the importance of sitting back from the air bag and wearing safety belts.

### Driver Air Bag Deactivation

For the reasons stated in the "Scope of problem" section above, NHTSA sees considerably less need for deactivation of driver-side air bags and anticipates that most drivers would keep their air bags fully operable. The total number of deaths attributed to driver-side air bags is less than two percent of the total number of lives saved, i.e., 19 deaths versus 1500 lives saved. The decline in adult air bag deaths in the last several years is believed to reflect the technological improvements that have been made in driver air bags.

Nevertheless, some current driver-side air bags pose risks to some drivers, particularly if they are so short-statured that they must sit very near the steering wheel. For this reason, the agency is proposing to permit deactivation of the driver side air bag in any existing vehicle and in any future model year vehicle that is not equipped with a smart driver-side air bag. The agency will analyze future data concerning trends in driver air bag deaths and the overall effects of deactivation on driver safety and determine at a later date whether it is appropriate to limit the deactivation permission to vehicles manufactured before a specific date. As noted above, data for the last several years indicate a decline in driver air bag deaths. If, as expected, depowered air bags are found to reduce air-bag related deaths and injuries even further, NHTSA might consider limiting deactivation to vehicles that have not been depowered.

The agency acknowledges that another category of driver might also benefit from deactivation. NHTSA tentatively concludes that permitting deactivation would be the best policy for those drivers whose medical or physical condition would make them particularly vulnerable to air bag-induced injury. The proposal would enable these persons to have their air bags deactivated promptly, without having to petition the agency. By creating a general permission for deactivation, the proposal would also assure dealers and repair businesses that they would not be violating the law if they deactivated an air bag.

*Specifics of proposal.* The specifics of the proposal are as follows:

The proposed exemption from the "make inoperative" prohibition is a conditional one. A dealer or repair business would be permitted to deactivate an air bag only if the dealer or repair business:

- Provides the vehicle owner with the most recent edition of the NHTSA information sheet (copy attached as

Appendix B of this notice) concerning the circumstances in which deactivation may be appropriate, based upon the comparison of risks in those circumstances of turning the air bag off versus leaving it on. NHTSA anticipates that it will conduct rulemaking to update the sheet from time to time, as additional data concerning air bag performance are received and analyzed.

- Obtains from the vehicle owner a signed, written authorization on the form attached as Appendix C of this notice, identifying the vehicle by make and model, by model year, by VIN number, and the seating position(s) of the deactivated air bag(s). Such authorization shall include an affirmation by the vehicle owner that he or she was given and has read a copy of the NHTSA information sheet prior to signing the authorization.

- For each deactivated air bag, places labels on both sides of the sun visor above the air bag.

The label visible when the sun visor is in a stowed (up) position shall state:

**WARNING**

Air Bag has been deactivated  
See other side

The label visible when the sun visor is in a down position shall state:

**WARNING:** (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has(have) been deactivated. To reactivate, contact an authorized dealer or a qualified motor vehicle repair business.

both visor labels shall have the word "WARNING" in black lettering on a yellow background.

- For each deactivated air bag, places a permanent label on the adjacent door jamb.

The label shall state:

**WARNING:** (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has(have) been deactivated.

The label shall have the word "WARNING" in black lettering on a yellow background and shall also contain the name and address of the dealer or repair business that deactivated the air bag(s).

- Marks in the vehicle owner's or service manual (if available) the following warning:

**WARNING:** (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has(have) been deactivated. To reactivate, contact an authorized dealer or a qualified mechanic.

- Sends a copy of the signed, written authorization form to the manufacturer of the vehicle.

Each motor vehicle manufacturer shall retain for a period of not less than

five years a copy or other record of each authorization form received pursuant to this regulation.

NHTSA requests comments about the appropriateness of these requirements. Among the specific issues are the following:

- In the rulemaking on cutoff switches, the agency estimated that there would be more benefits than losses if the misuse rate were less than 7 percent. Since a seat with a deactivated air bag may sometimes be occupied by a person who would benefit from the air bag, is there a percentage of such occupancy that would result in the losses from deactivation outweighing the benefits?
- Should deactivation of air bags be allowed at the owner's option in all cases or should deactivation be limited to situations in which death or serious injury might be reasonably expected to occur? For example, should deactivation of passenger-side air bags be allowed only in cases in which the vehicle owner needs to carry young children in the front seat? Should deactivation of driver-side air bags be allowed only in cases in which the vehicle owner or other driver of the vehicle has an acute medical condition, is of short stature, or is elderly? Would the administrative details involved in establishing and implementing these limitations overly complicate the availability of deactivation?
- If it becomes permissible to deactivate air bags, with the result an air bag could be turned off permanently, should the agency permit lesser measures as well, such as a cutoff switch that the vehicle owner could have installed to turn off air bags temporarily? In a final rule issued in today's Federal Register, the agency has decided that cutoff switches should not be permitted in new vehicles other than in those that do not have a rear seat large enough to carry a rear-facing infant seat. Would permitting a retrofit cutoff switch in all vehicles conflict with the decision not to allow cutoff switches in new vehicles generally? (NHTSA is not aware that any retrofit cutoff switches have been produced.) Should there be any limitations on the methods of deactivating air bags? For example, should there be a requirement that the deactivation be performed in a manner that facilitates reactivation?
- The agency solicits comments on the information contained in Appendix A. Is the information consistent with information available to manufacturers, insurance companies,

- and others with knowledge about air bag safety?
- The agency requests comments about the information sheet presented in Appendix B. The purpose of the sheet is to give vehicle owners a concise description of the benefits and risks associated with air bags, to guide them in deciding whether they should disconnect their air bags. Is the information presented in a useful way? Should more information be provided, such as information from Appendix A, to help place the risk in context? Should there be a more explicit focus on particular practices, such as the carpooling of young children? What distance should be specified for a driver to sit back from the air bag? Should any information be omitted?
  - The agency solicits comments on the contents of the authorization form attached as Appendix C. Use of the form would be required for the dealer or repair business that deactivates the air bag. The form will be published and sent to new and used vehicle dealers through their trade associations. Trade associations, trade publications and the Internet will be used to make the form available to others, but it may be difficult to ensure that the forms are available when needed. What additional measures should be taken to ensure the availability of the forms? Should the form state, as proposed, that the vehicle owner is willing to allow labels to be installed? Should the form provide an express statement that the person signing it owns the vehicle and is not a lessee? Alternatively, should a lessee be allowed to sign for an owner? Should the form require signature by all co-owners? Would the form protect the dealer or repair business from liability if the absence of an air bag is subsequently alleged to be the cause of an occupant's injuries? Should a more explicit release of liability be added? If so, how should it be worded?
  - In a vehicle in which only the passenger-side air bag is deactivated, should labels be placed on the driver's sun visor as well as the passenger's sun visor? Such additional labels might be helpful to a driver who is unfamiliar with the vehicle or to a subsequent purchaser of the vehicle.
  - While NHTSA has not proposed the size of the message area or the lettering height, it requests comments on whether it should specify the message area or lettering height and, if so, what sizes would be appropriate. Should the message area

on the visor label equal the area of the new air bag warning label required by the final rule published on November 27, 1996? Should it be required to be affixed over the labels required by that final rule? Should a different area be specified for labels to be placed on vehicles manufactured with the smaller air bag warning labels formerly required?

- Should the vehicle manufacturers be required to follow the practice, described by Volvo, of sending periodic reminders to vehicle owners that one or both of their air bags are deactivated and notifying new owners after title to the affected vehicles changes? Is the proposed 5-year period for record retention the appropriate period?
- Should dealers and repair businesses be required to retain a copy or other record of the vehicle owner's signed authorization statement? If so, for what period of time?

*Additional considerations.* NHTSA recognizes that there are potential safety tradeoffs associated with air bag deactivation. The agency emphasizes that only in limited instances would air bag deactivation be, on balance, in the best interests of a driver or passenger. Given the number of air bag deaths to date, the chance of a teenager or adult being killed by an air bag is significantly less than the chance of being involved in a crash in which an air bag would reduce such a person's injuries, whether the individual is belted or unbelted. Moreover, while a fully restrained, forward-facing child can be killed by an air bag, the deaths of only two fully restrained, forward-facing children have been confirmed as having been caused by an air bag.

Regardless of the manner of deactivation, deactivation will cause the air bag readiness indicator (most vehicles use a single indicator for both air bags) to come on, indicating that one air bag or the other is not operational. If the passenger air bag is deactivated and the driver-side air bag subsequently malfunctioned, the indicator would not provide any separate indication of that malfunction. The agency invites comments on whether the readiness indicator should be required to remain functional.

NHTSA also notes that it may be difficult in some vehicles to deactivate one air bag without deactivating the other air bag as well. This could occur if one fuse or wire controls both bags. Under these circumstances, deactivation of one bag might unnecessarily cause the deactivation of the other bag even when the owner might prefer to keep

one bag operational. Comments are requested as to the prevalence of designs that would result in the deactivation of both air bags.

However, as discussed above, the agency is dealing with an extraordinary situation. While air bags are providing significant overall benefits, they are also causing an unacceptable risk in limited circumstances. NHTSA believes it is appropriate to propose a solution that addresses that risk.

As noted above, NHTSA anticipates that the proposed exemption from the make inoperative prohibition would affect the vehicles produced in only the model years before smart air bags are available. Driver-side air bag deactivation would be permitted only for existing vehicles and vehicles that do not meet the criteria for smart air bags. The agency may consider further restricting the permission to deactivate driver-side air bags by excluding vehicles with depowered air bags. Deactivation of a passenger-side air bag would be permitted in any vehicle whose passenger-side air bag was neither equipped with a cutoff switch nor met the criteria for smart air bags. This would allow vehicle owners who either face potential risk from deployment themselves or who regularly transport other increased-risk individuals to deactivate one or both air bags.

NHTSA strongly recommends that air bag deactivation be undertaken only in instances in which the vehicle owner believes that the air bag poses an unreasonable and significant risk given that individual's particular circumstances. However, given the administrative complexity and time that would be associated with reviewing individual applications, the agency is proposing to allow any person to choose to deactivate, without having to demonstrate any particular need.

Since deactivation totally disables the air bag, thereby eliminating any safety benefit for vehicle occupants not at risk of serious injury due to air bag deployment, deactivation should be sought only if no other option is available. The agency urges all owners who choose to deactivate their air bag to reactivate the air bag once the perceived need for deactivation has abated.

#### IX. Effective Date

The agency tentatively concludes that there is good cause to make the proposed regulation effective immediately upon publication of a final rule. In view of the need expressed by vehicle owners for deactivation, it appears that there is a need for immediate relief. Further, the regulation

would be voluntary, since it would permit deactivations, not require them. The agency requests comment as to the appropriateness of an immediate effective date.

#### X. 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 document was reviewed by the Office of Management and Budget under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "significant" under the Department of Transportation's regulatory policies and procedures, because of the degree of public interest in this subject.

This action would not be economically significant. It would not require a motor vehicle manufacturer, dealer or repair business to take any action or bear any costs except in instances in which a dealer or repair business agreed to deactivate an air bag. In such an instance, there would be costs associated with such an action *per se* as well as labeling. The agency estimates that deactivation would typically require less than one-half hour of shop time, at the prevailing local rates of between \$30 and \$50 per hour. Similar costs would be incurred upon reactivation of an air bag. There is no reliable way to estimate the total number of deactivations that may be performed as the result of the proposed regulation, but the agency expects that it would be more than a thousand. The agency requests comments on this estimate, as well as any estimates of the potential safety tradeoffs of deactivating the air bag for a seating position that may be occupied by a person who would have benefited from the air bag.

Based on the Final Regulatory Evaluation for the agency's final rule requiring new, enhanced warning labels relating to air bags, the labels proposed by this notice would cost between 15 and 25 cents per vehicle. In addition, motor vehicle manufacturers would have some minor recordkeeping expenses.

In view of the preceding analysis and the analysis in the regulatory evaluation on labels, the agency regards the costs associated with deactivation to be so minimal that a full regulatory evaluation for this notice is not warranted. The agency requests comments about the anticipated costs associated with this proposal. If the agency decides to adopt

the proposal as a final rule, it would discuss the costs in a Final Regulatory Evaluation for this rulemaking.

##### B. Regulatory Flexibility Act

NHTSA has considered the effects of this proposed rulemaking action under the Regulatory Flexibility Act. I hereby certify that it would not have a significant economic impact on a substantial number of small entities. While some dealers and repair businesses would be considered small entities, the proposed requirements would not impose any mandatory significant economic impact.

##### C. National Environmental Policy Act

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act and determined that a final rule adopting this proposal would not have any significant impact on the quality of the human environment.

##### D. Executive Order 12612 (Federalism)

The agency has analyzed this proposal in accordance with the principles and criteria set forth in Executive Order 12612. NHTSA has determined that this proposal does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

##### E. Civil Justice Reform

This proposed rule would not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

##### F. Paperwork Reduction Act

This notice contains information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (P.L. 104-13). The title, description, and respondent description of the information collections are shown below with an estimate of the annual burden. Included in the estimate is the

time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

*Title:* Authorization to deactivate an air bag.

*OMB Number:*

*Need for Information:* The authorization would be required before a motor vehicle dealer or repair business could deactivate an air bag.

*Proposed Use of Information:* The authorization would establish that a vehicle owner was fully informed of the consequences of disconnecting an air bag and would protect the motor vehicle or repair business from liability for any injuries occurring as the result of deactivation. The label on the vehicle would serve to inform subsequent owners that an air bag had been deactivated. The motor vehicle manufacturers would retain the authorization forms to help identify vehicles with deactivated air bags.

*Frequency:* As often as a motor vehicle owner requests to have an air bag deactivated.

*Burden Estimate:* Deactivation would affect motor vehicle owners, dealers, repair businesses, and manufacturers, but it is wholly voluntary. It is difficult to estimate the number of deactivations that will be performed or the resulting burden. As of December 1996, the agency has received approximately 1,000 explicit requests for deactivation. As an initial number, the agency is estimating that dealers will receive more than 1,000 completed authorization forms annually under this procedure.

*Respondents:* It is not known how many vehicle owners would be expected to request air bag deactivation, but the agency is estimating that more than 1,000 would request and execute the form annually. There are approximately 20 thousand new motor vehicle dealers, approximately 30 thousand used car dealers and several hundred thousand motor vehicle repair businesses. Any of these businesses would be required to obtain an authorization from a vehicle owner before deactivating an air bag. Assuming that some businesses would be called on to deactivate air bags by more than one vehicle owner, the number of businesses that would be called upon to deactivate would be somewhat smaller than the number of owners.

*Form(s):* A label and authorization form are described in this notice.

*Average burden hours per respondent:* NHTSA estimates that the average time required to read the information about air bag safety and to read and execute the authorization form would be

approximately 30 minutes. The time required for the dealers to affix the labels, file the authorization forms, and send a copy to the manufacturer would be minimal, as would the time required for the manufacturers to receive and file the forms.

Individuals and organizations may submit comments on the information collection requirements by [insert date 30 days after publication in the Federal Register] and should direct them to the docket for this proceeding and the Office of Management and Budget, New Executive Office Building, Room 10202, Washington, DC 20503, Attention: Desk Officer for DOT/OST. Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number.

#### XI. Comments

NHTSA is providing an abbreviated comment period of 30 days, given the significant public attention given to the adverse effects of air bags. Moreover, while it is addressing improved labeling, extension of time for manual cutoff switches, and depowering of air bags in separate notices, they are related actions addressing the same problem. The anticipated SNPRM on smart bags is also related. Only the actions on labeling and the extension of time for manual cutoff switches have reached the final rule stage; the others are still at the proposal stage. Commenters are invited to address the relationships between these actions, e.g., the extent to which one action affects the need for, the potential benefits of or cost effectiveness of, another action.

Commenters are also invited to address alternatives not addressed by these actions. The agency requests that commenters favoring other alternatives specifically provide a comparison of costs, benefits and leadtime.

As indicated above, the agency anticipates publishing in the near future a separate SNPRM to propose performance requirements for smart air bags and to propose a phase-in schedule for requiring these devices. Since that rulemaking action may not be completed until after this action on deactivation, NHTSA requests comments on how to address the definition of smart air bag in the final rule for deactivation.

Interested persons are invited to submit comments on this proposal. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21).

Necessary attachments may be appended to these submissions without regard to the 15-page limit. This

limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

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

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

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

#### List of Subjects in 49 CFR Part 595

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, NHTSA proposes to amend chapter V of Title 49 CFR of the Code of Federal Regulations as follows:

1. Part 595 would be added to read as follows:

#### **PART 595—AIR BAG DEACTIVATION**

- 595.1 Scope.
- 595.2 Purpose.
- 595.3 Applicability.
- 595.4 Definitions.
- 595.5 Requirements.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30122 and 30166; delegation of authority at 49 CFR 1.50.

#### **§ 595.1 Scope.**

This part establishes conditions under which air bags may be deactivated and associated recordkeeping requirements.

#### **§ 595.2 Purpose.**

The purpose of this part is to provide an exemption from the "make inoperable" provision of 49 U.S.C. 30122 and permit motor vehicle dealers and motor vehicle repair businesses to respond to consumer requests to deactivate driver and passenger air bags.

#### **§ 595.3 Applicability.**

This part applies to motor vehicle manufacturers, dealers and motor vehicle repair businesses.

#### **§ 595.4 Definitions.**

Statutory terms. The term motor vehicle repair business is defined in 49 U.S.C. 30122(a) as "a person holding itself out to the public to repair for compensation a motor vehicle or motor vehicle equipment." This term includes businesses that service vehicles without malfunctioning or broken parts or systems by adding features or components to or otherwise customizing those vehicles. The terms manufacturer and dealer, defined in 49 U.S.C. 30102(a), are used in accordance with their statutory meaning.

#### **§ 595.5 Requirements.**

(a) A dealer or motor vehicle repair business may deactivate a passenger-side air bag if that air bag:

- (1) Does not have a manual cutoff switch, or
- (2) Does not meet the criteria in S4.5.5 of § 571.208 of this chapter for a smart air bag.

(b) A dealer or motor vehicle repair business may deactivate a driver-side air bag if that air bag does not meet the criteria in S4.5.5 of § 571.208 of this chapter for a smart air bag.

(c) A dealer or motor vehicle repair business that deactivates an air bag pursuant to paragraph (a) or (b) of this section shall meet all of the conditions specified in paragraph (d) of this section.

(d) A dealer or motor vehicle repair business may deactivate a driver-side or passenger-side air bag subject to the condition that the dealer or repair business:

- (1) Shall provide the vehicle owner with the most current NHTSA information sheet concerning the circumstances in which deactivation may be appropriate, based upon the comparison of risks in those circumstances of turning the air bag off versus leaving it on.
- (2) Shall obtain from the vehicle owner a signed, written authorization



identifying the vehicle by make and model, by model year, by VIN number, and the seating position(s) of the deactivated air bag(s). Such authorization shall include an affirmation by the owner that he or she was given and has read a copy of the NHTSA information sheet prior to signing the authorization.

(3) Shall, for each deactivated air bag, place labels on both sides of the sun visor above that air bag.

(i) The label visible when the sun visor is in a stowed (up) position shall state:

**WARNING**

Air Bag has been deactivated  
See other side

(ii) The label visible when the sun visor is in a down position shall state:

WARNING: (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has (have) been deactivated. To reactivate, contact an authorized dealer or a qualified motor vehicle repair business.

(iii) Both visor labels shall have the word "WARNING" in black lettering on a yellow background.

(4) Shall, for each deactivated air bag, place a permanent label on the adjacent door jamb. The label shall state:

WARNING: (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has (have) been deactivated.

The label shall have the word "WARNING" in black lettering on a yellow background and shall also contain the name and address of the dealer or repair business that deactivated the air bag(s).

(5) Shall mark in the vehicle owner's or service manual (if available) the following warning:

WARNING: (Insert "The passenger-side air bag," "The driver-side air bag" or "Both air bags") of this vehicle has (have) been deactivated. To reactivate, contact an authorized dealer or a qualified motor vehicle repair business.

(6) Shall send a copy of the signed, written authorization form to the manufacturer of the vehicle.

(e) Each motor vehicle manufacturer shall retain, for a period of not less than five years, a copy of each authorization form received pursuant to this section.

L. Robert Shelton,  
*Associate Administrator for Safety Performance Standards.*

Note: These appendices will not appear in the code of Federal Regulations.

**Appendix A—The Safety Problem: Frontal Impacts, Air Bag Saves and Air Bag Fatalities**

Frontal impacts. Frontal impacts are the number one fatality and injury causing mode of crash, resulting in 64 percent of all driver and right-front passenger fatalities and 65 percent of all driver and right-front passenger AIS 2–5 injuries. (AIS 2–5 stands for Abbreviated Injury Scale levels of moderate to critical injuries.) The estimated fatality and injury totals for 1994 are shown below: The injuries are those for National Accident Sampling System-Crashworthiness Data System (NASS-CDS) toaway accidents only.

**1994 FATALITIES AND MODERATE TO SERIOUS INJURIES IN FRONTAL IMPACTS**  
[Passenger Cars and Light Trucks]

	Drivers	Right front passengers	Total
Fatalities .....	13,437	3,814	17,251
Injuries .....	124,484	30,299	154,783
<b>Total .....</b>	<b>137,921</b>	<b>34,113</b>	<b>172,034</b>

**B. Air Bag Saves and Fatalities**

As the agency has confronted the problem of low speed fatalities and injuries from air bags, it has faced a serious dilemma. On the one hand, air bags have proven to be highly effective in reducing fatalities, and are resulting

in substantial net benefits in terms of lives saved. The agency estimates that, to date, air bags have saved driver and passenger 1,664 lives (1,500 drivers and 164 passengers).<sup>1</sup>

At the same time, air bags are actually causing fatalities in some situations,

especially to children. As of November 15, 1996, NHTSA's Special Crash Investigation program has identified 31 crashes in which the deployment of the passenger-side air bag resulted in fatal injuries to a child. One adult passenger and 19 drivers have also been fatally injured.

**AIR BAG SAVES AND FATALITIES 1986—PRESENT**  
[Passenger Cars and Light Trucks]

	Drivers	Right front passengers	Total
Air Bag Saves .....	1,500	164	1,664
Air Bag Fatalities .....	19	32	52

Passenger Fatalities. The fatalities involving children have occurred in 1993 and later calendar years. Nine of the fatalities involved infants in rear-facing child seats. Of the other children,

18 were unrestrained, two more were wearing only the lap belt with the shoulder belt behind them, and two were wearing a lap and shoulder belt at the time of the crash. Most children

were either infants or between the ages of 4–7. See the tables below.

<sup>1</sup> This estimate of gross savings is cumulative, through November 1, 1996. The net savings would be 1,614.

INFANT PASSENGER-SIDE AIR BAG RELATED FATALITIES (IN REAR FACING INFANT SEATS)  
[By MY of Vehicle and CY of Death]

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total No. of infant passenger-side air bag fatalities	No. of vehicles w/passenger-side air bags
MY 89 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	78,000
MY 90 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	149,000
MY 91 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	44,000
MY 92 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	421,000
MY 93 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	1,352,000
MY 94 .....	.....	.....	.....	.....	.....	.....	1	1	2	5,547,000
MY 95 .....	.....	.....	.....	.....	.....	.....	2	4	6	8,936,000
MY 96 .....	.....	.....	.....	.....	.....	.....	.....	1	1	10,750,000
<b>Total .....</b>	.....	.....	.....	.....	.....	.....	3	6	9	27,277,000

CHILD (NON-INFANT) PASSENGER-SIDE AIR BAG RELATED FATALITIES  
[By MY of Vehicle and CY of Death]

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total No. of child (non-infant) passenger-side air bag fatalities	No. of vehicles w/passenger-side air bags
MY 89 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	78,000
MY 90 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	149,000
MY 91 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	44,000
MY 92 .....	.....	.....	.....	.....	.....	.....	.....	.....	.....	421,000
MY 93 .....	.....	.....	.....	.....	1	1	1	.....	3	1,352,000
MY 94 .....	.....	.....	.....	.....	.....	3	1	1	5	5,547,000
MY 95 .....	.....	.....	.....	.....	.....	1	3	7	11	8,936,000
MY 96 .....	.....	.....	.....	.....	.....	.....	.....	3	3	10,750,000
<b>Total .....</b>	.....	.....	.....	.....	1	5	5	11	22	27,277,000

AGE OF CHILDREN FATALLY INJURED IN AIR BAG DEPLOYMENTS

<1	1	2	3	4	5	6	7	8	9	10	11	12	13	Total
9 .....	.....	.....	1	5	7	4	3	.....	2	.....	.....	.....	.....	31

TYPE OF RESTRAINT USED BY CHILDREN FATALLY INJURED BY AIR BAGS

Type of restraint used	No. of children
None .....	18
Lap belt only .....	2
Lap and shoulder belt .....	2
Unknown .....	9
Rear-facing infant restraint .....	9
Forward-facing child restraint .....	.....
Booster seat .....	.....
<b>Total .....</b>	31

These cases involved pre-impact braking, and were relatively low speed crashes. The nonuse, or improper use of safety belts in conjunction with pre-

impact braking resulted in the forward movement of the children such that they were close to the instrument panel and the air bag system at the time of the air bag deployment. Because of this proximity, the children appear to have sustained fatal head or neck injuries from the deploying passenger-side air bag. The agency has examined all air bag cases with child fatalities in its Fatal Accident Reporting System (FARS) and believes it has identified all cases involving fatalities.

In addition to the 31 children who have been fatally injured during passenger-side air bag deployments, one adult, a 98 year old woman, sustained a fatal injury under similar air bag deployment circumstances.

Driver Fatalities. As of November 15, 1996, NHTSA's Special Crash

Investigation program had identified 19 minor to moderate severity crashes in which fatal injuries to the driver were associated with the deployment of the driver-side air bag. The data suggest that unrestrained small statured and/or older drivers are more at risk than other drivers from a driver air bag. (See tables below.) The agency notes that older drivers are more at risk than younger drivers under a wide range of crash circumstances, regardless of type of restraint used.

NHTSA notes that these driver fatalities are very rare in comparison to the number of vehicles equipped with driver air bags and to the number of drivers saved by air bags. Further, NHTSA notes that the last reported death of a female driver 5 feet 2 inches or less that was due to an air bag was

in November 1995, 12 months ago. unrestrained at the time of the crash. In position (slumped over the wheel). (See Proper belt use is important. Ten of the addition, two appeared to be out-of- tables below.) 19 drivers appear to have been

**DRIVER AIR BAGS: FATALITIES AND LIVES SAVED**

[Fatalities Shown by MY of Vehicle and CY of Fatality]

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Driver air bag fatalities	Drivers saved by air bag	No. of vehicles produced w/ driver air bags
MY 89 .....							1		1		500,000
MY 90 .....		1	1		1	2	1		6		2,500,000
MY 91 .....			2	2	1		1		6		2,867,000
MY 92 .....					1	1			2		5,084,000
MY 93 .....											7,595,000
MY 94 .....						2	1		3		9,890,000
MY 95 .....								1	1		13,690,000
MY 96 .....									0		14,321,000
<b>Total .....</b>	<b>0</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>19</b>	<b>1,500</b>	<b>56,447,000</b>

**DRIVER AIR BAG FATALITIES—WOMEN (5'2" or Less)**

[By MY of Vehicle and CY of Fatality]

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total # of driver air bag fatalities (women 5'2" or less)	# of vehicles produced w/ driver air bags
MY 89 .....							1		1	500,000
MY 90 .....		1			1		1		3	2,500,000
MY 91 .....			1	1			1		3	2,867,000
MY 92 .....					1	1			2	5,084,000
MY 93 .....										7,595,000
MY 94 .....							1		1	9,890,000
MY 95 .....										13,690,000
MY 96 .....										14,321,000
<b>Total .....</b>		<b>1</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>4</b>		<b>10</b>	<b>56,447,000</b>

**DRIVER AIR BAG FATALITIES—OTHER ADULTS**

[By MY of Vehicle and CY of Fatality]

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total # of driver air bag fatalities (other adults)	# of vehicles produced w/ driver air bags
MY 89 .....										5,000,000
MY 90 .....			1			2			3	2,500,000
MY 91 .....			1	1	1				3	2,867,000
MY 92 .....										5,084,000
MY 93 .....										7,595,000
MY 94 .....						2			2	9,890,000
MY 95 .....								1	1	13,690,000
MY 96 .....										14,321,000
<b>Total .....</b>			<b>2</b>	<b>1</b>	<b>1</b>	<b>4</b>		<b>1</b>	<b>9</b>	<b>56,447,000</b>

**AGE OF DRIVERS FATALLY INJURED IN AIR BAG DEPLOYMENTS**

	<20	20-29	30-39	40-49	50-59	60-69	70-79	>80	Total
1 .....		1	4	4	2	1	6		19

TYPE OF RESTRAINT USED BY DRIVERS FATALLY INJURED IN AIR BAG DEPLOYMENTS

Type of restraint used	No. of drivers
None .....	10
Belts misused .....	1
Lap and shoulder belt (Driver blacked out and slumped forward at time of crash due to medical condition.) .....	2
Lap and shoulder belt .....	4
Unknown .....	2
<b>Total .....</b>	<b>19</b>

Comparison of passenger and driver air bag fatalities. Several comparisons between the data for child fatalities and driver fatalities need to be drawn. The annual number of child fatalities is very small, but growing steadily. The number of adult fatalities is not growing. Most child fatalities have occurred in very recent model year vehicles, model year 1994 and 1995 vehicles. In contrast, only one woman 5 feet 2 inches or less has died in post model year 1992 vehicles. Most fatalities of those women occurred in model year 1990-1992 vehicles. (See tables below.)

DRIVER AIR BAG FATALITIES BY CALENDAR YEAR OF DEATH

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total
Women (5'2" or less) .....	.....	1	1	1	2	1	4	.....	10
Other adults .....	.....	.....	2	1	1	4	.....	1	9
<b>Total .....</b>	<b>.....</b>	<b>1</b>	<b>3</b>	<b>2</b>	<b>3</b>	<b>5</b>	<b>4</b>	<b>1</b>	<b>15</b>

CHILD AIR BAG FATALITIES BY CALENDAR YEAR OF DEATH

	CY 89	CY 90	CY 91	CY 92	CY 93	CY 94	CY 95	CY 96	Total
Children (non-infant) .....	.....	.....	.....	.....	1	5	5	11	22
Infants .....	.....	.....	.....	.....	.....	.....	3	6	9
<b>Total .....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>1</b>	<b>5</b>	<b>8</b>	<b>17</b>	<b>31</b>

DRIVERS AIR BAG FATALITIES BY MODEL YEAR OF VEHICLE

	MY 89	MY 90	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	Total
Women (5'2" or less) .....	1	3	3	2	.....	1	.....	.....	10
Other adults .....	.....	3	3	.....	.....	2	1	.....	9
<b>Total .....</b>	<b>1</b>	<b>6</b>	<b>6</b>	<b>2</b>	<b>.....</b>	<b>3</b>	<b>1</b>	<b>.....</b>	<b>19</b>

CHILDREN AIR BAG FATALITIES BY MODEL YEAR OF VEHICLE

	MY 89	MY 90	MY 91	MY 92	MY 93	MY 94	MY 95	MY 96	Total
Children (noninfant) .....	.....	.....	.....	.....	3	5	11	3	22
Infants .....	.....	.....	.....	.....	.....	2	6	1	9
<b>Total .....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>.....</b>	<b>3</b>	<b>7</b>	<b>17</b>	<b>4</b>	<b>31</b>

Potential Number of Persons Saved or Fatally Injured by Current Air Bags. The dilemma faced by NHTSA, and ultimately the public, is how to address the problem of low speed fatalities from air bags while preserving their substantial life-saving benefits. Based on analyses of real world data, NHTSA estimates that if all passenger cars and light trucks on the road today had current air bags, there would be more than 3,000 lives saved each year, as compared to a no-air-bag fleet (assuming current belt use rates). On the driver

side, 616 belted drivers and 1,686 unbelted drivers would be saved, for a total of 2,302 lives saved. This is a *net* figure, i.e., it accounts for the possibility of some drivers being fatally injured by the air bag.

The potential number of lives saved by passenger-side air bags is much smaller than driver-side air bags primarily because the passenger seat is occupied much less frequently than the driver's seat, and because children ride there. If all passenger cars and light trucks had current passenger-side air

bags, the agency estimates that 223 belted and 491 unbelted passengers aged 13 and above would be saved annually, for a total of 714 lives saved.

However, this 714 figure would be partially offset by fatalities caused by the air bag to children 12 and under. If current rates of child fatalities were experienced in an all-airbag fleet, 128 children would be fatally injured by air bags annually, again assuming no technological improvements, changes to air bags, or behavioral changes by vehicle operators (e.g., ensuring that any

children placed in the front seat properly use occupant restraints or, preferably, placing children in the rear seat). The figure of 128 includes 90 forward-facing children, most of whom would be unbelted, and 38 infants in rear-facing child restraints.

NHTSA emphasizes that this and the other rulemaking proceedings and related educational efforts are intended to ensure that risks of adverse effects of air bags are reduced so that the theoretically projected air bag fatalities never materialize, while the potential benefits of air bags are retained, to the maximum extent possible.

#### Appendix B—Information Concerning Air Bag Deactivation

This information sheet contains basic information about air bag benefits and risks. It is up to date as of November 30, 1996. If you need more information you may call the Auto Safety Hotline at (800) 424-9393 or visit the vehicle safety home page at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov).

#### Air Bags—What They Are and What They Do

An air bag is a fabric bag that is stored within the hub of the steering wheel or in the dashboard on the passenger's side of a vehicle. It is attached to a metal housing that contains the inflator for the air bag. When crash sensors in the front of the vehicle detect a crash, they trigger the inflator, rapidly inflating the air bag.

The bag must inflate very quickly, in the blink of an eye, if it is to inflate in time to protect a vehicle occupant from striking the steering wheel, dashboard, or windshield. If it inflates fully before the occupant moves into it, it enables the occupant to stop gradually. Gradual stops are safer than sudden stops. Since the air bag also spreads the crash forces over a large area of the body, it is very effective in reducing deaths and injuries in frontal crashes.

#### The Requirement for Air Bags

By law, driver and passenger air bags must be installed in 95 percent of passenger cars in model year 1997 and 100 percent in model year 1998. They must be installed in 80 percent of light trucks in model year 1998 and in all light trucks in model year 1999. The manufacturers are already installing them in virtually 100 percent of passenger cars and most light trucks.

By November 1996, approximately 53 million passenger cars and light trucks were equipped with air bags. Of these vehicles, about 24 million had both driver and passenger air bags.

#### The Benefits

As of November 1996, the government estimates that more than 1500 drivers and 164 passengers have been saved by air bags. This number is rapidly increasing as more vehicles equipped with air bags enter the fleet. Taking all crashes together, the air bag is reducing fatal injuries by 11 percent for drivers and 13 percent for adult passengers.

The greatest protection comes from using safety belts with air bags. The safety belt keeps an occupant's hips in place during a

crash and limits the forward movement of the occupant's head and upper body. The air bag prevents the occupant's head and upper body from striking the windshield or dashboard. The latest studies indicate that occupants protected by safety belts and air bags are 50 percent less likely than unrestrained occupants to suffer fatal or serious injury in a crash.

#### The Risks

The air bag's speed is also the source of its risk. The air bag is not a soft, pillowy cushion. If an occupant is too close to the air bag when it begins to inflate, the bag can impact the chest or head of the occupant with great force. If the occupant is extremely close to the air bag when it inflates, the injuries can be serious or fatal. As of November 1996, the government has verified reports of 19 drivers and 33 passengers, 32 of them children under 10 years old, who have been killed by air bags.

#### The Driver Air Bag

Of the 19 drivers fatally injured since 1990, only five were wearing their safety belts and two of these had lost consciousness before the crash and were slumped over the wheel when the air bag deployed. Ten were short women (5'2" or less), 9 of whom were driving vehicles made in 1992 or earlier model years. Most of the women drivers were 64 or older. During this same period, in contrast, air bags saved hundreds of short women from serious or fatal injuries.

The risk appears greater for unbelted drivers and for smaller and older drivers, particularly those who must be very close to the steering wheel in order to reach the pedals. The risk can be significantly reduced by wearing the safety belt, sitting as far back as access to the pedals permits, and including the seat back away from the steering wheel.

#### Considering Whether To Disconnect the Driver Air Bag

For most drivers, reasonable measures (moving the seat rearward, inclining the seat back, adjusting a telescoping steering wheel toward the dashboard) can provide an adequate distance between the driver and the steering wheel. The government has not evaluated devices such as pedal blocks or extenders that enable short drivers to move back from the steering wheel. Before considering such a device as an alternative to deactivating an air bag, a driver should carefully evaluate the device's ease of use and safety. Information about them can be obtained from the National Mobility Dealers Association at 1-800-833-0427.

If a driver takes all reasonable measures but cannot get further than about [ ] inches from the air bag when wearing his or her safety belt, it is possible that pre-crash braking or the forces of a crash could move the driver too close to the inflating bag. In that case, the driver might want to consider disconnecting the air bag.

Other factors that bear on disconnection include the driver's age and physical condition. Older drivers are at greater risk of injury in a crash, with or without an air bag, and may want to consider this fact if they are also unable to sit more than [ ] inches from

the air bag. Some persons with medical disabilities that require assistive appliances such as tracheotomy tubes also need to pay particular attention to their distance from the air bag. If you are uncertain whether a medical condition poses a risk, you should consult your doctor.

#### The Passenger Air Bag

Most of the air bag related deaths have occurred in the last three years, as passenger air bags began to enter the fleet in large numbers. Of the children killed, 9 were riding in rear-facing infant seats and 18 were riding unrestrained in the front seat. Two children were restrained by a lap belt only and two (one a small four-year-old) were restrained by a lap and shoulder belt.

In addition to the children, the death of one adult passenger, a woman in her 90's, has been verified as air bag related.

#### Considering Whether To Disconnect the Passenger Air Bag

If the vehicle is to be used to carry adults only, there is no reason to consider disconnecting the air bag. The air bags are proving to be effective for adult passengers. With the exception of a woman in her 90's, no adult passenger is known to have been killed by an air bag. In all but the rarest circumstances, an adult passenger would be able to position the seat far enough away from the dash to obtain the benefit of the air bag without the risks. Even in the case of vehicles with bench seats operated by small drivers, the passenger seat would be far enough from the air bag to give a belted passenger adequate distance from the air bag.

If the vehicle is used to transport children under twelve, the government's recommendation is that they should ride in the rear seat wherever possible. Placing children in the rear seat will completely eliminate any risk from the air bag and make deactivation unnecessary. If for any reason you must carry a child (other than an infant) in the front seat, make sure that the child is securely buckled in a restraint appropriate for the child's size and age, move the seat back as far as possible, and make sure that the child sits back against the seat.<sup>1</sup> Although there are no verified reports of fatal injuries to belted children who were sitting back in the seat at the moment of impact, parents should be aware that there may still be a risk to a restrained child, since children tend to move around (adjusting the radio, reaching for a soda, etc.) even when they are restrained. Parents should decide whether to deactivate the air bag in the light of this information.

Under NO circumstances should an infant be carried on the front seat in a rear-facing infant seat unless the air bag is deactivated. In a rear-facing seat, an infant's head would

<sup>1</sup> Depending on the size and age of the child, the appropriate restraint could be a forward-facing child safety seat (for children from approximately one to four years, or 20 to 40 pounds), a booster seat plus a lap/shoulder belt (for children older than four or more than 40 pounds), or a lap/shoulder belt alone (for children who are large enough to wear the shoulder belt comfortably across the shoulder and to secure the lap belt across their pelvis, and who have legs long enough to dangle over the front of the seat when their backs are on the seat back).

be very close to the inflating air bag. The risk of serious or fatal injury is very high. If it is not feasible to carry an infant in the rear seat, either because the vehicle lacks a rear seat or because of a medical condition that requires constant attention, the air bag should be deactivated. Do not attempt to turn a rear-facing infant seat around or carry an infant under 20 pounds in any forward-facing seat.

**How To Disconnect an Air Bag**

Deactivating an air bag can be dangerous. It should not be attempted by anyone but a qualified mechanic. Although Federal regulations now permit dealers and motor vehicle repair businesses to disconnect air bags, NHTSA strongly discourages disabling except in special circumstances, since air bags use with safety belts almost always

provide better protection than safety belts alone.

**Appendix Authorization To Deactivate an Air Bag**

I, \_\_\_\_\_,

(Vehicle Owner's Name)

the owner of the following vehicle:

\_\_\_\_\_  
(Make (e.g., Chevrolet))

\_\_\_\_\_  
(Model (e.g., Lumina))

\_\_\_\_\_  
(Model year)

\_\_\_\_\_  
(Vehicle Identification Number)

(State in which vehicle is registered)

\_\_\_\_\_  
(Registration #)

I authorize \_\_\_\_\_

\_\_\_\_\_  
(Name of motor vehicle dealer or repair business)

\_\_\_\_\_  
(Address of dealer or repair business)

to modify the vehicle identified above in the following way:

In the appropriate box(es) below, initial which air bag or bags you want deactivated.

Deactivate my driver air bag

Deactivate my passenger air bag

I make this authorization with the

following acknowledgments and

understandings:

Owner must initial *each* box below

**Owner acknowledgments and understandings**

Information sheet. I acknowledge that the dealer or repair business identified above has given me a copy of an air bag information sheet prepared by the National Highway Traffic Safety Administration and that I have read the sheet.  
 Loss of protection. I understand that a deactivated air bag will not deploy and thus will not provide protection in the event of motor vehicle collision.  
 Attaching of labels. I understand that the dealer or repair business identified above is required by law to install labels on the sun visor and door jamb for each air bag that is deactivated pursuant to this authorization.  
 I understand that the labels are intended to alert present and future owners and users that one or both air bags are deactivated.  
 I will allow the dealer or repair business to attach the labels and ensure that they remain in place as long as the air bag(s) remain(s) deactivated.  
 Waiver of claims. I acknowledge that, by authorizing the deactivation of an air bag in my vehicle, I waive any claim or cause of action that I may have against the dealer or repair business because the air bag has been deactivated.

\_\_\_\_\_  
(Signature of vehicle owner)

\_\_\_\_\_  
(date)

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