

CAS No.	Substance	Effective date	Reporting date
12083-48-6	Vanadium, dichlorobis (.eta.5-2,4-cyclopentadien-1-yl)-.	July 11, 2003	September 9, 2003
12166-27-7	Vanadium sulfide (VS)	July 11, 2003	September 9, 2003
12439-96-2	Vanadium, oxo[sulfato(2-)-.kappa.O]-, pentahydrate [Vanadyl sulfate (VOSO4), pentahydrate].	July 11, 2003	September 9, 2003
12604-58-9	Vanadium alloy, base, V,C,Fe (Ferrovanadium)	July 11, 2003	September 9, 2003
13470-26-3	Vanadium bromide (VBr3)	July 11, 2003	September 9, 2003
13476-99-8	Vanadium, tris(2,4-pentanedionato-.kappa.O,.kappa.O)-, (OC-6-11)- [Vanadium tris(acetylacetonate)].	July 11, 2003	September 9, 2003
13497-94-4	Silver vanadium oxide (AgVO3)	July 11, 2003	September 9, 2003
13517-26-5	Sodium vanadium oxide (Na4V2O7) [Sodium pyrovanadate].	July 11, 2003	September 9, 2003
13718-26-8	Vanadate (VO31-), sodium [Sodium metavanadate].	July 11, 2003	September 9, 2003
13721-39-6	Sodium vanadium oxide (Na3VO4) [Sodium orthovanadate].	July 11, 2003	September 9, 2003
13769-43-2	Vanadate (VO31-), potassium [Potassium metavanadate].	July 11, 2003	September 9, 2003
13930-88-6	Vanadium, oxo[29H,31H-phthalocyaninato(2-)-*COM001*.kappa.N29,.kappa.N30,.kappa.N31,.kappa.N32]-, (SP-5-12)-.	July 11, 2003	September 9, 2003
14059-33-7	Bismuth vanadium oxide (BiVO4)	July 11, 2003	September 9, 2003
19120-62-8	Vanadium, tris(2-methyl-1-propanolato)oxo-, (T-4)- [isobutyl orthovanadate].	July 11, 2003	September 9, 2003
24646-85-3	Vanadium nitride (VN)	July 11, 2003	September 9, 2003
27774-13-6	Vanadium, oxo[sulfato(2-)-.kappa.O]- [Vanadyl sulfate].	July 11, 2003	September 9, 2003
30486-37-4	Vanadium hydroxide oxide (V(OH)2O)	July 11, 2003	September 9, 2003
39455-80-6	Ammonium sodium vanadium oxide	July 11, 2003	September 9, 2003
53801-77-7	Bismuth vanadium oxide	July 11, 2003	September 9, 2003
65232-89-5	Vanadium hydroxide oxide phosphate	July 11, 2003	September 9, 2003
68130-18-7	Vanadium hydroxide oxide phosphate (V6(OH)3O3(PO4)7).	July 11, 2003	September 9, 2003
68815-09-8	Naphthenic acids, vanadium salts	July 11, 2003	September 9, 2003
68990-29-4	Balsams, copaiba, sulfurized, vanadium salts	July 11, 2003	September 9, 2003

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 571**

[Docket No. NHTSA-03-15343]

RIN 2127-AJ09

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

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

**ACTION:** Correcting amendment.

**SUMMARY:** This rule corrects errors in Figures 6a, 6b, 7, 8, and 9 of Federal Motor Vehicle Safety Standard No. 208, *Occupant crash protection* (FMVSS No. 208). These figures were added to the standard in two separate and unrelated rulemakings. They provide instructions

regarding format that are inconsistent with the requirements in the regulatory text of the standard. This document resolves the problem by removing the inconsistent instructions from the figures.

**DATES:** This final rule is effective June 11, 2003.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may contact Lou Molino, Office of Crashworthiness Standards, Light Duty Vehicle Division, NVS-112. Telephone: (202) 366-2264. Fax: (202) 493-2739.

For legal issues, you may contact Rebecca MacPherson, Office of Chief Counsel, NCC-20. Telephone: (202) 366-2992. Fax: (202) 366-3820.

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

**SUPPLEMENTARY INFORMATION:** On March 19, 2001, NHTSA provided Mr. Todd Mitchell of ITW Meyercord with a letter of legal interpretation stating that three of four warning labels specified in FMVSS No. 208 were required to be outlined with black horizontal and

vertical lines. This interpretation was based on the figures in the standard for those labels. The figures depict labels with an outline and contain an instruction specifying the color of the outline (“Label Outline, Vertical and Horizontal Line Black”). Based on the depiction of an outline and on the specification of a color for the outline, the agency concluded that an outline is required. NHTSA determined that the fourth label is not required to have an outline because the instructions in the figure for that label do not include a color specification explicitly referring to an “outline.”<sup>1</sup>

On May 2, 2001, the Alliance of Automobile Manufacturers submitted a letter to NHTSA asking the agency to reconsider the interpretation. It argued that the regulatory text of the standard neither requires conformity with the format of the label shown in the figures

<sup>1</sup> NHTSA determined that the labels depicted in Figures 6a, 6b, and 8 required an outline. The label depicted in Figure 6c did not. Two other labels, depicted in the regulation in Figures 7 and 9, were not addressed. However, the response would have been the same as the agency response regarding Figures 6a, 6b, and 8.

nor requires that the label have an outline.

We agree with the Alliance that the standard does not require an outline. Instead of simply reversing the legal interpretation, we believe it is more appropriate to resolve the matter by issuing a correcting amendment to the standard.

On August 6, 1996, NHTSA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (61 FR 40784, Docket No. NHTSA-97-2705) proposing the adoption of new, attention-getting air bag warning labels. The regulatory text in the NPRM simply stated that the labels "shall conform in size, content, color, and format" to the labels shown in the figures. No other requirements regarding label size, content, color or format were included in the regulatory text. Figures 6a through 8 depicted the messages and, if any, pictogram for each label. The figures also contained instructions specifying color and size of each label.<sup>2</sup>

In their comments on the NPRM, vehicle manufacturers requested that only the content of the labels be required to conform to the figures.

In the final rule (61 FR 60206, NHTSA Docket No. NHTSA-97-2716, November 27, 1996), NHTSA agreed there was no need to specify either the arrangement of the information on the labels or the shape of the labels, both of which it characterized as formatting. It also determined that it did not need to specify the size of the label or typeface, although it did specify minimum areas for the message text and pictogram.

Accordingly, the agency replaced the proposed requirement in the regulatory text that labels "shall conform in size, content, color, and format" with the figures with a narrower requirement that labels "shall conform in content" with

the figures. At the same time, it expanded the regulatory text by adding requirements that restated most, but not all, of the color instructions in the figures. The agency also deleted the instructions about minimum size of the labels.

There are two instructions in Figures 6a and 6b and one instruction in Figure 7 that are not restated in any requirements in the regulatory text. One is a format/color instruction about a black outline. The other is a color instruction about using red for bullets in the message area. Figure 7 contains only the format/color instruction about the black outline.

The presence of the instructions creates an ambiguity as to whether the black outline instruction and the red bullet instruction are required components of the standard. The labels proposed in the NPRM and those adopted in the final rule are different. Accordingly, it is not possible to argue that the instruction in the figures that the labels be outlined with horizontal and vertical black lines was an inadvertent remnant of the proposed labels. However, there is nothing in the preamble to the final rule to suggest that the agency intended to require these format/color instructions. Rather, as the new labels went through various iterations before the agency decided on a final version, the reference was inadvertently left in the figures, even though the agency ultimately decided not to specify these format and color instructions in the regulatory text.

We believe that these instructions in the figures are more akin to format than to content and were not specifically included in the regulatory text because the agency did not wish to require them. This position is bolstered by the language of the regulatory text in S4.5.1(b)(1) which states that the labels shall conform in content with the referenced figures and meet the requirements listed in S4.5.1(b)(1)(i)

through S4.5.1(b)(1)(iv) and similar language in S4.5.1(b)(2) and in S4.5.1(e)(1) and S4.5.1(e)(2). These requirements include the limitations on color provided in the figure instructions, but do not include the instruction regarding an outline or bullets.

Accordingly, we are amending Figures 6a, 6b and 7 of FMVSS No. 208 to remove the reference to a black outline. We are also amending Figures 6a and 6b to delete the reference to red bullets. We are likewise amending Figures 8 and 9. Figure 8 was based, in large part, on Figures 6a and 6b. Figure 9 was based on Figure 7. When the advance air bag final rule incorporating Figures 8 and 9 was published (65 FR 30680, Docket No. NHTSA-00-7013, May 12, 2000), the agency had already indicated in the earlier rollover label rulemaking that it did not believe the outline in Figures 6a, 6b and 7 were required. The instruction should not have been included in Figures 8 and 9, since we made no findings in that rulemaking that our previous position was incorrect.

#### List of Subjects in 49 CFR Part 571

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

■ In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

#### 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, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.208 is amended by revising Figures 6a, 6b, 7, 8, and 9 to read as follows:

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<sup>2</sup>NHTSA ultimately decided against adopting one of the proposed labels. In the final rule, the labels were depicted in Figures 6a, 6b, 6c, and 7.



Figure 6a. Sun Visor Label Visible when Visor is in Down Position.

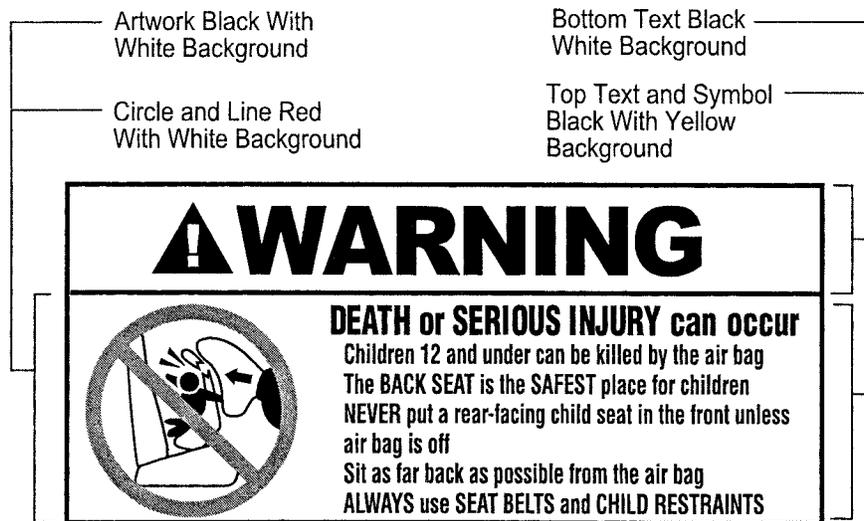


Figure 6b. Sun Visor Label Visible when Visor is in Down Position.

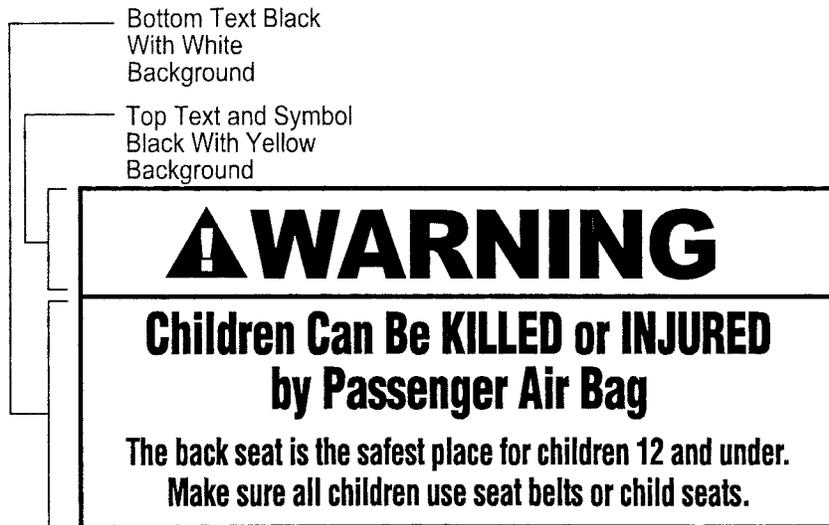


Figure 7. Removable Label on Dash.

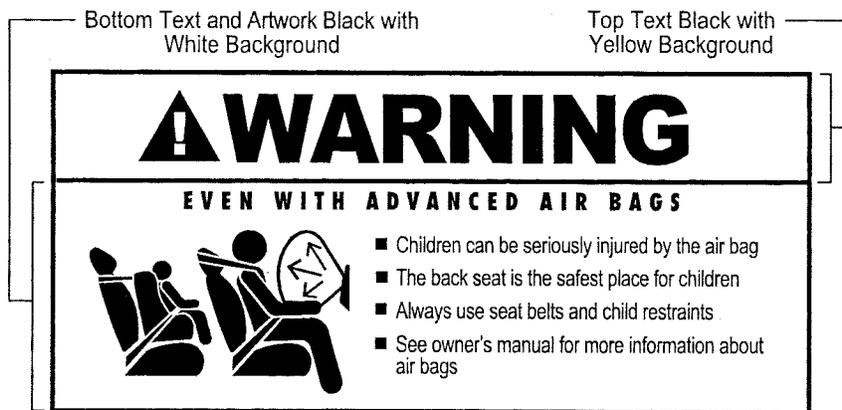


Figure 8. Sun Visor Label Visible when Visor is in Down Position.

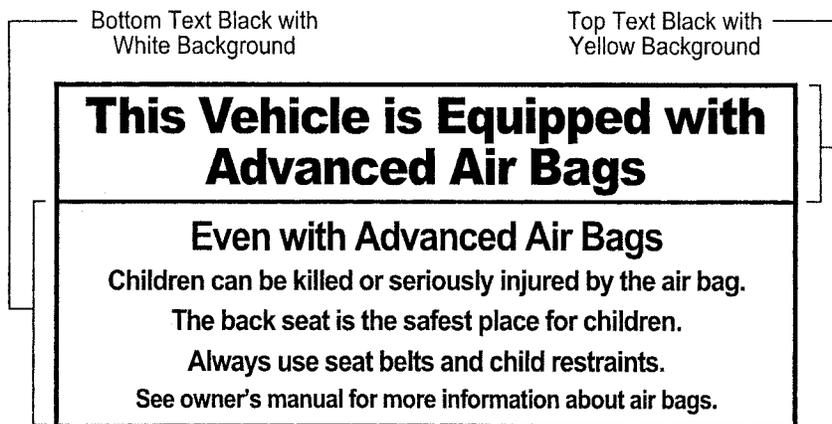


Figure 9. Removable Label on Dash.

Issued on: June 5, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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