without the exemption. The exemption allows applicants to operate CMVs in interstate commerce.

The Agency’s decision regarding these exemption applications is based on medical reports about the applicants’ vision as well as their driving records and experience driving with the vision deficiency. The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the December 11, 2017, Federal Register notice (82 FR 58262) and will not be repeated in this notice.

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 16 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, chorioretinal scotoma, conical scarring, keratoconus, macular edema, nystagmus, optic atrophy, prosthesis eye, retinal detachment, and retinal scar. In most cases, their eye conditions were not recently developed. Ten of the applicants were either born with their vision impairments or have had them since childhood. The six individuals that sustained their vision conditions as adults have had it for a range of 4 to 18 years. Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor’s opinion, has sufficient vision to perform all the tasks necessary to operate a CMV.

Doctors’ opinions are supported by the applicants’ possession of a valid license to operate a CMV. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision in intrastate commerce, even though their vision disqualified them from driving in interstate commerce. We believe that the applicants’ intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions.

The applicants in this notice have driven CMVs with their limited vision in careers ranging for 2 to 46 years. In the past three years, no drivers were involved in crashes, and one driver was convicted of moving violations in CMVs. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants’ ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

Consequently, FMCSA finds that in each case exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10) and (b) by a certified Medical Examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) each driver must provide a copy of the ophthalmologist’s or optometrist’s report to the Medical Examiner at the time of the annual medical examination; and (3) each driver must provide a copy of the annual medical certification to the employer for retention in the driver’s qualification file, or keep a copy in his/her driver’s qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the 16 exemption applications, FMCSA exempts the following drivers from the vision requirement, 49 CFR 391.41(b)(10), subject to the requirements cited above:
motor vehicle safety in the GMT900 vehicles, and that GM should therefore be relieved of its notification and remedy obligations. This notice serves to make the public aware of GM’s pending request to the agency and the period for public comment. It does not address GM’s substantive claims, nor legal arguments or interpretations asserted by GM.

DATES: The closing date for comments is May 9, 2018.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments regarding this petition for inconsequentiality. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by one of the following methods:
  • Internet: Go to http://www.regulations.gov and follow the online instructions for submitting comments.
  • Mail: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590.
  • Hand Delivery or Courier: U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590 between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
  • Facsimile: (202) 493–2251.

You may call the Docket at (202) 366–9324.

Note that all comments received will be posted without change to http://www.regulations.gov, including any personal information provided. Thus, submitting such information makes it public. You may wish to read the Privacy Act notice, which can be viewed by clicking on the “Privacy and Security Notice” link in the footer of http://www.regulations.gov. DOT’s complete Privacy Act Statement is available for review in the Federal Register published on April 11, 2000 (65 FR 19477–78).

The petition, supporting materials, and all comments received before the close of business on the closing date indicated above will be filed in the docket and will be considered. Comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.


For general information regarding NHTSA’s investigation into Takata air bag inflator ruptures and the related recalls: http://www.safercar.gov/rs/takata/index.html.

SUPPLEMENTAL INFORMATION:

I. Background

On May 4, 2016, NHTSA issued, and Takata agreed to, an Amendment to the November 3, 2015 Consent Order (the “Amendment”), under which Takata is bound to declare a defect in all frontal driver and passenger air bag inflators that contain a phase-stabilized ammonium nitrate (PSAN)-based propellant and do not contain a moisture-absorbing desiccant. Such defect declarations are being made on a rolling basis, with the first declaration due May 16, 2016, the second declaration due December 31, 2016, and the third declaration due December 31, 2017. See Amendment at ¶ 14.

GM’s May 2016 & January 2017 DIRs

Takata submitted the first scheduled equipment DIRs on May 16, 2016. See Recall Nos. 16E–042, 16E–043, and 16E–044. Those DIRs included non-desiccated passenger inflators, designated as types SPI YP and PSPI–L YD, that were installed as original equipment on certain motor vehicles manufactured by GM (the “covered passenger inflators”), as well as other non-desiccated passenger inflators installed as original equipment on motor vehicles manufactured by a number of other automakers, which are not at issue here.

The Takata filing triggered GM’s obligation to file a DIR for the affected GM vehicles. See 49 CFR part 573. 1 Amendment at ¶ 16; Third Amendment at ¶ 14. GM ultimately submitted two DIRs on May 27, 2016. See Recall Nos. 16V–381 (for vehicles in Zone A) and 16V–383 (for vehicles in Zone B). On November 15, 2016, GM petitioned the Agency, under 49 U.S.C. 30118(d), 30120(h) and 49 CFR part 556, for a decision that the equipment defect determined to exist by Takata is inconsequential as it relates to motor vehicle safety in the GMT900 vehicles. See GM’s Petition for Inconsequentiality and Request for Deferral of Determination Regarding Certain GMT900 Vehicles Equipped with Takata “SPI YP” and “PSPI–L YD” Passenger Inflators Subject to January 2017 Takata Equipment DIR Filings (the “First Petition for Inconsequentiality” or “First Petition”).

In a Notice published in the Federal Register on November 28, 2016, the Agency published notice of the First Petition and granted two administrative requests, accepting the petition out of time and granting GM additional time to provide data in support of the petition. See 81 FR 85681.


On September 11, 2017, the Agency published a notice of receipt of the Second Petition and, as GM’s Second Petition was virtually identical to its First Petition (both involved the same covered passenger inflators and same vehicle platform, relied upon the same purported evidence, and would rely upon the same forthcoming report), consolidated the Second Petition with the First Petition under Docket No. NHTSA–2016–0124. See 82 FR 42718.

GM’s January 9, 2018 DIRs

Takata timely submitted 2 the third scheduled equipment DIRs on January 2, 2018. Those DIRs included additional covered passenger inflators. Once more, the Takata filing triggered GM’s obligation to file a DIR for the affected GM vehicles. See 49 CFR part 573. Amendment at ¶ 16; Third Amendment to Coordinated Remedy Order at ¶ 32. GM submitted its DIRs on January 9, 2018.3 Therein, in accordance with 49 CFR 573.6(c)(8)(ii), GM notified

When a manufacturer files a petition for inconsequentiality, the affected DIR will not be made public unless and until the Agency denies the petition.

December 31, 2017 was a Sunday, and Monday, January 1, 2018 was a federal holiday.

When a manufacturer files a petition for inconsequentiality, the corresponding DIR will not be made public unless and until the Agency denies the petition.

When a manufacturer files a petition for inconsequentiality, the affected DIR will not be made public unless and until the Agency denies the petition.
III. Summary of GM’s Third Petition for Inconsequentiality

GM’s Third Petition relies on arguments, data, and analysis in its First and Second Petitions (and supplemental brief thereto), information submitted to the Agency during briefings with NHTSA, and additional arguments and engineering analysis as presented in the Third Petition. See Third Petition at 1, 3. According to the Third Petition, GM’s originally planned Orbital ATK (“OATK”) inflator study is now complete,4 which GM argues demonstrates the covered passenger inflators in subject GMT900 vehicles “will continue to operate safely for decades, even in the highest temperature and humidity regions”—i.e., that the covered passenger inflators, as integrated into the GMT900 vehicles, do not present an unreasonable risk to safety. See id. at 3.

According to the Third Petition, GM’s position is based upon the following: field data, including GM’s estimated 63,000 Takata passenger air bag inflator deployments in GMT900 vehicles without a reported rupture and ballistic tests of 4,205 covered passenger inflators without a rupture or sign of abnormal deployment, and results of the OATK study of inflators artificially exposed to additional humidity and temperature cycling without a rupture or abnormal deployment, and accompanying statistical interpretation of those results. Id. at 12–15.

GM further states that the covered passenger inflators are not used by any other original equipment manufacturer and, further, that the covered inflators have a number of unique design features that influence burn rates and internal ballistic dynamics, including greater vent-area-to-propellant-mass ratios, steel end caps, and thinner propellant wafers. See id. at 6. In addition, GM states that the physical environment of the GMT900 vehicles better protects the covered passenger inflators from temperature cycling that can lead to propellant degradation and, ultimately, inflator rupture. See id. at 7.

This notice serves to make the public aware of GM’s pending request to the agency and the period for public comment. Accordingly, it does not address the substantive claims, or legal arguments or interpretations, asserted by GM.

IV. Consolidation

GM’s Third Petition for Inconsequentiality involves newer model years of the same covered passenger inflators (i.e., frontal passenger inflator types “SPI YP” and “PSPI-L YD”), the same vehicle platform (i.e., the GMT900), and similar purported evidence to support the safety of the inflators (e.g., estimated field deployments, ballistic testing), and relies upon the same OATK study as GM’s First and Second Petitions. Accordingly, it is appropriate to evaluate the First, Second, and Third Petitions together. In the interest of clarity, consistency, and efficiency, the Agency is consolidating the Third Petition with the First and Second Petitions (the “Consolidated Petitions”) under Docket No. NHTSA–2016–0124.

V. Request To Defer Decision on Petition

GM states it believes the evidence it has thus far presented “fully supports” the relief it requests in the Consolidated Petitions. Id. at 17. Alternatively, GM requests that NHTSA defer its decision until March 31, 2018. Id. According to GM, this would allow it to conduct further studies and analysis that can develop an estimate of the covered inflators’ likely service life beyond 30 years, as well as a predictive model of service-life estimates to account for inflator design and vehicle integration. See id.

NHTSA’s grant of GM’s request to defer a decision on the First Petition until August 31, 2017 so that GM could provide additional evidence, including concluding the OATK study, was unprecedented. As NHTSA noted in granting that request, “[o]rdinarily, under 49 CFR 556.4(b)(5), an inconsequentiality petition must set forth all data, views, and arguments supporting that petition”5 at the time of the filing. Decision deferrals for inconsequentiality petitions are not permitted, and permitting that practice would provide manufacturers with an opportunity to endlessly delay remedy of vehicles in need of repair. Here, one important factor in NHTSA’s decision to grant the deferral was GM’s assertion that remedy parts would quickly be available to the public in the event the petition was denied. NHTSA’s extraordinary grant of additional time to present information allowed GM until

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4To supplement its internal analysis, GM retained a third-party expert, OATK, to conduct a long-term aging study to estimate the service life expectancy of the covered passenger inflators in the GMT900 vehicles. See First Petition at 12. When NHTSA previously deferred a decision on GM’s First Petition, one of the conditions of that deferral was that GM provide NHTSA with monthly updates on this study.

5General Motors LLC, Receipt of Petition for Inconsequentiality and Decision Granting Request To File Out of Time and Request for Deferral of Determination, 81 FR 58681, 83683–84.
August 31, 2017 to provide data, and that date has passed. However, following notice and an opportunity for comment, any decision on an inconsequentiality petition can be reversed based on the presentation of new evidence. 49 CFR 556.8. Accordingly, GM’s request that NHTSA defer decision on the Third Petition until March 31, 3017 is herein denied. However, until NHTSA renders a decision on GM’s Petitions, the Agency will continue to accept and, to the extent feasible, consider documents submitted relevant to the Petitions, which NHTSA will make available for public comment in Docket No. NHTSA–2016–0124.

Accordingly, NHTSA hereby gives notice of its receipt of General Motors LLC’s Petition for Inconsequentiality Regarding Certain GMT900 Vehicles Equipped with Takata “SPI YP” and “PSPI-L YD” Passenger Inflators Subject to January 2018 Takata Equipment DIR Filings. And it is hereby ordered that:

1. The period for public comment on GM’s Third Petition shall run from the publication date of this notice through May 9, 2018;

2. GM’s Third Petition is consolidated with the First and Second Petitions; and

3. GM’s request for a deferral of NHTSA’s decision on its First, Second, and Third Petitions to March 31, 2018, is denied.

Authority: 49 U.S.C. 30101, et seq., 30118, 30120(h), 30162, 30166(b)(1), 30166(g)(1); delegation of authority at 49 CFR 1.95(a); 49 CFR parts 556, 573, 577.


Jonathan C. Morrison,
Chief Counsel.

DEPARTMENT OF THE TREASURY
Internal Revenue Service

Art Advisory Panel—Notice of Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of closed meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in New York, NY.

DATES: The meeting will be held April 19, 2018.

ADDRESSES: The closed meeting of the Art Advisory Panel will be held at 290 Broadway, New York, NY 10007.

FOR FURTHER INFORMATION CONTACT:
Maricarmen Cuello, AP:SEPR:AAS, 51 SW 1st Avenue, Room 1014, Miami, FL 33130. Telephone (305) 982–5364 (not a toll free number).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App., that a closed meeting of the Art Advisory Panel will be held at 290 Broadway, New York, NY 10007.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of 26 U.S.C. 6103.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in sections 552b(c)(3), (4), (6), and (7), of the Government in the Sunshine Act, and that the meeting will not be open to the public.

Donna Hansberry,
Chief, Appeals.

DEPARTMENT OF THE TREASURY
Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: The Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will conduct an open meeting and will solicit public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, May 15, 2018.

FOR FURTHER INFORMATION CONTACT:
Gilbert Martinez at 1–888–912–1227 or (737) 800–4060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Tuesday, May 15, 2018, at 4:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Gilbert Martinez. For more information please contact Gilbert Martinez at 1–888–912–1227 or (737) 800–4060, or write TAP Office, Office 3651 S. IH–35, STOP 1005 AUSC, Austin, TX 78741, or post comments to the website: http://www.improveisrs.org. The committee will be discussing various issues related to the Taxpayer