

later than March 1, 2007 with respect to carriage of digital signals; provided, further, that the notice shall also describe the carriage requirements pursuant to 47 U.S.C. 338(a)(4), and paragraph (b)(2) of this section.

* * * * *

(e) * * *

(2) A designated market area is the market area, as determined by Nielsen Media Research and published in the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates or any successor publication. In the case of areas outside of any designated market area, any census area, borough, or other area in the State of Alaska that is outside of a designated market area, as determined by Nielsen Media Research, shall be deemed to be part of one of the local markets in the State of Alaska.

(3) A satellite carrier shall use the 1999–2000 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates to define television markets for the first retransmission consent-mandatory carriage election cycle commencing on January 1, 2002 and ending on December 31, 2005. The 2003–2004 Nielsen Station Index Directory and Nielsen Station Index United States Television Household Estimates shall be used for the second retransmission consent-mandatory carriage election cycle commencing January 1, 2006 and ending December 31, 2008, and so forth for each triennial election pursuant to this section. Provided, however, that a county deleted from a market by Nielsen need not be subtracted from a market in which a satellite carrier provides local-into-local service, if that county is assigned to that market in the 1999–2000 Nielsen Station Index Directory or any subsequent issue of that publication. A satellite carrier may determine which local market in the State of Alaska will be deemed to be the relevant local market in connection with each subscriber in an area in the State of Alaska that is outside of a designated market, as described in paragraph (e)(2) of this section.

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[FR Doc. 05–17324 Filed 8–30–05; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2005–22240]

RIN 2127–AJ60

Federal Motor Vehicle Safety Standards; Occupant Protection in Interior Impact

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

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds to petitions for reconsideration requesting changes to a final rule published on February 27, 2004 (February 2004 final rule). The February 2004 final rule amended the upper interior impact requirements of Federal Motor Vehicle Safety Standard No. 201, “Occupant protection in interior impact.” Among other matters, to address the safety consequences of certain new vehicle designs, the February 2004 final rule added new targets to door frames and seat belt mounting structures found in some vehicles. This document amends the definition of “seat belt mounting structure” to ensure that the definition is not unnecessarily broad, and clarifies several issues related to existing target relocation procedures. This document also delays the implementation of the new requirements for door frames and seat belt mounting structures from September 1, 2005 until December 1, 2005.

DATES: The amendments in this rule are effective September 1, 2005.

Petitions: Petitions for reconsideration must be received by October 17, 2005, and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 7th Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For technical issues: Lori Summers, Office of Crashworthiness Standards, NVS–112, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366–1740. Fax: (202) 493–2290.

For legal issues: Mr. George Feygin, Attorney Advisor, Office of the Chief Counsel, NCC–112, NHTSA, 400 7th Street, SW., Washington, DC 20590. Telephone: (202) 366–5834. Fax: (202) 366–3820. E-mail:

George.Feygin@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

In 1995, the National Highway Traffic Safety Administration (NHTSA) amended Federal Motor Vehicle Safety Standard (FMVSS) No. 201, “Occupant protection in interior impact,” to require passenger cars, trucks, and multipurpose passenger vehicles with a gross vehicle weight rating (GVWR) of 4,536 kilograms (10,000 pounds) or less, and buses with a GVWR of 3,860 kilograms (8,500 pounds) or less, to provide head protection when an occupant’s head strikes upper interior components, such as pillars, side rails, headers, and the roof during a crash.¹ The new head protection requirements were necessary because head impacts with upper interior components resulted in a significant number of occupant injuries and fatalities.

The head impact protection provisions of FMVSS No. 201 set minimum performance requirements for vehicle interiors by establishing target areas within the vehicle that must be properly padded or otherwise have energy absorbing properties to minimize head injury in the event of a crash. Compliance with the upper interior impact requirements is determined, in part, by measuring the forces experienced by a Free Motion Headform (FMH) test device when it is propelled, at any speed up to and including either 18 km/h or 24 km/h (12 mph or 15 mph), into certain targets on the vehicle interior.

New vehicle designs not contemplated by the 1995 amendments to FMVSS No. 201 emerged, and with them, certain safety concerns. First, a number of manufacturers began producing three door coupes and pickup trucks with three or four doors. Unlike the conventional designs, these vehicles do not have B-pillars between doors. Yet, the door frames appeared to be equivalent to the B-pillar for purposes of head impact protection because these door frames were located near the head of a seated vehicle occupant and posed the same potential head injury risks as a B-pillar. Second, certain pillarless coupes and convertibles used a freestanding vertical structure to provide an attachment point for the upper anchorage of a lap and shoulder belt. This structure, which must be relatively stiff in order to ensure the stability of the belt anchorage, was normally located near the head of the occupant in the seating position for which the belt is provided.

¹ See 60 FR 43031 (August 18, 1995). For a detailed discussion of subsequent amendments to the head impact protection requirements see 69 FR 9217 at 9218–9220 (February 27, 2004).

Because these structures do not support the roof of the vehicle, neither the door frames nor freestanding vertical seat belt mounting structures fit within the definition of "pillar" found in FMVSS No. 201 and, thus, did not have to meet the FMH impact requirements. Yet, the agency was concerned about the potential safety consequences of these new designs because they posed the same potential head injury risks as a pillar, roll-bar, or other stiff vertical component.

On February 27, 2004, the agency published a final rule that addressed this concern (69 FR 9217; Docket 00-7145). The February 2004 final rule amended the definition of "B-pillar" and added several other definitions, to ensure that door frames aft of the A-pillar and forward of any other pillars become subject to the FMH impact requirements. The final rule also required freestanding vertical seat belt mounting structures to meet the FMH impact requirements. The final rule defined "seat belt mounting structure" as:

A component of the vehicle body or frame, including trim, extending above a horizontal plane 460 mm above the seating reference point, SgRP, of the closest outboard designated seating position, with an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of Standard No. 210 (49 CFR 571.210) attached to it, and is not a pillar, roll bar, brace or stiffener, side rail, seat, or part of the roof.

II. Summary of Petitions for Reconsideration

The agency received petitions for reconsideration of the February 2004 final rule from the Alliance of Automobile Manufacturers (Alliance) and from DaimlerChrysler (DCX). Subsequently, Alliance also filed a request for an interpretation related to the February 2004 final rule.²

A. Alliance Petition

In its petition, Alliance stated that the current definition of seat belt mounting structure encompasses some vehicle components that were not contemplated by the agency. While the agency intended to subject freestanding vertical seat belt mounting structures to the head impact protection requirements of FMVSS No. 201, according to Alliance, the current definition will also require rear package shelves, side-wall trim panels, and interior rear quarter trim panels to provide head impact protection. Alliance believes that these seat belt mounting structures are "integrated into the body structure of the vehicle" and should be excluded

from the FMH impact requirements. In support of its view, Alliance provided examples of vehicles with rear seat belt anchorages located on the rear package shelf or in the rear upper corner of the interior rear quarter panel, next to the seat back. Other examples showed vehicles with the front seat belt anchorage located on the front upper corner of the interior rear quarter panel, or on the rear package shelf area, behind the seat back.³

On October 5, 2004, NHTSA met with Alliance to further discuss certain provisions of the petition for reconsideration.⁴ At the meeting, Alliance supplemented its petition by proposing an alternative definition of the seat belt mounting structure. Specifically, Alliance requested that the definition state that only a portion of the seat belt mounting structure that "projects into the daylight opening" be subjected to the FMH impact requirements. For vehicles in which a daylight opening cannot be clearly established, Alliance suggested that the seat belt mounting structure be defined as a "freestanding load bearing component of the vehicle body" or part of the roof."

B. DCX Petition

In its petition, DCX indicated support for the Alliance petition and expressed concern that NHTSA unintentionally subjected seat belt mounting anchorages integrated within the vehicle body structure to the FMH impact requirements. DCX suggested that language in the preamble to the final rule referring to "stand-alone structures rising from the floor of a vehicle" indicated that NHTSA did not intend to include seat belt anchorages located on the interior rear quarter panel or rear package shelf in the definition of the seat belt mounting structure. DCX requested that NHTSA amend the definition of the seat belt mounting structure as follows:

Seat belt mounting structure means a component extending above or out of the normal horizontal vehicle body structure or surface at the height of the upper door surface or lower edge of the window opening with an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of Standard No. 210 (49 CFR 571.210) attached to it, and is not a pillar, roll bar, brace or stiffener, side rail, seat, or part of the roof or normal body structure (below the level of window opening) such as a body closure panel, quarter panel or its trim.

³ See Docket Number NHTSA-2000-7145-09, Appendix A.

⁴ For a detailed summary of the meeting please see Docket Number NHTSA-2000-7145-12.

III. Discussion and Analysis

A. Definition of Seat Belt Mounting Structure

In amending the upper interior impact requirements, the agency did not intend to limit the definition of the seat belt mounting structure strictly to "stand-alone" objects. This is because some seat belt mounting structures that could cause injury (because of their proximity to an occupant's head and the resulting risk of head injury) could be located on "attached" or integrated vehicle components. Nevertheless, the agency did not intend to apply the FMH impact requirements to interior quarter panel trim, or rear package shelves that are located such that they could not readily come in contact with the normally seated occupant's head.

Accordingly, the agency agrees with Alliance and DCX that the definition provided in the February 2004 final rule encompasses some vehicle components that were not contemplated by that rulemaking. We are amending the definition of the seat belt mounting structure to ensure that the seat belt mounting structure FMH impact requirements are not overly broad.

Why the agency is not adopting a seat belt mounting structure definition based on "window opening" or "daylight opening."

In their petitions, Alliance and DCX urged the agency to change the definition of seat belt mounting structure such that only pillar-like components protruding above the vehicle beltline or the daylight window opening by a certain vertical distance would be subject to FMH impact requirements. We note that the agency has previously considered the issue of defining the seat belt mounting structure in terms of daylight opening.⁵ We again decline to adopt the petitioner's suggestion for two reasons.

First, we believe the terms "beltline" or "daylight opening" are inappropriate for defining the seat belt mounting structures because these design elements may not exist or may not be easily identified in vehicles that are most likely to include seat belt mounting structures. Specifically, the agency believes that freestanding seat belt mounting structures are most likely to appear in open body vehicles. Because these vehicles may not include complete roofs, side windows, or side doors, it may not be possible to define where the "daylight opening" or "beltline" begins. For example, a Jeep Wrangler is, in certain configurations,

⁵ See 69 FR 9217 at 9222.

² See Docket Number NHTSA-2000-7145-11.

an open body vehicle that has a soft roof assembly and detachable side doors. This vehicle design makes it difficult to clearly establish a daylight opening or beltline.

Second, in some vehicles, the rear package shelf panel is located higher than the daylight opening or beltline. Because petitioners argue that these shelves should not be subjected to the FMH impact requirements, the definition based on daylight opening or beltline location would not fully resolve the manufacturer's concerns.

The agency believes that locating the seat belt mounting structure should not depend on the location and the height of the nearest daylight opening, but on the structure's proximity to the occupant's head, and the likelihood that the occupant's head could strike that structure. Thus, instead of attempting to define the seat belt mounting structure in reference to daylight opening, the agency believes that it is more appropriate to describe the seat belt mounting structure in reference to the head CG of a seated Hybrid-III 50th percentile male dummy. The head CG of the seated Hybrid-III 50th percentile male dummy is 660 mm vertically above the seating reference point (SgRP).⁶ Regardless of vehicle type, using this geometric measurement method enables identification of the seat belt mounting structure parts or components that could come in contact with the occupant's head.

In deciding how to best refine the current definition of seat belt mounting structure, the agency carefully evaluated the information presented by Alliance and DCX. Specifically, we examined the upper seat belt anchorage locations of vehicles shown in Appendices A and B of the Alliance petition.⁷ The seat belt mounting structure configurations, presented by Alliance as problematic in light of the current seat belt mounting structure definition, fall into two categories.

In some vehicles described by Alliance, the upper seat belt anchorage is located on the rear package shelf behind the seat back. This configuration exists in some two-seat vehicles such as the Corvette Convertible and Cadillac XLR, and some four-seat vehicles such as the Mitsubishi Eclipse Spyder. In other vehicles, the seat belt upper anchorage is located on either the front upper corner of the interior quarter panel, or the rear upper corner of the

interior quarter panel, near the junction of the seat back and rear package shelf.

We believe that raising the minimum height specification in the seat belt mounting structure definition and excluding interior rear quarter panels from the FMH impact requirements would resolve the petitioner's concerns without compromising occupant safety.

Seat belt mounting components located on the rear package shelf.

After examining the information presented by Alliance, we conclude that an upper seat belt anchorage located on the rear package shelf is usually located such that it could not come in contact with the occupant's head.

For two-seat vehicles, because of front seat head restraint height requirements, it is unlikely that the head of the front seat occupant would impact objects that are located behind the seat back or the head restraint, as the head impact trajectory would be blocked. Accordingly, the agency believes that the head restraint will prevent head contact with most targets located on the rear package shelf. For vehicles with two rows of seating positions, the rear seat back or rear seat head restraint would likely prevent the rear seat occupant's head contact with most targets located on the rear package shelf.

In sum, we conclude that a seated occupant's head is not likely to contact a vehicle interior component that is located behind the head restraint or seat back because the head impact trajectory would be blocked. Because the upper seat belt anchorage located behind the rearmost designated seating is unlikely to come into contact with the occupant's head, the agency decided to revise the seat belt mounting structure definition such that it would not encompass most interior components located on the rear package shelf.

Specifically, for seat belt mounting structures located behind the rearmost designated seating positions, the revised definition will encompass only components that extend 660 mm above the SgRP of that seating position; *i.e.*, above the head CG of a Hybrid-III 50th percentile male dummy in a generic vehicle seat. The agency believes that this definition will ensure that components located behind the rearmost seat back or the head restraint are not subject to the new FMH impact requirements unless they reach a height where head contact becomes possible.

For seat belt mounting structures located in front of other seating positions, the definition remains unchanged because the rear seat occupants could strike the vehicle components that extend 460 mm above

the SgRP of the seating position located behind these components.

The relevant portion of the revised regulatory text will read as follows:

Seat belt mounting structure means:

(a) A vehicle body or frame component, including trim, that incorporates an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of 49 CFR 571.210, that is located rearward of the rearmost outboard designated seating position, and that extends above a horizontal plane 660 mm above the seating reference point (SgRP) of that seating position; and

(b) A vehicle body or frame component, including trim, that incorporates an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of 49 CFR 571.210, that is located forward of the rearmost outboard designated seating position, and that extends above a horizontal plane 460 mm above the SgRP of that seating position located rearward of the anchorage.

Interior quarter panels.

In amending the upper interior impact requirements, the agency did not intend to add new FMH impact targets to interior quarter panels located between the edge of the side door opening and the rearmost outboard seating position. We believe that locating additional targets on the interior rear quarter panels would be impracticable for a variety of vehicle designs. Accordingly, we are revising the seat belt mounting structure definition to exclude interior rear quarter panels. We defined the interior rear quarter panel as follows: "Interior rear quarter panel means a vehicle interior component located between the rear edge of the side door frame, the front edge of the seat back, and the daylight opening."

B. Request for Clarification

Petitioners requested that NHTSA clarify several issues related to target relocation procedures. Specifically, they asked if an SB target, requiring relocation because of vehicle configuration, to a point below the 460 mm plane, would become invalid, and whether targets relocated into open space would become invalid.

First, the agency believes that targets relocated below the 460 mm horizontal plane should not be automatically invalidated. This is consistent with our position regarding other targets subject to current head impact protection requirements. For example, a BP4 target relocated below a 460 mm horizontal plane is not automatically excluded from testing. Instead, the target is

⁶ The 660 mm distance was determined using a generic vehicle seat with the seat back angle ranging between 20 and 25 degrees.

⁷ See Docket No. NHTSA-2000-7145-9.

relocated in accordance with target relocation procedures specified S10(b) and S10(c) of FMVSS No. 201.⁸ Thus, there is no minimum height limitation for a relocated target. Second, any target that is relocated in "open space" need not meet the FMH impact requirements. Finally, with respect to other target relocation questions raised by petitioners, we again note that target relocation procedures are specified in S10(b) and S10(c) of FMVSS No. 201. In order for us to answer a more specific relocation question related to an individual vehicle configuration, a manufacturer would need to provide more specific information related to the target in question.

C. Effective Date

Because the effective date for the new requirements for door frames and seat belt mounting structures is imminent, we are delaying the implementation of the new requirements from September 1, 2005 until December 1, 2005. This short delay will enable manufacturers to carefully evaluate how the changes in this document would affect vehicle compliance. Because the practical affect of these changes is that fewer vehicle components will be subject to certain requirements of 49 CFR 571.201, longer lead time is unnecessary. For the same reasons, we are making the amendments effective September 1, 2005.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866, "Regulatory Planning and Review." The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not "significant."

This document narrows the definition of the seat belt mounting structure to ensure that the definition is not unnecessarily broad, and clarifies several issues raised by a petitioner. The practical affect of this change in the definition is that fewer vehicle components will be subject to certain requirements of 49 CFR 571.201.

B. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. This final rule does not have a substantial direct effects

on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132.

C. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to the Executive Order 13045 because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, safety or health risks having a disproportionate impact on children.

D. Civil Justice Reform

Pursuant to Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 5, 1996), the agency has considered whether this rulemaking would have any retroactive effect. This final rule does not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This final rule would not preempt the states from adopting laws or regulations on the same subject, except that it would preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires agencies to evaluate the potential effects of their rules on small businesses, small organizations and small governmental jurisdictions. I have considered the possible effects of this rulemaking action under the Regulatory Flexibility Act and certify that it would not have a significant economic impact on a substantial number of small entities because the amendments in this rulemaking do not impose new requirements. Instead, this rulemaking narrows the definition of the seat belt mounting structure. The practical affect

of this change in the definition is that fewer vehicle components will be subject to certain requirements of 49 CFR 571.201.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This final rule does not adopt any new information collection requirements.

G. National Technology Transfer And Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

There are no available voluntary consensus standards that are equivalent to FMVSS No. 201.

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million in any one year (\$120.7 million as adjusted annually for inflation with base year of 1995).

This final rule will not result in costs of \$120.7 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each

⁸The same issue was raised in a November 2, 2004 request for a legal interpretation from Alliance. See Docket No. NHTSA-2000-7145-13.

year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

J. Privacy Act

Please note that anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit <http://dms.dot.gov>.

K. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

List of Subjects in 49 CFR Parts 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, Part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 2011, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

■ 2. Section 571.201 is amended by revising the definition of Seat belt mounting structure in S3, adding the definition of Interior rear quarter panel to S3 in alphabetical order, and revising S6.3(e) to read as follows:

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

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S3. Definitions. * * *
Interior rear quarter panel means a vehicle interior component located between the rear edge of the side door frame, the front edge of the rearmost seat back, and the daylight opening.

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Seat belt mounting structure means:
 (a) A vehicle body or frame component, including trim, that incorporates an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of 49 CFR 571.210, that is located rearward of the rearmost outboard designated seating position, and that extends above

a horizontal plane 660 mm above the seating reference point (SgRP) of that seating position; and

(b) A vehicle body or frame component, including trim, that incorporates an upper seat belt anchorage conforming to the requirements of S4.2.1 and S4.3.2 of 49 CFR 571.210, that is located forward of the rearmost outboard designated seating position, and that extends above a horizontal plane 460 mm above the SgRP of that seating position located rearward of the anchorage.

(c) The seat belt mounting structure is not a pillar, roll bar, brace or stiffener, side rail, seat, interior rear quarter panel, or part of the roof.

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S6.3 * * *

(e) Any target located on the seat belt mounting structures, door frames and other door frames before December 1, 2005.

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Dated: August 25, 2005.

Jeffrey W. Runge,
Administrator.

[FR Doc. 05–17294 Filed 8–29–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 595

[Docket No. NHTSA–2004–19092]

RIN 2127–AJ07

Make Inoperative Provisions; Vehicle Modifications To Accommodate People With Disabilities

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

ACTION: Final rule.

SUMMARY: To facilitate further the modification of vehicles to accommodate individuals with disabilities, this final rule expands the existing exemptions from the “make inoperative” provision of the Vehicle Safety Act. Responding to petitions for rulemaking from members of the mobility industry, this document expands the exemption to include exemptions from provisions of the advanced air bag requirements, the child restraint anchorage system requirements, and the upper interior head protection requirements.

DATES: The effective date for this final rule is October 31, 2005.

Petitions for reconsideration. Petitions for reconsideration of this final rule must received not later than October 17, 2005.

ADDRESSES: Petitions for reconsideration of the final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Ms. Gayle Dalrymple, Office of Crash Avoidance Standards at (202) 366–5559. Her fax number is (202) 366–7002. For legal issues, you may call Ms. Dorothy Nakama, Office of Chief Counsel at (202) 366–2992. Her fax number is (202) 366–3820. You may send mail to both of these officials at the National Highway Traffic and Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Background

The National Traffic and Motor Vehicle Safety Act requires vehicle manufacturers to certify that their vehicles comply with all applicable Federal motor vehicle safety standards (49 U.S.C. 30112 *et seq.*). The Act further prohibits manufacturers, distributors, dealers, and repair businesses from knowingly making inoperative any part or device or element of design installed in or on a motor vehicle that is in compliance with an applicable standard (49 U.S.C. 30122; “make inoperative” provision). Any action that removes or disables safety equipment or features installed to comply with an applicable standard, or that degrades the performance of such equipment or features could lead to the assessment of civil penalties. Section 30122 authorizes regulations to exempt a person from the make inoperative provision if the agency decides the exemption is consistent with motor vehicle safety and the purpose and policy of the Safety Act.

To facilitate the modification of motor vehicles for persons with disabilities, NHTSA provides a limited exception from the make inoperative provision. While a vast majority of Americans can drive and ride in a motor vehicle as produced and certified by manufacturers, individuals with disabilities often require special modifications to accommodate their particular needs. Some of these modifications may require removal of