

Insurers Supporting Passive Restraints

The Department of Transportation is receiving strong support from the insurance industry for proposals to require passive restraints – such as air bags – for front seat occupants in 1977 model cars.

Nine insurance companies and two insurance industry trade associations have urged DOT to stand firm with its proposal.

The proposal has been endorsed by Allstate, Fireman's Fund American, Farmers Insurance Group, Lumbermans, Nationwide, Prudential, Safeco, State Farm Mutual, and The Statesman Group. The American Insurance Association and the American Mutual Insurance Alliance, industry trade associations representing more than 200 American insurance companies, have also submitted comments praising the standard.

The Department of Transportation has granted extra time to comment on its proposed standard (Docket 74-14). The department will consider comments it receives by June 3, 1974. (Rulemaking and comment procedures are detailed on page 3.)

AMERICAN INSURANCE ASSOCIATION

“...lap and shoulder belts do not provide the best universal crash protection that can be practicably achieved with available technology. Research by the Insurance Institute for Highway Safety indicates that nearly half of the drivers in 1974 vehicles were not using any seat belts, despite the interlock system. There is also reason to believe that manufacturers would have little if any technological difficulty in meeting the requirements of the proposed standard.”

AMERICAN MUTUAL INSURANCE ALLIANCE

“Our Research Committee has reviewed the proposed standard and has concluded that it establishes a reasonable and achievable standard of performance for occupant safety for the 1977 car models. . . . The time has come to mandate the use of passive restraints. Crash tests and field experience indicate that passive systems offer the best potential for preventing crash deaths and injuries, mainly because large numbers of drivers fail to wear their lap and shoulder belts, even in cars equipped with the new interlock systems.”

Inside

- Guide to NHTSA Rulemaking . . . Page 3
- Michigan Study Backs Fuel Tank Rule . . . Page 5

ABC News will up-date and rebroadcast its award winning documentary “Close-up: Fire!” June 12, 10:00 to 11:00 p.m. EDT. Included will be IIHS crash tests demonstrating auto fuel system susceptibility to damage and fire.

ALLSTATE

A long-time proponent of air bags, Allstate, which has operated more than 450 air-bag equipped cars over the past two years, told DOT that, in its view, "passive restraints are essential." Donald L. Schaffer, the company's vice president, secretary and general counsel, wrote in a letter that "the present available systems are reliable and their installation must be mandatory in order to achieve the automation necessary to make the cost reasonable and available at an affordable price to the average car buyer. We further believe that the air cushion systems have a far superior injury protection potential to other restraint systems, as well as a much greater life saving potential in higher speed crashes."

Schaffer pointed out that DOT's proposal would give auto makers 28 months to ready air bags for installation. He noted that E. M. Cole, president of General Motors, has told DOT that his company needs in the neighborhood of 15-18 months in order to automate air bag production and installation.

Schaffer said, "If other manufacturers allege difficulties in meeting this deadline, it is because they have done little or nothing to provide air cushions on even an optional basis during the many years since litigation commenced on the original standard 208. If they have to play 'catch-up' then sobeit, for the public interest requires a decision and the issue is too important to permit further delay."

STATE FARM MUTUAL

"We concur in NHTSA's judgment that passive restraint systems provide the best universal occupant crash protection that can be practicably achieved with today's technology. . . ."

"One factor of critical importance is the usage rate of [active] restraint devices. . . . In marked contrast to these low usage rates, the proposed passive restraint system promises a usage rate of virtually 100 per cent. This universal usage rate should afford crash protection to many more vehicle occupants than are now protected, without the annoyance and inconvenience of buzzers, lights, and the interlock system, which devices are apparently being widely ignored or defeated."

PRUDENTIAL

Donald S. MacNaughton, chairman and chief executive officer of Prudential Insurance Co. of America and Prudential Property and Casualty Insurance Co. has told DOT that those companies "fully support the proposed rule. . . . As a life and health insurer, the Prudential Insurance Co. is vitally interested in reducing deaths and injuries from motor vehicle crashes. These crashes account for more deaths among our policyholders under age forty than any other single cause. As an automobile insurer, Prudential Property and Casualty Insurance Co. has an obvious interest in reducing the losses and suffering caused by automobile crashes."

It is "our judgment," MacNaughton wrote, "that the proposed standards would reduce the rate of serious injury in motor vehicle crashes far below the level that could be achieved through current active restraint standards for safety belts.

"The phrasing of the proposed rule in terms of 'passive restraints' rather than specific techniques is particularly important. Although air bags are the only well developed mechanism for meeting the standard in the proposed rule by Aug. 31, 1976, development of other, more advanced techniques should be encouraged. The importance of 'passive' protection in public health — i.e., of protection requiring no action by the people involved — is a well established principle. We prefer to purify water supplies rather than to require people to boil their water. In many large buildings, sprinkler systems are frequently required by regulation rather than relying on fire extinguishers. The same principle should apply, wherever feasible, to motor vehicle crashes," MacNaughton said.

Raising many of the same points made by the associations, Allstate, Prudential and State Farm, additional comments included:

SAFECO

“There are no doubt improvements in technology that lie ahead which will make protection of auto drivers and passengers more efficient. But the passive restraint systems presently available will save many many lives and prevent thousands of serious injuries while other devices are being explored.”

THE STATESMAN GROUP

“The crash films which have been developed regarding air bags, in our opinion, offer conclusive evidence that this system is the only practical method available to achieve the results desired for the protection of automobile occupants.”

FIREMAN'S FUND

Fireman's Fund feels that this laudable step in the public interest will serve effectively to help minimize the amount of serious injuries on our nation's highways.”

FARMERS INSURANCE GROUP

“We have been impressed with the reliability and effectiveness of air cushion systems as demonstrated in the several real-world crashes that have occurred since the various test fleets were put into operation.”

LUMBERMANS

“The impressive life saving and injury preventing record of cushions now in use leaves little doubt that the mandating of this or another equally effective passive restraint system will greatly reduce deaths and serious injury on our roadways.”

NATIONWIDE

“Although we at Nationwide had hoped for an earlier effective date for this requirement, we do understand the technical problems which prompted delay until Sept. 1, 1976. Fortunately too, this will allow ample lead time for compliance. . . . Nationwide is convinced that the air bag is an automobile safety idea whose time has come. Further delay is not justified by facts nor public interest.”

Guide To NHTSA Rulemaking

In December, 1966, the first federal motor vehicle safety standards, or “rules,” were proposed. The rulemaking process begun then has been repeated more than 200 times in the seven-year history of the National Highway Traffic Safety Administration.

In each of those 200-plus rulemaking actions, persons or organizations interested in highway loss reduction have been given the chance to tell NHTSA their views on all rules, such as highway and motor vehicle safety standards and other loss reduction regulations, proposed by the agency. The rulemaking files

– known as “dockets” – on the agency’s proposals contain comments from auto makers, insurers, federal and state agencies, legislators, consumer groups and individual consumers.

The following brief description of NHTSA’s rulemaking procedures is presented to assist *Status Report* readers in understanding – and participating in – the agency’s rulemaking activities.

PROPOSALS

Agency proposals – either to create new rules or change current ones – are published in the *Federal Register*. The *Federal Register* is published daily and contains, among other things, announcements of federal agency rulemaking activities. Subscriptions for the *Federal Register* and *Code of Federal Regulations*, which contains all previously issued rules now in effect, are handled by the Superintendent of Documents, Government Printing Office, Washington, D.C. 20420. Many major rulemaking activities also are reported in *Status Report*.

Although not required by law, NHTSA begins some of its rulemaking by inviting public comment to an “advance notice of proposed rulemaking” (ANPRM) that announces the agency’s intention to establish a rule, but does not propose the details of the rule. After weighing public comment, the agency generally publishes a formal “notice of proposed rulemaking” (NRPM), which is the legally required first step in the rulemaking process. An NPRM lists the detailed requirements of a proposed rule. For instance, NHTSA recently issued an NPRM detailing requirements for passive restraint systems in 1977 vehicles. That was accompanied by an ANPRM seeking comments on the idea of upgrading occupant protection to 45 or 50 mile per hour crashes for 1981 model year vehicles. (See *Status Report*, Vol. 9, No. 6, March 26, 1974.)

Although each proposal has a deadline for comments by interested parties, NHTSA, “to the extent possible,” also considers comments submitted after the deadline.

COMMENTS

Comments on an agency proposal may, but need not, contain technical information; they may be no more than an expression of general views and arguments. For example, the majority of comments to the agency’s rulemaking docket proposing built-in speed control devices in vehicles were letters from individuals expressing their opinions of the rule. This case is atypical since, with few exceptions, most comments and suggestions on agency proposals come from auto makers, are opposed to tough rule proposals and are at least partly technical in nature. (See *Status Report*, Vol. 9, No. 5, March 5, 1974.)

NHTSA considers all the comments received. Then, it may issue a rule, as proposed or with minor changes that do not strengthen the original proposal. If the agency feels that major or strengthening changes are necessary, it will issue a new proposal and again invite public comment.

RECONSIDERATION

Within 30 days after a rule is published, any individual or organization can ask NHTSA to reconsider its rule by filing a “petition for reconsideration.” NHTSA’s policy is to answer such petitions within 120 days from publication of the rule. It will either deny the petition, leaving the rule as it was issued; or grant the petition, making at least some of the changes requested in the petition.

The 1966 National Traffic and Motor Vehicle Safety Act allows persons or organizations to sue NHTSA in order to challenge a rule. Such suits must be filed within 60 days of the final agency action on the rule. Several auto makers brought such a suit in April, 1971, seeking to overturn NHTSA’s passive restraint standard (FMVSS 208). As a result of the suit, NHTSA was ordered by the court in December, 1972, to revise the standard. NHTSA recently issued its proposed revision of the passive restraint standard.

PETITIONS

Any individual or organization, in addition to participating in rulemaking activity begun by NHTSA, may seek to initiate rulemaking action on their own by means of a "petition for rulemaking." The agency is required to consider, and either grant or deny, all such petitions. For example, NHTSA's recent proposal to delay the effective date of its air brake standard was issued in response to 36 vehicle manufacturer petitions for rulemaking. (See *Status Report*, Vol. 9, No. 8, April 16, 1974.)

It can take several years for a proposal to move from early rulemaking to a final standard. For instance, NHTSA rulemaking to require passenger car bumpers that protect certain safety related vehicle systems in low speed collisions spanned a period of five years, as follows:

- **October, 1967** – NHTSA issued an advance notice of proposed rulemaking (ANPRM) announcing that the agency was considering a rule on bumper height and effectiveness and asking for public comments.
- **April, 1970** – NHTSA held a meeting to publicly hear comments, based on its ANPRM, on "bumpers and other aspects of low-speed collision protection."
- **November, 1970** – Agency issued notice of proposed rulemaking (NPRM) setting forth details of proposed bumper standard. Invited public comments within 60 days.
- **April, 1971** – NHTSA issued initial bumper standard, effective Sept. 1, 1972, reducing some of the NPRM's proposed requirements and postponing others until Sept. 1, 1973. Auto makers had requested the changes. (See *Status Report*, Vol. 6, No. 8, April 26, 1971.)

NHTSA's current rulemaking to prohibit essentially all front and rear damage in low-speed tests is still continuing. The agency issued a notice of proposed rulemaking (NPRM) in August, 1973, with a closing date for public comments of Oct. 14, 1973. NHTSA has yet to issue a final rule.

Michigan Study Backs Fuel Tank Rule

A University of Michigan study – funded by the automobile industry's own trade association – has praised the new federal motor vehicle safety standard for fuel system crashworthiness, but warned that it will not represent a "complete solution" to "the problem of fires in motor vehicle accidents."

FMVSS 301, as recently strengthened by the National Highway Transportation Safety Administration, requires that 1977 model cars be able to withstand 30 mile per hour front and rear impacts; 20 mile per hour lateral barrier impacts, and a simulated rollover test – all with only minor fuel spillage. (See *Status Report*, Vol. 9, No. 8, April 16, 1974.)

The University of Michigan study, entitled, "Fire in Motor Vehicle Accidents," was authored by Peter Cooley and published by the university's Highway Safety Research Institute with funding assistance from the Motor Vehicle Manufacturers Association.

Addressing the adequacy of existing data on motor vehicle fires, the study finds that "no single body of data exists with which to accurately assess the national problem of fires in motor vehicle accidents. Neither police organizations nor such agencies as state fire marshal divisions generate adequate records."

The study estimates that the number of fatalities *resulting* from fire in motor vehicle crashes each year ranges from 450 to 650, and that the number *associated* with vehicle crash fires ranges from 720 to 1250 annually. ("Here," the study says, "the author made a judgement whether the fire in a fatal accident was a direct or major contributing cause of death, or merely associated with the accident and the cause of death.")

It contains no similar estimates regarding the frequency and severity of injuries from vehicle crash fires, although it states that there were "proportionately more non-fatal burn injuries resulting from rear-end impacts than from frontal crashes or rollovers, but there were proportionately fewer fatal injuries."

As to crash fires in terms of vehicle type, the study finds: "Full size passenger cars were most often involved in fatal accidents accompanied by fire. One would expect this because they constitute a high proportion of the total vehicle population. Sports cars were the next most often involved type of vehicle."

In twelve surveyed fatal sports car crashes involving fire, the study found that eight of the crashes involved one specific American-made sports car model. Although it declines to identify the car by name, it described it as "possessing a fiberglass body" whose "'stiff' characteristics and distinctive fracture behavior . . . along with the high location of its fuel tank in relation to the vehicle frame, may be responsible for exposing fuel system components to greater damage in severe crashes, which could result in fire."

In conclusion, the study urges "development of a national data base for modeling all types of motor accidents – including accidents accompanied by fire"

Copies of the study are available from the Highway Safety Research Institute, The University of Michigan, Huron Parkway and Baxter Road, Ann Arbor, MI 48105.

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