

to an unmet vehicle safety need, as required by 49 U.S.C. 30111(a).

Based on the above reasons, NHTSA believes that the petitioner has failed to demonstrate a clear need for safety attributable to summer-specification or allegedly non-compliant winter-specification windshield washer fluid. While we agree that failure of the windshield washing system could result in reduced windshield visibility, the petitioner did not provide evidence demonstrating the scope of this potential safety problem or whether such a problem could be attributable to winter-specification windshield washer fluid, nor is it clearly established by available safety data. Accordingly, NHTSA has concluded that the petitioner has not shown an unmet safety need that would justify the mandate to use of year-round standardized winter-specific windshield washer fluid, as required by 49 U.S.C. 30111(a). NHTSA notes that it will not hesitate to exercise its defect and recall authority should any windshield washing system fail and create an unreasonable risk to safety.³

B. The Petitioner Fails To Demonstrate That a Standardized Winter-Specification Windshield Washer Fluid Would Effectively Address an Unmet Motor Vehicle Safety Need

Even if an unmet motor vehicle safety need exists, the Safety Act requires that an FMVSS meet the motor vehicle safety need.⁴ The petitioner states that reduced or zero windshield visibility can cause accidents resulting in bodily injury and fatalities. The petitioner then suggests that an easily implemented solution to solve this problem is the elimination of summer-specification windshield washer fluid and standardization of winter-specification windshield washer fluid. However, the petitioner's primary support for this suggestion is a personal anecdotal description of an incident in which the petitioner states his windshield washer fluid froze in cold temperatures, obscuring his windshield's visibility and requiring him to pull over and wait for his windshield defroster system to thaw the frozen washer fluid. The petitioner states his belief that this incident occurred because summer-specification windshield washer fluid was added to his car's washer fluid reservoir in a warmer state and froze after he returned to a colder climate. Other than this personal anecdote, the petitioner provides no supporting data or research linking frozen windshield washer fluid

to crashes or fatalities to demonstrate that banning summer-specification windshield washer fluid and mandating standardized winter-specification windshield washer fluid would effectively prevent fatalities or injuries. Further, the petitioner provides no supporting data substantiating the scope of the alleged safety issue, nor any evidence that the proposed solution would remedy the alleged safety issue. Absent such supporting data or evidence, NHTSA cannot find that requiring year-round standardized winter-specification windshield washer fluid would effectively prevent fatalities and injuries.

IV. Conclusion

For the foregoing reasons NHTSA is denying the petition based on the lack of sufficient information and evidence discussed above. The petitioner has not demonstrated a safety need and a solution that would justify NHTSA reallocating its limited resources from rulemakings that are mandated by Congress and others that have a demonstrated safety need with solutions available to resolve those needs.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95, 501.5, and 501.8.

Raymond R. Posten,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 571 and 585

[Docket No. NHTSA-2024-0038]

RIN 2127-AL90

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule.

SUMMARY: This final rule amends Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant crash protection," updating the child restraint systems (CRSs) listed in the standard. NHTSA uses the CRSs to test the performance of advanced air bag suppression and low risk deployment systems in either suppressing or deploying the air bag in a low-risk

manner in the presence of a CRS. The amendments will ensure that the CRSs used by NHTSA to test advanced air bags are representative of the current CRS market and will make it easier for vehicle manufacturers and test laboratories to acquire CRSs for testing purposes.

DATES:

Effective date: October 21, 2024.

Petition for reconsideration: If you wish to petition for reconsideration of this rule, your petition must be received by October 7, 2024.

Compliance date: This final rule adopts a phase-in of the revised appendix. The phase-in begins on September 1, 2025, when forty percent of a manufacturer's applicable light vehicles must comply with the revised appendix. By September 1, 2026, all applicable light vehicles must comply with the revised appendix. We are also allowing optional early compliance.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Note that all petitions received will be posted without change to <http://www.regulations.gov>, including any personal information provided.

Confidential Business Information: If you wish to submit any information under a claim of confidentiality, you should submit your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT:** In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a submission containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512). Please see further information in the Regulatory Notices and Analyses section of this preamble.

Privacy Act: The petition will be placed in the docket. Anyone is able to search the electronic form of all documents 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**

³ 49 U.S.C. 30118.

⁴ *Id.*

Register published on April 11, 2000 (65 FR 19477–78) or you may visit <https://www.transportation.gov/individuals/privacy/privacy-act-system-records-notice>.

Docket: For access to the docket to read background documents or comments received, go to www.regulations.gov, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call Carla Rush, Office of Crashworthiness Standards (telephone: 202–366–6345). For legal issues, you may call Matthew Filpi, Office of Chief Counsel (telephone: 202–366–2992). Address: National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Washington, DC 20590.

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I. Executive Summary

This final rule amends FMVSS No. 208 to update the child restraint systems (CRSs) listed in appendix A–1 of the standard. The CRSs in appendix A–1 are used by NHTSA to test advanced air bag suppression or low risk deployment systems to ensure that they mitigate the risk of harm to children and infants by either suppressing or deploying the air bag in a low-risk manner in the presence of a child in a CRS. NHTSA is updating appendix A–1 to reflect the changes to the availability of CRSs in the marketplace since 2008 when the appendix was last updated.

The amendments finalized in this rule will replace all the CRSs listed in appendix A–1. This final rule will allow a phase-in of the amendment to give manufacturers reasonable time to certify their advanced air bag systems using the new CRSs, with optional early compliance permitted. To effectuate the phase-in using the regulatory framework of FMVSS No. 208, this update will move the CRSs that are now in appendix A–1 to appendix A and reference the new proposed CRSs in appendix A–1.

This final rule will allow the agency to test advanced air bags with CRSs that are more representative of the current CRS market. Furthermore, since the last significant update to the appendix was in 2008, many CRS models listed in the current appendix have been discontinued and are difficult and time-consuming to acquire. This update to appendix A–1 will make it easier for vehicle manufacturers and test laboratories to acquire the CRSs for testing purposes.

II. Background

A. Background on Air Bag Systems

NHTSA Has Required Air Bag Systems in Vehicles since the Late 1990s, but Early Air Bag Systems Risked Injury to Certain Populations. To prevent or mitigate the risk of injuries or fatalities in frontal crashes, Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant crash protection,¹ requires passenger vehicles to be equipped with seat belts and frontal air bags. Although FMVSS No. 208 did not require frontal air bags on passenger cars until model year (MY) 1998 and on

multipurpose passenger vehicles and light trucks until MY 1999, air bags were already in widespread use by the early 1990s. These early-generation air bags were highly effective in protecting occupants in frontal crashes but caused a number of injuries and fatalities to certain occupants who were especially vulnerable to air bag-related risks. Frontal air bags posed the largest threat to occupants vulnerable to air bag-related risks.

Since the introduction of air bag systems into vehicles, NHTSA has maintained two consistent messages relating to children and air bag systems. First, NHTSA has consistently recommended that children under the age of 13 be seated in the back seat of vehicles. If consumers were to always seat their children—whether positioned in a CRS or not—in the back seats of their vehicles, air bags would pose very little risk to children. Frontal air bags pose a bigger risk to children than side curtain air bags, which pose very little threat to any occupant. Since vehicle back seats are only equipped with side curtain air bags, the risk of harm from air bags is significantly reduced for children sitting in the back seat. However, there are scenarios when a child needs to be seated in the front seat of a vehicle, and there are scenarios where a caretaker may simply decide that the child will be safe sitting in the front seat of a vehicle. To ensure that children (and others who may be harmed by air bag systems) who are seated in the front seat of vehicles are protected from air bag-related harm, NHTSA has long maintained that the long-term solution was the development and widespread implementation of advanced air bag systems that can sense the weight and size of the occupant seated and adjust air bag deployment to protect at-risk passengers. However, during the 1990s, when air bag-related injuries and fatalities emerged as a safety problem, advanced air bags were still a nascent technology.

To provide time for the development and dissemination of advanced air bag systems into new vehicle production, and to address safety concerns posed by pre-advanced air bag systems in vehicles already on the road, NHTSA implemented an array of measures designed to protect those passengers most susceptible to air bag-related injuries. Although early air bag systems posed threats to several different populations, a particular focus of these measures was to protect children from air bag-related injuries and fatalities. Early data indicated that children were at particularly significant risk of harm from air bags. The data indicated that

¹ 49 CFR 571.208.

children who were both seated in CRSs and seated without CRSs were at risk of serious injury or death when seated in a position with a frontal air bag. Because of the agency's significant concern for the safety of children, NHTSA took multiple actions throughout the 1990s to protect children from potential harm from air bags.

NHTSA's Recommendations Targeted at Behavioral Changes to Protect Children from Air Bag Systems. First, the agency began providing CRS recommendations informing caretakers how and where they should equip child restraints in a vehicle. NHTSA's recommendation has always been to place CRSs in the back seat of vehicles. There are different CRSs for children of different ages, and NHTSA's recommendations change based off of the child's age and size.² It is important to note that NHTSA recommends that the child be properly restrained in the back seat of a vehicle for all these different stages.

NHTSA used several communications to further the agency's goal of changing behavior to protect children from early air bag systems. For example, in the early 1990s, the agency conducted testing that showed that using a rear-facing child restraint in the front seat of a vehicle where frontal air bags were active presented a significant risk to child occupants. In December of 1991, the agency issued a Consumer Advisory warning owners of rear-facing child restraints to not use such devices in the front seat of a vehicle equipped with a passenger air bag. Throughout the 1990s, NHTSA released several additional News Releases on this issue. On October 27, 1995, after several fatalities of children seated in air bag-equipped seating positions, NHTSA issued a warning in a press release, titled "SAFETY AGENCY ISSUES WARNING ON AIR BAG DANGER TO CHILDREN." In the press release, the agency warned that children sitting in air bag-equipped seating positions not restrained by a seat belt could be seriously injured or killed by an air bag. During the late 1990s, the agency also published several articles in widely circulated journals and periodicals on the dangers air bags pose to children. The agency has continued this education campaign by publishing information on NHTSA's website on the dangers air bags pose to children.

NHTSA Regulatory Action Taken to Protect Children from Early Air Bag Systems. In addition to efforts to change caretaker behavior, NHTSA has also

taken regulatory action on this issue. In 1993, the agency issued a final rule that, in part, required vehicles equipped with air bags to include labels on sun visors providing specific cautions, including a warning not to install rear-facing child seats in the front passenger seat. The agency took further regulatory action in 1994, when it required rear-facing child restraints manufactured on or after August 15, 1994, to include a warning label against using the restraint in any vehicle seating position equipped with a frontal air bag. Finally, in 1995 and 1997, NHTSA took regulatory action targeted at vehicle technology when the agency created a process for vehicle owners to petition the agency to allow vehicle owners or lessees to have an air bag on-off switch installed in their vehicle.³ Although on-off switches have been an effective tool in protecting children from air bag systems, as discussed above, the agency has consistently viewed advanced air bag systems as the best protection for children seated in air bag-equipped seating positions. Air bag on-off switches carry a significant risk of misuse, as individuals who would typically benefit from the protection of air bag systems may forget to turn a system back on after turning it off for a child passenger. The agency believed the advent of advanced air bag technology would essentially resolve this misuse risk by being able to sense the occupant seated in an air bag-equipped seat and activating or deactivating the system based on the occupant.

B. Background on Advanced Air Bag Systems

On May 12, 2000, NHTSA issued the Advanced Air Bag Rule⁴ to reduce the frequency and severity of air bag-related injuries to small adults and young children. To this end, the Advanced Air Bag Rule amended FMVSS No. 208 to add new performance requirements for the front passenger air bag in the presence of a child in a CRS.

Although the Advanced Air Bag rule was targeted at protecting all individuals from potential harm from air bags, specific requirements were included that were targeted at protecting children. The Advanced Air Bag Rule allows manufacturers to provide child protection using one of three compliance options. The first option requires the front passenger air bag system to automatically suppress when a child (whether in a CRS or not) is present ("suppression"). The second

option requires that the front passenger air bag deploys only at a low level of force when a child (whether in a CRS or not) is present ("low risk deployment" or "LRD"). For these first two options, the vehicle must provide passenger-side protections for child-sized test dummies in various positions, including in a CRS. The third compliance option requires the tracking of the passenger occupant's motion and suppresses the air bag if they are too close to the air bag ("dynamic automatic suppression system" or "DASS"). To comply using dynamic automatic suppression, a manufacturer must develop an acceptable test procedure, which must be adopted into FMVSS No. 208 through an expedited rulemaking procedure. To date, no manufacturer has attempted to certify using the DASS option. FMVSS No. 208 permits vehicle manufacturers to choose different compliance options for different performance tests and is technology neutral with regard to how a vehicle complies.

For tests that involve air bag performance in the presence of anthropomorphic test dummies in CRSs, manufacturers are required to certify that their vehicles will comply with the advanced air bag requirements when tested by NHTSA. FMVSS No. 208 sets out requirements that advanced air bag systems must meet to comply with the standard when tested with several different anthropomorphic test dummies. For the purposes of advanced air bag suppression systems, the standard outlines test procedures for testing with the 12-month-old CRABI dummy, the 3-year-old child dummy, and the 6-year-old child dummy.⁵ The standard allows NHTSA to test suppression systems with any of these dummies and also includes procedures for testing the suppression systems with these dummies equipped in CRSs to ensure suppression systems can differentiate between an adult sitting in an air bag equipped seat and a CRS restraining a child. For each of the test procedures explaining how to test with each respective dummy, the standard identifies which subpart in appendix A-1 to reference in determining which CRSs to test with. For example, for the 3-year-old dummy automatic suppression test, the standard instructs the tester that the system must function with the dummy restrained in any child restraint specified in sections C and D of appendix A-1.

As part of that test procedure in FMVSS No. 208, NHTSA listed the CRSs that the agency would test within

² <https://www.nhtsa.gov/vehicle-safety/car-seats-and-boosters-seats>.

³ 62 FR 62406.

⁴ 65 FR 30680.

⁵ FMVSS No. 208 S20; S21; S23.

appendix A of FMVSS No. 208. NHTSA intended for the CRSs listed in appendix A to be representative of the array of available CRSs on the market across many CRS manufacturers. To keep appendix A up to date, NHTSA amended it in final rules issued in December 2001⁶ and November 2003⁷ to replace certain CRSs that were no longer in production and to add two LATCH-compatible CRSs, respectively.⁸

Two CRS-related appendices appear at the end of FMVSS No. 208: appendix A and appendix A–1. NHTSA most recently updated appendix A in a final rule issued in November 2008.⁹ As part of this final rule, NHTSA created “appendix A–1” to facilitate phasing in the requirement to certify vehicles with the updated CRSs.¹⁰ Appendices A and A–1 both still remain at the end of FMVSS No. 208, and, as discussed in greater detail below, this final rule updates both appendices.

C. Appendix A–1’s Current Framework

The CRSs listed in appendix A–1 are broken up into four subparts. Subpart A lists “car bed” CRSs that the agency can use to test the suppression system of a vehicle that has been certified as complying with S19 of FMVSS No. 208. Subpart B lists rear-facing infant CRSs that the agency can use to test the suppression system or the LRD capabilities of a vehicle that is certified as complying with S19 of FMVSS No. 208. Subpart C lists forward-facing toddler and convertible CRSs¹¹ that the agency can use to test the suppression system or the LRD capabilities of a vehicle that has been certified as complying with S19 or S21 of FMVSS

No. 208. Subpart D lists CRSs that are or can be used as a belt-positioning seat (commonly called belt-positioning booster seats (BPBs)) (e.g., combination and 3-in-1 CRSs) and that the agency can use to test the suppression system or the LRD capabilities of a vehicle that has been certified as complying with S21 or S23 of FMVSS No. 208.¹²

NHTSA’s Self-Certification System and Appendix A–1. The Motor Vehicle Safety Act prohibits the manufacturing, selling, and importing of motor vehicles and motor vehicle equipment that do not comply with the FMVSS.¹³ Accordingly, one of NHTSA’s most important priorities is ensuring that motor vehicles and motor vehicle equipment on the market comply with the FMVSS. NHTSA can enforce compliance with the FMVSS through statutorily created recall authority as well as by levying civil penalties.¹⁴

To determine whether motor vehicle equipment complies with the FMVSS, NHTSA must test that equipment. NHTSA publishes its test procedures for each FMVSS so the public is aware of how NHTSA will determine compliance with the relevant FMVSS. Although NHTSA publishes its test procedures, the Motor Vehicle Safety Act makes clear that manufacturers have the responsibility to certify their own motor vehicles and motor vehicle equipment for compliance with the FMVSS.¹⁵ This self-certification regime puts the onus on manufacturers to police themselves when introducing motor vehicles or motor vehicle equipment into the market, which means that although NHTSA publishes its own test procedures, manufacturers are free to test their products for compliance in other ways. In other words, NHTSA’s test procedures are publicly available as part of the FMVSS, but manufacturers are under no obligation to compliance test using NHTSA’s procedures—a manufacturer’s only obligation is to certify compliance, but it may do so using its own testing methods. Appendix A–1 is part of the test procedures of FMVSS No. 208.

Appendix A–1 informs manufacturers which CRSs NHTSA will test with when the agency compliance tests advanced

air bag systems. Manufacturers are under no obligation to test with the CRSs that NHTSA tests with, meaning that appendix A–1 sets merely a floor for the CRSs a manufacturer may test with. In fact, when the agency decided to include appendix A–1 as part of FMVSS No. 208, it did so with the expectation that manufacturers would test more than just the seats included in the appendix, as a manufacturer’s priority should be ensuring that its advanced air bag systems function properly with all CRSs on the market.

III. Development of the 2020 NPRM

On October 29, 2020, NHTSA published an NPRM to update appendix A–1.¹⁶ The purpose of this proposed update was to ensure that the list of seats included in appendix A–1 reflects the current CRS market. The CRS market is constantly changing, with companies releasing new versions of seats, new models of seats, and novel seat designs every year. Because the appendix was last updated in 2008, many of the seats in the appendix are no longer sold by manufacturers. This means that both NHTSA and manufacturers have to find second-hand versions of many of the seats listed in the current appendix for compliance testing. Over time, it has become increasingly difficult to procure some of the seats in the appendix. Furthermore, there are certain trends in the CRS market that the current seats listed in the appendix do not account for. For example, as discussed in more detail below, data indicate that CRSs have become heavier overall. This change could pose a potential issue for advanced air bag system sensing technology, as sensors may not be able to detect the difference between an adult seated in an air bag-equipped seat and a heavy child restraint with a child seated in the restraint. Under the current list, NHTSA would not be testing many of those heavier seats to ensure compliance with FMVSS No. 208. The agency not only wanted to make the CRSs in the appendix easier to procure, but also wanted to ensure that the seats included in the appendix were a representative sample of the current CRS market.

NHTSA’s Methodology in Choosing the Proposed CRSs. When deciding which seats to replace and include in the proposed update to appendix A–1, NHTSA considered whether a particular CRS had been a high-volume model, whether it had mass and dimensions that are representative of many CRSs on the market, whether its mass and

⁶ 66 FR 65375.

⁷ 68 FR 65179.

⁸ FMVSS No. 225 requires certain vehicles produced after September 1, 2002, to be equipped with lower anchorage systems to ensure their proper location and strength for the effective securing of child restraints. These systems are commonly referred to as Lower Anchors and Tethers for Children (LATCH).

⁹ 73 FR 66786.

¹⁰ The phase-in had the practical effect of permitting up to 50 percent of a manufacturer’s carry-over vehicles to continue to certify to the existing appendix for a period. A manufacturer had the choice to have new model vehicles or carry-over vehicles of established models, or both, comprise the 50 percent of vehicles that can be phased in to the requirement to certify to the revised appendix A. The ability to carry over a percentage of vehicles for a year was designed to alleviate compliance burdens on manufacturers.

¹¹ A convertible CRS is a type of CRS with an internal harness to secure the child that can be used rear-facing and forward-facing. It is used rear-facing with infants (or small toddlers if the CRS weight recommendations allow it), and, forward-facing with older and larger children. The CRS manufacturer instructs the consumer when to turn the convertible CRS around to face forward, based on the weight of the child (“turnaround” weight).

¹² “Belt-positioning seat” is defined in FMVSS No. 213 S4 as “a child restraint system that positions a child on a vehicle seat to improve the fit of a vehicle Type II belt system on the child and that lacks any component, such as a belt system or a structural element, designed to restrain forward movement of the child’s torso in a forward impact.” A combination CRS can be used forward-facing or as a booster seat. A 3-in-1 CRS is a convertible CRS that can be used as a booster seat.

¹³ 49 U.S.C. 30112.

¹⁴ 49 U.S.C. 30120.

¹⁵ 49 U.S.C. 30115.

¹⁶ 85 FR 68541, “Occupant crash protection.”

dimensions represented outliers, and whether a variety of CRS manufacturers were represented in the appendix. The agency also assessed whether the assortment of CRSs in the appendix ensured that NHTSA would be adequately testing the robustness of air bag automatic suppression systems under real world conditions. Additionally, NHTSA conducted a systematic evaluation of the CRSs currently in appendix A, and of data collected through the agency's Ease of Use (EOU) program.¹⁷

The agency assessed child restraint system physical dimensions and weight (mass) to identify which CRSs have dimensions that were representative of the average restraint in today's market, and which were possible outliers (see docketed Technical Assessment for data). In looking for outliers, the agency considered CRSs with dimensions and weight that were markedly outside of those of the "average" CRS. The goal in identifying outliers was to ensure the updated appendix was fully representative of the current CRS market. Additionally, the agency identified which CRSs had high production totals (based on confidential manufacturer data) to determine which CRSs were likely to have the greatest market share.

In choosing which CRSs to include in the updated appendix, the agency sought to ensure that advanced air bag systems would be designed and calibrated to perform satisfactorily when used with a wide range of CRSs. For

example, because rear-facing CRSs with either low or high seat back heights can pose challenges for LRD systems, the agency sought to include rear-facing CRSs of varying seat back heights for LRD testing purposes. Similarly, because the agency believes that certain features like handles and sunshields on rear-facing infant carrier CRSs can lead to false readings by vision-based sensors used in some advanced air bag systems, the agency included rear-facing CRSs that have handles and sunshields in the appendix. Based on this methodology, the agency proposed a series of deletions and additions to appendix A-1 in the 2020 NPRM. The agency also proposed updating two existing entries in appendix A-1 to reflect model name changes. For detailed information on the agency's proposed additions and deletions, please reference the NPRM.

The comment period for the NPRM closed on December 28, 2020. Eight comments (from six commenters) were received in response to the NPRM, and a discussion of those comments with the agency's responses can be found in section VI below.

IV. Amendments to Appendices A and A-1 as Part of This Final Rule

As described above, there are currently two appendices to FMVSS No. 208: appendices A and A-1. Appendix A currently lists the CRSs that were adopted as part of the advanced air bag final rule in 2000. Appendix A-1 currently lists the CRSs that were adopted as part of the first appendix A

update in 2008. In the 2008 final rule, the agency decided to adopt a phase-in process for manufacturer compliance, and keeping the CRSs from the advanced air bag rule as part of the standard was necessary for the agency to continue compliance testing during the phase-in period.

After considering the factors for decision-making discussed in the previous section of this preamble, and after analyzing feedback from both the public and CRS manufacturers, NHTSA is making three sets of amendments to appendices A and A-1 as part of this final rule. First, the agency is deleting all seats currently listed in appendix A from the standard. Because the phase-in period for the 2008 update has long since passed, there is no reason to keep the seats currently listed in appendix A as part of the standard. Second, the agency is moving the seats adopted as part of the 2008 appendix update (the current appendix A-1) to appendix A. Third, and lastly, the agency is adding 20 new CRSs to appendix A-1, which will constitute the update that the following discussion focuses on.

To help clarify the table below, it is important to note that five CRSs are listed in both subparts C and D for testing purposes, which is why the "TOTAL AFTER CHANGES TOTAL" column reflects 25 in table 1 below. (In the current appendix A-1 four CRSs are listed in both subparts C and D.) Table 1 shows the deletions and additions by subpart in appendix A-1.

TABLE 1—TOTAL NUMBER OF CHANGES TO APPENDIX A-1 BY SECTION

	Subpart A	Subpart B	Subpart C	Subpart D	Total
Current total	1	6	10	6	23
Additions	1	6	10	8	25
Deletions	1	6	10	6	23
Total after changes	1	6	10	8	25

** There are five CRSs listed in both subparts C and D for testing purposes, so there are only 20 CRSs total in the appendix.

Tables 2 and 3 below provide the detailed make and model information for NHTSA's deletions and additions to appendix A-1. There are some differences between the list of deletions and additions proposed in the NPRM and the deletions and additions adopted in this final rule, and a detailed discussion of those changes and the rationales behind those decisions can be found in the section below. All the deletions proposed in the NPRM are being adopted in this final rule, and the

reasons for each deletion were discussed in detail in the NPRM. Generally, the proposed deletions were based on CRSs that did not offer any unique characteristics, CRSs that were produced in small quantities, or CRSs that are no longer in production and have not been for some time. Because the proposed deletions are all being adopted, NHTSA recommends that interested members of the public reference the NPRM for specific explanations of deletions for individual

seats. There are two additional deletions and additions being adopted in this final rule. Because there are some differences between the proposed list of additions and deletions in the NPRM and the additions and deletions being adopted in this final rule, detailed explanations of those changes can be found in the following section. As discussed above, although this final rule says that the agency is "deleting" all seats from the current appendix A-1, those CRSs will still appear in the

¹⁷The EOU program is a program in which NHTSA rates different usability aspects of CRSs currently on the market. It is part of the New Car

Assessment Program (NCAP), and is updated annually. The details of this data collection process

are discussed in the November 2008 final rule (73 FR 66786).

appendix to FMVSS No. 208, but they will appear under appendix A.

TABLE 2—FINAL RULE ADOPTED DELETIONS TO APPENDIX A–1

Deletions		
Model name	Appendix subpart	Model type
ANGEL GUARD ANGELRIDE #AA243FOF	A	Car Bed.
CENTURY SMART FIT 4543	B	Rear-Facing Infant.
GRACO SNUGRIDE	B	Rear-Facing Infant.
GRACO INFANT 8457	B	Rear-Facing Infant.
COSCO ARRIVA 22–013 PAW & 22–999 WHO	B	Rear-Facing Infant.
PEG PEREGO PRIMO VIAGGIO SIP IMUN00US	B	Rear-Facing Infant.
EVENFLO DISCOVERY ADJUST RIGHT IS NOW CALLED EVENFLO NURTURE #362xxxxx ¹⁸	B	Rear-Facing Infant.
COSCO TOURIVA 02519	C	Convertible.
EVENFLO TRIBUTE V 379XXXX	C	Convertible.
EVENFLO MEDALLION 254	C	Convertible.
GRACO COMFORTSPORT	C	Convertible.
GRACO TODDLER SAFESEAT STEP 2	C	Forward-Facing.
BRITAX ROUNDABOUT E9L02XX IS NOW THE BRITAX ALLEGIANCE #E9LR4xx	C	Convertible.
COSCO SUMMIT DELUXE HIGH BACK BOOSTER 22–262	C&D	Combination.
COSCO HIGH BACK BOOSTER 22–209	C&D	Combination.
EVENFLO GENERATIONS 352XXXX	C&D	Combination.
GRACO PLATINUM CARGO	C&D	Combination.
BRITAX ROADSTER 9004	D	BPB.
EVENFLO RIGHT FIT 245	D	BPB.

TABLE 3—FINAL RULE ADOPTED ADDITIONS TO APPENDIX A–1

Deletions		
Model name	Appendix subpart	Model type
SAFETY 1ST DREAMRIDE WITH LATCH #IC238xxx	A	Car Bed.
CHICCO KEYFIT 30 #04061472xxxxxx	B	Rear-Facing Infant.
EVENFLO LITEMAX #305xxxxx	B	Rear-Facing Infant.
DOONA CAR SEAT & STROLLER	B	Rear-Facing Infant.
NUNA PIPA RX WITH PIPA RELX BASE	B	Rear-Facing Infant.
CYBEX CLOUD Q WITH SENSORSAFE	B	Rear-Facing Infant.
EVENFLO NURTUREMAX #364xxxxx	B	Rear-Facing Infant.
BRITAX POPLAR #E1C93xx	C	Convertible.
COSCO SCENERA NEXT #CC123xxx	C	Convertible.
NUNA RAVA #CS05116CVR	C	Convertible.
GRACO 4EVER DLX	C	3-in-1.
GRACO CONTENDER SLIM	C	Convertible.
CYBEX ETERNIS S WITH SENSORSAFE	C&D	3-in-1.
SAFETY 1ST GROW AND GO #CC138xxx	C&D	3-in-1.
EVENFLO CHASE PLUS #307xxxxx	C&D	Combination.
COSCO FINALE #BC110xxx	C&D	Combination.
CHICCO MYFIT #04079783–0070	C&D	Combination.
COSCO RISE #BC126xxx	D	BPB.
GRACO TURBOBOOSTER BACKLESS BOOSTER SEAT	D	BPB.
BRITAX GROW WITH YOU CLICKTIGHT #E1C19xx	D	Combination.

Differences Between the NPRM and the Final Rule

There are several differences between the 2020 NPRM and this Final Rule. Most notably, NHTSA decided to replace 6 of the 18 seats proposed as additions to appendix A–1 in the NPRM and update the model names for 6 of the proposed CRS additions. The agency made these decisions based on feedback

from manufacturers and commenters. After publishing the NPRM, NHTSA contacted the CRS manufacturers of the proposed added seats to verify the production and design status of each proposed addition. The agency followed this same process when NHTSA last updated appendix A–1 in 2008.

In the explanations below for why certain CRSs have been chosen as

replacements for the proposed CRSs, the term “footprint” is used a number of times. For clarification, when using the term “footprint,” the agency is referring to the general size of the CRS base that contacts the seat cushion. The footprint on every CRS model is unique and some air bag suppression systems have difficulty sensing CRSs with certain footprints.

¹⁸Certain seats listed in appendices A and A–1 contain a series of “x’s” at the end of their model names. These x’s represent specific soft material

designs and colors for those seats. Because soft material designs and colors do not have an impact on FMVSS No. 208 air bag suppression compliance

testing, the agency does not specify soft material colors and designs in either appendix A or A–1.

The NPRM also proposed an update to model identification information for two seats: the Evenflo Discovery Adjust Right and the Britax Roundabout E9L02XX. After consulting with the manufacturers, instead of updating the model information for these two seats, the agency has decided to delete them from appendix A–1. Therefore, in addition to the changes to 12 of the 18 proposed additions to appendix A–1, NHTSA will be adding two different seats to replace the Evenflo Discovery Adjust Right and the Britax Roundabout E9L02XX as part of this Final Rule.

A detailed discussion of the rationales for each change between the NPRM and Final Rule can be found in the subsections below.

A. Deletion of the Evenflo Discovery Adjust Right and Addition of the Evenflo NurtureMax Into Subpart B

As noted above, the NPRM proposed a model name update for the Evenflo Discovery Adjust Right to the Evenflo Nurture #362xxxxx. Based on input from Evenflo, and as shown on their website, the Evenflo Nurture model is no longer available. Because the goal of this Final Rule is to update appendix A–1 to include CRSs that are representative of today’s CRS market and readily available, it would be illogical to include a CRS that is not listed on a manufacturer’s website. Instead of keeping the Evenflo Discovery Adjust Right/Nurture in appendix A–1, this Final Rule will delete this CRS from subpart B, and will add the Evenflo NurtureMax as a replacement rear-facing CRS in subpart B. The Evenflo NurtureMax is not considered an equivalent replacement because it does not have the same structural design as the Discovery Adjust Right/Nurture, but it does have similar characteristics (e.g., the Evenflo NurtureMax is a lightweight rear-facing CRS with a shorter than average footprint and it is a popular CRS in the U.S.).

B. Addition of the Evenflo Litemax 35 #3305xxxxx Instead of the Evenflo Embrace Into Subpart B

The NPRM proposed the addition of the Evenflo Embrace #315xxxxx, a rear-facing infant seat that was described as lightweight and popular, into subpart B. Based on feedback from the manufacturer and because the Evenflo Embrace model is no longer listed as part of the lineup of rear-facing CRSs on Evenflo’s website, this model is no longer being added to the appendix. After evaluating other available CRSs with similar characteristics as the Evenflo Embrace the agency decided to add the Evenflo Litemax, which is also

a popular, lightweight, rear-facing infant CRS with a long footprint.

C. Addition of the Cybex Cloud Q With SensorSafe Instead of the Cybex Aton 2 Into Subpart B

The NPRM proposed the addition of the Cybex Aton 2, a rear-facing infant seat, into subpart B. The NPRM described the Cybex Aton 2 as being a heavy infant seat and having a unique footprint because of its shape and because it is designed to accommodate a load leg. Due to feedback from the manufacturer and because the Cybex Aton 2 is no longer listed on Cybex’s website, the agency is instead adding the Cybex Cloud Q with SensorSafe,¹⁹ which has an essentially equivalent base as the Cybex Aton 2 and is just slightly heavier, which is acceptable since the Aton 2 was proposed as a heavy rear-facing CRS (see docketed Technical Assessment for dimensions and pictures). The Cybex Cloud Q also has a load leg like the Cybex Aton 2.

D. Addition of the Nuna Pipa RX With Pipa RELX Base Instead of the Britax B-Safe 35 Into Subpart B

The NPRM proposed the addition of the Britax B-Safe 35 #E1A72xx, a rear-facing infant seat, into subpart B. The NPRM described it as being heavy with a large footprint and as capturing a large portion of the infant CRS market. Based on input from Britax, we decided against including this CRS in the appendix. After evaluating other available rear-facing infant CRSs on the market, we are adding the Nuna Pipa RX with the Pipa RELX base, which has similar characteristics as the Britax B-Safe 35. The Nuna Pipa RX with the Pipa RELX base is a heavy rear-facing infant CRS, with a wide and long footprint.

E. Deletion of the Britax Roundabout EL02XX and Addition of the Nuna Rava #CS05116CVR Into Subpart C

As noted above, the NPRM proposed a model name update for the Britax Roundabout E9L02XX to reflect its new name, the Britax Allegiance #E9LR4xx. Based on input from Britax, and because the Britax Allegiance model is no longer listed on Britax’s website as part of its lineup of CRSs, it would be illogical to include a CRS that is no longer part of Britax’s CRS lineup. Instead of keeping the Britax Roundabout E9L02XX/Allegiance #E9LR4xx in appendix A–1, this final rule will delete this CRS from subpart C, and will add the Nuna Rava

as a replacement convertible CRS in subpart C. The Nuna Rava has similar characteristics as the Britax Allegiance (e.g., it is a heavy convertible CRS with a wide footprint; see the docketed Technical Assessment for dimensions and pictures). Additionally, the Nuna Rava is also a popular CRS.

F. Addition of the Britax Poplar #E1C93xx Instead of the Britax Marathon ClickTight Into Subpart C

The NPRM proposed the addition of the Britax Marathon ClickTight #E1A38xx, a convertible CRS, into subpart C. It was described as a heavy convertible CRS with a wide footprint. Based on feedback from Britax, we have decided against adding the proposed Marathon ClickTight model and we are instead adding the Britax Poplar #E1C93xx into subpart C. The manufacturer indicated that the Britax Poplar is dimensionally similar to the Britax Marathon ClickTight, so the agency views it as a suitable alternative.

G. Addition of the Graco Contender Slim Instead of the Graco Contender 65 Into Subpart C

The NPRM proposed the addition of the Graco Contender 65, a convertible CRS, into subpart C. The NPRM described it as a lighter than average convertible CRS with a narrow and deep footprint. Based on feedback from the manufacturer we have decided not to add the proposed Contender model and the agency is instead adding the Graco Contender Slim model, which is essentially an equivalent model to the Graco Contender 65, into subpart C. Their footprint and dimensions are very similar, and the Contender Slim is a lighter than average convertible with a narrow footprint (see docketed Technical Assessment for dimensions and pictures).

H. Addition of the Evenflo Chase Plus #307xxxxx Instead of the Evenflo Chase #306xxxxx Into Subparts C and D

The NPRM proposed the addition of the Evenflo Chase #306xxxxx, a combination CRS, into subparts C and D. After consulting with the manufacturer, the agency has decided to instead add the Evenflo Chase Plus. The manufacturer indicated that the Evenflo Chase Plus will be more widely available than the Evenflo Chase, and that the CRSs are nearly equivalent (see docketed Technical Assessment for dimensions and pictures). It is also a popular combination CRS. Accordingly, the agency is adding the Evenflo Chase Plus #307xxxxx, into subparts C and D.

¹⁹ SensorSafe is a technology Cybex has recently integrated into the chest clip of its CRSs that provides alerts to a mobile app about the child’s safety.

I. Correction and Name Updates for 6 Proposed CRSs

The NPRM proposed the addition of the Cybex Eternis, a 3-in-1 CRS, into subparts C and D. Based on input from the CRS manufacturer, the correct model name is the Cybex Eternis S with SensorSafe. Accordingly, the agency has added the “S” designation to the name of the CRS as well as the “SensorSafe” designation.

The NPRM proposed the addition of the Safety 1st Dreamride SE LATCH #IC238xxx. Based on input from the manufacturer, the correct model name is the Safety 1st Dreamride with LATCH #IC238xxx. Accordingly, the agency has updated the name of this CRS as part of this final rule.

The NPRM proposed the addition of the Graco 4Ever All-in-1. Based on input from the manufacturer, the correct model name is the Graco 4Ever DLX. Accordingly, the agency has updated the name of this CRS as part of this final rule.

The NPRM proposed the addition of the Cosco Finale #BC121xxx. Based on

input from the manufacturer, the updated model name for this seat is the Cosco Finale #BC110xxx. Accordingly, the agency has updated the name of this CRS as part of this final rule.

The NPRM proposed the addition of the Graco Backless Turbobooster. Based on input from the manufacturer, the correct model name is the Graco Turbobooster Backless Booster Seat. Accordingly, the agency has updated the name of this CRS as part of this final rule.

The NPRM proposed the addition of the Britax Grow with You #E1C19xx. Based on input from the manufacturer, the correct model name is the Britax Grow with You Clicktight #E1C19xx. Accordingly, the agency has updated the name of this CRS as part of this final rule.

V. Discussion of Comments to the NPRM

A. Summary of Comments

There were eight comments submitted in response to the NPRM.²⁰ Commenters

touched on a variety of topics, including the CRSs proposed in the NPRM, concerns about the frequency with which the agency updates appendix A–1, test procedures, the proposed regulatory text, and compliance dates. Some commenters also had concerns with the potential costs and effort necessary for manufacturers to comply with testing using the new CRSs proposed in the NPRM. The agency’s summary of comments and responses can be found in the subsections below.

B. The CRSs Proposed in the NPRM

The Juvenile Products Manufacturers Association (JPMA) submitted a comment providing feedback on the CRSs NHTSA proposed in the NPRM. Table 4 shows the feedback JPMA provided in its comment on specific seats proposed in the NPRM, along with the agency’s response to that feedback.

TABLE 4—JPMA CRS COMMENTS AND NHTSA RESPONSES

NPRM proposed model	JPMA suggested update	Agency response
Britax Allegiance #E9LR4xx.	Indicated incorrect model number listed in the NPRM; suggested using model #E1C14.	This CRS is being replaced with a different CRS due to availability concerns.
Britax B-Safe 35 #E1A72xx.	Indicated listed model number will be phased out in early 2021.	This CRS is being replaced with a different CRS due to availability concerns.
Britax Grow with You #E1C19xx.	Recommended replacing with non-ClickTight model #E1C144xx.	NHTSA chose the ClickTight model because it is the more popular version of the CRS. NHTSA has added the “ClickTight” designation to the name of the CRS.
Cosco Finale #BC121xx.	Indicated the Cosco Finale #BC110xx is more widely available than the proposed model number.	NHTSA has confirmed with the manufacturer that the suggested model number #BC110xx is more widely available. NHTSA is replacing the proposed model with the model JPMA recommended as part of this final rule.
Evenflo Generations 352xxxx.	Indicated the listed model is not produced, and recommended replacing with Evenflo EveryKid 393xxxx.	The Evenflo Generations CRS was a proposed deletion from the appendix. Because the last update to the appendix was in 2008, when NHTSA initiated this update, it evaluated the CRS market as a whole. Accordingly, the CRSs proposed as additions were not limited to the same brand of an existing CRS. Instead of focusing on selecting another seat from the same brand, the agency focused on finding seats with similar dimensions and footprints. In this case, NHTSA has decided on a different replacement seat.
Evenflo Medallion 254	Indicated the listed model is no longer produced; recommended replacing with Evenflo SureRide 371xxxx.	The Evenflo Medallion CRS was a proposed deletion from the appendix. Because the last update to the appendix was in 2008, when NHTSA initiated this update, it evaluated the CRS market as a whole. Accordingly, the CRSs proposed as additions were not limited to the same brand of an existing CRS. Instead of focusing on selecting another seat from the same brand, the agency focused on finding seats with similar dimensions and footprints. In this case, NHTSA has decided on a different replacement seat.
Evenflo Right Fit 245	Indicated the listed model is no longer produced; recommended replacing with Big Kid 365xxxx.	The Evenflo Right Fit CRS was a proposed deletion from the appendix. Because the last update to the appendix was in 2008, when NHTSA initiated this update, it evaluated the CRS market as a whole. Accordingly, the CRSs proposed as additions were not limited to the same brand of an existing CRS. Instead of focusing on selecting another seat from the same brand, the agency focused on finding seats with similar dimensions and footprints. In this case, NHTSA has decided on a different replacement seat.
Evenflo Tribute V 379xxxx.	Indicated the listed model is no longer produced; recommended replacing with Evenflo EveryKid 381xxxx.	The Evenflo Tribute CRS was a proposed deletion from the appendix. Because the last update to the appendix was in 2008, when NHTSA initiated this update, it evaluated the CRS market as a whole. Accordingly, the CRSs proposed as additions were not limited to the same brand of an existing CRS. Instead of focusing on selecting another seat from the same brand, the agency focused on finding seats with similar dimensions and footprints. In this case, NHTSA has decided on a different replacement seat.

²⁰The Alliance for Automotive Innovation submitted two sets of supplemental comments (August 2021 and August 2023).

TABLE 4—JPMA CRS COMMENTS AND NHTSA RESPONSES—Continued

NPRM proposed model	JPMA suggested update	Agency response
Graco 4Ever All-in-1 ..	Indicated that the currently listed name is for the original version that is only available at Costco; recommended replacing with 4ever DLX 4-in-1 model.	NHTSA has confirmed this comment with the manufacturer and did not find any significant size and weight differences between the two versions. NHTSA is adopting this recommendation as part of this final rule. The 4ever DLX 4-in-1 model will be reflected in the updated appendix.
Graco Backless TurboBooster. Graco Contender 65	Recommended correcting name to "Graco Turboboster Backless Booster Seat". Recommended correcting name to "Graco Contender 65 Convertible Car Seat".	This recommended edit is reflected in the appendix being adopted as part of this final rule. This CRS is being replaced with a different CRS due to availability concerns.
Safety 1st Dreamride SE LATCH #C238xxx.	Recommended correcting name to "Safety 1st Dreamride with LATCH".	This recommended edit is reflected in the appendix being adopted as part of this final rule.

C. Availability of the Safety 1st Dreamride SE Latch #IC238

The Alliance for Automotive Innovation (The Alliance) commented specifically on NHTSA's proposed inclusion of the Safety 1st Dreamride SE Latch #IC238. The Alliance argued that, because the Safety 1st Dreamride SE Latch #IC238 is one of the only available infant car beds on the market, NHTSA should create a formal means for automakers to procure seats listed in appendix A-1.

Agency Response: NHTSA will not be creating a formal process to acquire CRSs listed in appendix A-1 as part of this final rule. The Alliance is correct that part of the agency's rationale in updating appendix A-1 is to ensure manufacturers can more easily acquire the CRSs listed in appendix A-1. As stated previously, it can be difficult to acquire the CRSs currently listed in appendix A-1 because many of the CRSs have been discontinued by manufacturers. This final rule will resolve that issue by updating appendix A-1 to include CRSs currently on the market. However, under the Safety Act, manufacturers are required to self-certify their own motor vehicles and motor vehicle parts.²¹ As part of this certification process, NHTSA strives to ensure that manufacturers and the public are aware of how the agency will test motor vehicles and motor vehicle parts for compliance with the FMVSS. That being said, once NHTSA has made clear how it will test a motor vehicle or motor vehicle part, it is up to the manufacturer to ensure its products comply. The agency believes it has significantly improved the ease with which manufacturers can acquire the CRSs in appendix A-1 by ensuring all CRSs in appendix A-1 are currently available for purchase. In particular, although the Safety 1st Dreamride SE Latch #IC238 is one of the only available infant car beds on the market, it is available for purchase by the public.

Manufacturers do not need to rely on NHTSA to procure CRSs for them. Accordingly, the agency believes that manufacturers should easily be able to acquire the CRSs listed as part of this final rule. For the reasons discussed above, NHTSA will not be creating a formal process for manufacturers to acquire the CRSs listed in appendix A-1 as part of this final rule.

D. Frequency of Updates to the Appendix

The Automotive Safety Council commented that it would like NHTSA to adopt an official frequency with which the agency will update appendix A-1 going forward. JPMA also mentioned in its comment that it would appreciate more frequent updates to appendix A-1 from NHTSA. The Alliance also commented on the need for a more reliable and consistent manner of updating the appendix in its August 2023 supplemental comments.

Agency Response: NHTSA will not be adopting a specific frequency for updating appendix A-1 as part of this final rule. As discussed earlier in this preamble as well as in the NPRM, the agency is aware that a significant amount of time has passed since it last updated appendix A-1 in 2008. The agency is aware that this time-lapse has rendered appendix A-1 outdated, and many of the seats listed in appendix A-1 are no longer in production, which makes it difficult for manufacturers to acquire certain CRSs that NHTSA currently tests with. One of NHTSA's goals with this final rule is to ensure manufacturers can easily acquire the CRSs listed in appendix A-1. Another goal with this final rule is to ensure the CRSs NHTSA uses to test for compliance with FMVSS No. 208 are representative of the CRS market. The agency believes that committing to a specific frequency to update appendix A-1 would not align with the ever-changing CRS market. Having the discretion necessary to choose when to update appendix A-1 will allow the

agency to adapt as the CRS market adapts. Furthermore, committing to a specified time frame for updating the appendix would likely interfere with the agency's ability to manage its rulemaking resources as it deems appropriate in light of other priorities and statutory mandates and could hamper its ability to respond quickly to changes in the CRS industry or air bag system designs. As such, NHTSA is not adopting a specific frequency to update appendix A-1 as part of this final rule.

E. Test Procedures

i. Testing With the CRABI Dummy

The Alliance indicated in its comment that it would like clarification on test procedure installation for two forward-facing CRSs proposed in the NPRM. Specifically, the Alliance requested that NHTSA explain how it should test the Cosco Finale DX #BC121 and the Chicco MyFit #04079783-0070 with the 12-month-old CRABI dummy when the owner's manuals for both of those seats indicate that those CRSs are designed to be used for children weighing more than the 12-month-old CRABI dummy weighs. The Alliance reiterated its concerns in its August 2023 supplemental comments.

Agency Response: As discussed above, NHTSA is correcting the name of the Cosco Finale DX #BC121 and is instead including the Cosco Finale #BC110 as part of this final rule. According to the manufacturer, this is merely a model name change and the seat design and intended use are functionally the same, meaning the Alliance's comment still applies. FMVSS No. 208, S19.2.1, specifies the use of the 12-month-old dummy for suppression testing in any of the CRSs listed in the appendix subparts C and D as appropriate. The term "as appropriate" is informative here, as it makes clear that NHTSA will only suppression test a seat in appendix A-1 subparts C and D with the 12-month-old dummy if it is appropriate to do so with that seat. As discussed in the

²¹ 49 U.S.C. 30115.

background section above, FMVSS No. 208 sets out testing requirements for advanced air bag systems using the 12-month-old CRABI dummy, the 3-year-old child dummy, and the 6-year-old child dummy. For all seats listed in appendix A–1, NHTSA will only test with the dummies that are the appropriate size for each respective CRS according to the manufacturer's instructions. Accordingly, because the Cosco Finale DX #BC121 and the Chicco MyFit #04079783–0070 are CRSs that are designed to restrain children who weigh more than the 12-month-old CRABI dummy, NHTSA would not suppression test with the 12-month-old CRABI dummy for those CRSs.

ii. Seat Belt Load Requirement

The Alliance requested clarification of the seat belt cinching requirement listed in the FMVSS No. 208 test procedures. The Alliance commented that for certain CRSs listed in the NPRM with belt tensioning devices, “it is possible to exceed the 134 N belt load by 80–106 N if slack is removed from the belt prior to applying the child seat belt tensioning mechanism.” Furthermore, the Alliance indicated that it is concerned that in the field, these belt tensioning mechanisms can exceed the belt tension in the manufacturer's compliance testing, and, in combination with heavier CRSs, could increase the risk of an undesired air bag deployment (e.g., a child heavier than the dummy and excessive belt load due to child seat belt tensioning systems could be misclassified as a small adult occupant).

Agency Response: In response to this comment, NHTSA performed further testing with CRSs proposed in the NPRM that have belt tensioning mechanisms. The agency acknowledges that when these seats are installed using the manufacturers' instructions, these seats automatically tension past the maximum tension of 134 N described in FMVSS No. 208 S20.2.1.5(c). The tension that these seats tension to varies depending on the seat they are installed in as well as the specific CRS. Accordingly, the agency acknowledges that if the manufacturers' instructions for these seats are followed, it would likely not be possible to test within the tension range outlined in S20.2.1.5(c).

The agency has decided to include three seats with belt tensioning systems as part of this final rule, despite the fact that they likely cannot be installed by following the CRS manufacturers' instructions to properly perform the test procedure outlined in S20.2.1.5(c). It is important to note that, for the S20.2.1.5 test procedure, the standard instructs the test conductor to “secure the child

restraint by following, *to the extent possible*, the child restraint manufacturer's instructions regarding proper installation . . .” (emphasis added).

The agency is aware that there are some CRSs on the market that are equipped with belt tensioning systems that may tension past the maximum 134 N outlined in S20.2.1.5. Accordingly, the agency believes it is important to include these CRSs in appendix A, as they represent a segment of the CRS market. Through NHTSA's research on belt tensioning seats, the agency discovered that it is possible to reduce the tension that the belt tensioning devices automatically ratchet to by introducing extra belt webbing when installing the CRS on the vehicle seat. To clarify how to test with these CRSs according to the parameters outlined in S20.2.1.5(c), NHTSA will update its compliance test procedures to instruct labs contracted with NHTSA to introduce extra belt webbing when installing CRSs with belt tensioning devices. The amount of extra webbing that needs to be introduced depends on the CRS and the vehicle seat the CRS is installed on, so the agency will include in the compliance test procedure a method for achieving the required belt tension within the allowable range of zero to 134 N. The agency believes this procedure is consistent with the requirements of paragraph S20.2.1.5(c) because of the “to the extent possible” language used in that paragraph.

The agency decided to keep these CRSs with belt tensioning devices as part of this final rule for multiple reasons. First, as discussed in the NPRM and in the section above describing the difference between the NPRM and the final rule, these seats (Cybex Cloud Q, Britax Poplar, and Britax Grow With You ClickTight) represent important parts of the CRS market when it comes to the characteristics of each CRS (e.g., weight, footprint dimensions and designs). The agency believes that because these seats are part of the CRS market and because they have characteristics the agency wants to include in the appendix for testing the effectiveness of the air bag suppression systems, these seats are worth keeping as part of the amended appendix A–1. Second, these CRSs equipped with belt tensioning devices were not available the last time appendix A–1 was updated in 2008. It is possible that CRSs equipped with belt tensioning devices will become more popular as time goes on. Accordingly, the agency believes it is important to have CRSs equipped with belt tensioning devices as part of appendix A. Although the test

procedure will test at a lower tension than these three CRSs typically tension to, NHTSA believes that there is still a safety benefit to testing these CRSs at a reduced tension. Specifically, if an advanced air bag system fails to suppress at a tension in the zero to 134 N range, it is likely that that advanced air bag system would also fail the test at the tighter tension range that the belt tensioning device would usually ratchet to. Accordingly, vehicle manufacturers will know if their air bag suppression systems are compliant with the specific weight and footprint of these CRSs, with the belt tensioned to the appropriate test range. For the reasons listed above, the agency has decided to keep the CRSs with belt tensioning devices as part of this final rule and will update the compliance test procedures to instruct labs on how to install the CRSs to the tension range outlined in S20.2.1.5(c).

iii. Compliance Concerns With New Heavier CRSs

The Alliance requested that NHTSA reconsider the CRSs proposed in the NPRM, due to concern about the overall shift to include heavier CRSs in appendix A–1. They further stated that the NPRM did “not sufficiently address the potential for misclassification of occupants. The size and weight of CRSs continue to grow, bringing them (combined with their intended child occupants) closer to the size of small adults. The narrowing of this gap creates an increasing risk of misclassifications by vehicle occupant classification systems (OCS), potentially leading to air bag inflation in instances when suppression might be the safer outcome. Significant changes to the air bag systems and related software will be required to address this matter, along with changes to the vehicle instrument panels to accommodate the new systems.”

The Alliance reiterated these concerns in one of its supplemental comments. The Alliance argued that NHTSA's crash data demonstrates that injury and fatality exposure rates are far greater for smaller stature occupants in fatal crashes (i.e., over 13 years old) than for younger children (i.e., under 6 years old) because most younger children are seated in the back seat of vehicles.²² According to the Alliance, this reflects that the largest group at risk of injury from frontal air bags is smaller statured passengers, not passengers seated in CRSs. The Alliance argued that this further supports their argument about

²² NHTSA recommends that children under the age of 13 should be seat in the back seat of a vehicle.

the potential harm of misclassification by OCSs.

The Alliance did not provide actual vehicle compliance test data to support their claims with regards to the performance of current systems with the heavier CRSs. The Alliance suggested that “NHTSA should conduct further analysis to assess the regulatory impact on existing vehicle designs when including CRS that are significantly above the current threshold values

established in appendix A–1, and the potential impact this may have on overall occupant safety.” Furthermore, the Alliance argued that the weight of the heavier CRSs in combination with the 6-year-old dummy would begin to overlap with the air bag activation threshold leading to misclassification by the occupant detection system.

Agency Response: The commenters are correct in their assessment that the proposed CRSs in the appendix A–1

update will be heavier overall than the previous version of the appendix, which was last updated in 2008. Since then, the CRS market has evolved significantly. NHTSA has conducted an analysis of recent Ease of Use program data (2015–2020 yearly data) and found an increase in the yearly average weight of boosters and CRSs that can be used as booster seats, which can be seen in table 5 below.

TABLE 5—AVERAGE WEIGHT OF BOOSTER SEATS AND AVAILABLE CRS MODELS THAT CAN BE USED AS BOOSTER SEATS

Booster seats and CRSs that can be used as booster seats		
Year	Average weight (lb)	Count (n)
2015	12.79	83
2016	12.89	89
2017	13.19	112
2018	14.18	124
2019	14.86	121
2020	14.92	120

Additionally, the agency analyzed Ease of Use data as far back as 2012 to look at whether heavier CRSs were available at that time as well. NHTSA

found booster seats, and CRSs that can be used as booster seats, that are heavier than or have a similar weight as the heavy CRSs identified by the Alliance

that have been available as far back as 2012. Examples of such CRSs can be seen in table 6.

TABLE 6—HEAVY CRSS THAT CAN BE USED AS BOOSTER SEATS

Year in ease of use program *	Model name	Type	Weight (lb)
2012	Baby Trend Fast Back	Combination	28.3
2012	Diono Radian RXT	3-in-1	27.1
2013	Britax Pinnacle 90	Combination	26.8
2014	Diono Rainier	3-in-1	28.0
2014	Diono Pacifica	3-in-1	27.8
2015	Graco Smart Seat	3-in-1	34.4
2015	Diono Olympia	3-in-1	27.0
2016	Britax Pinnacle Clicktight	Combination	26.5
2018	Graco Recline N Ride	3-in-1	28.1
2018	Maxi-Cosi Magellan	3-in-1	26.6
2019	Diono Rainier 2AXT	3-in-1	29.9
2019	Cyberx Eternis	3-in-1	27.1

* These boosters/CRSs were available in subsequent years and possibly previous years as well. We have only identified the earliest year the CRS was in the Ease of Use program based on the range of years examined.

The Alliance requested that NHTSA include CRSs that are consistent with the weights of the CRSs currently listed in the appendix. Although the agency acknowledges that manufacturers may have to make design changes to ensure their advanced air bag systems remain compliant with FMVSS No. 208, NHTSA’s top priority is passenger safety. As shown above, there is a clear trend toward CRSs increasing in weight. To ensure vehicle air bag suppression systems protect passengers, the agency must ensure that the CRSs being used to test those systems are representative of the current CRS market. Basing the weights of the CRSs included in

appendix A–1 off the CRS market in 2008 would not reflect the CRSs that most current parents and caretakers use currently. One of NHTSA’s goals with this final rule is to make the FMVSS No. 208 test procedures more representative of the real world, and continuing to test with CRSs from 2008 would do the opposite.

Furthermore, since the inception of the Advance Air Bag Rule, the agency has made clear that it is incumbent on vehicle manufacturers to perform their due diligence by developing and testing their advanced air bag systems with CRSs that are not limited to appendix

A.²³ Accordingly, it is reasonable to

²³ The Advanced Air Bag NPRM (63 FR 49958) required that vehicles with suppression systems be tested with any CRS “manufactured for sale in the United States between two years and ten years prior to the date the model year carline of which the vehicle is a part was (or will be) first offered for sale to a consumer.” This was done so “that vehicle manufacturers take account of the variety of different rear facing child restraints in use as they design their systems.” The supplemental NPRM (64 FR 60556) introduced appendix A, which was developed from a “more comprehensive list represent[ing] the majority of child restraints currently on the market. That list was reduced, in part, by eliminating similar restraint systems, e.g., restraints that are sold as different models but which we believe provide the same footprint.” In the final rule (65 FR 30679) the agency further

assume that many manufacturers test their advanced air bag systems with more CRSs beyond what is listed in appendix A–1.

Lastly, NHTSA initiated testing to investigate the Alliance's concerns with the heavier CRSs. Thirteen vehicles were tested, and each vehicle was tested with the CRSs in varying modes. The reports from this testing will be placed in the docket for this rulemaking.

This research demonstrated that four of the 13 vehicles tested were able to suppress the air bag with all the CRSs used for testing, including the three heavier CRSs identified by the Alliance. The passenger air bag activation weight threshold was measured for each vehicle and the thresholds ranged from 55–85 lb. The weight threshold for the four vehicles that suppressed the air bag for all the CRSs and modes tested ranged from 56–77 lb. Further, 8 of the 13 vehicles complied with the requirements with at least 2 of the 3 heavy CRSs identified by the Alliance.

The agency's testing also revealed that the weight of the CRS does not necessarily ultimately determine whether an air bag suppression system activates. For instance, one of the tested vehicles (with an air bag suppression system weight threshold of 73 lb) was able to meet the suppression requirements with two of the three CRSs identified by the Alliance (Cybex Eternis and Britax Grow With You), but did not comply with the Chicco MyFit, which was the lightest of the three. This result seemed to be related to how the Chicco MyFit's footprint loaded the system's pressure sensitive bladder.

The agency testing has shown inconsistent performance for heavier CRSs. However, it is clear from the results that systems can be designed to correctly identify these CRSs and appropriately suppress the air bag. The failure of some vehicles to suppress the air bag in the presence of some of the CRSs is concerning and supports the need for expeditious inclusion of heavier CRSs in the appendix.

explained its reasoning for the use of a list of CRSs in appendix A. We stated that “we do not believe that manufacturers should have the option of certifying to only a limited number of the restraints on the list. We do not believe that requiring compliance with seats is excessive, given the importance of reliability in a suppression system and the fact that the suppression tests are nondestructive. Children sitting in the front seat will not receive the benefit of a suppression system that does not recognize their presence in the seat. If manufacturers believe their planned suppression technology is insufficient to detect a wide variety of child restraints, they will need to either improve or supplement that technology.”

iv. Safety Need for Appendix Update

The Alliance commented on the limited exposure to air bags for children in CRSs since most children are placed in the rear seats and because most children in the front passenger seat are restrained only by seat belts. The Alliance further noted that “the CRS list currently defined in FMVSS 208 appendix A–1 has been successful in shaping design countermeasures that support a positive downward trend in injuries and fatalities for both child- and small-stature occupants seated in the right-front seating position.”

Agency Response: NHTSA acknowledges and is encouraged by the positive trend of seating children in the back seat. Nonetheless, children are sometimes still restrained in a CRS in the front seat. Furthermore, as discussed above, there is a clear market trend in CRSs becoming heavier on average. This is at least in part due to the rise of the all-in-one (also known as the 3-in-one) seat, which has become popular with caregivers as they only have to purchase one seat for their child, instead of buying new seats as their child grows. Offerings in the all-in-one CRS category have significantly grown in the CRS industry over the past several years. This is evident in the list provided by American Academy of Pediatrics of available all-in-one CRSs for 2023.²⁴ Additionally, using the 2015–2020 Ease of Use data, the agency looked at the number of all-in-one and combination CRSs and found an increase in the number of these types of CRSs from 84 in 2015 to 120 in 2020. Because the market trends point to an overall increase in CRS weight, NHTSA believes there is a critical safety need to have heavier seats included as part of appendix A–1.

F. Comments on the Proposed Regulatory Text

In the NPRM, the agency proposed specific amendments to FMVSS No. 208, to remove the current appendix A (which has been phased out), redesignate appendix A–1 as appendix A, and add the new list of CRSs as appendix A–1.

The Alliance commented that, “Comparing the NPRM which was published on October 29, 2020, and the current standard, it seems that ‘S21’ has been accidentally deleted. As NHTSA’s intention was to redesignate ‘appendix A–1’ of the current regulation as ‘appendix A’ in the October 29, 2020, NPRM, we believe the section numbers in subpart D should be the same (*i.e.*

should refer to ‘S21 or S23’). See FR page 68552, proposed FMVSS 208, section D of appendix A.” The Alliance also commented that “[t]here appears to be an inconsistency in the proposed regulations. Comparing proposed FMVSS 208 S14.8 vs. Part 585.35 and Part 585.36, it seems that ‘first’ in S14.8 should be ‘second.’”

Agency Response: NHTSA concurs with these comments and has corrected the regulatory text as part of this final rule. This amendment is reflected in the adopted regulatory text below.

G. Comments on the Compliance Date

In the NPRM, the agency proposed that the compliance date for the proposed requirements be phased in such that at least 50 percent of a manufacturer's vehicles manufactured on or after the first September 1st after the publication date of the final rule would have to be certified as meeting FMVSS No. 208 when tested with the CRSs on the revised appendix A–1, and all vehicles manufactured on or after the second September 1st after the publication date of the final rule would have to be so certified.

The Alliance expressed concerns with the proposed compliance date in both its initial comment and one of its supplemental comments. In its initial comment it argued that, due to the increased weight of the CRSs being tested under the proposed update, manufacturers would have to take a series of steps to ensure compliance. The Alliance wrote:

“Substantial testing will be required to assess the performance of occupant classification systems with the heavier CRS installed. Such testing may identify the need for air bag system design changes. Changes to air bag size, shape, and inflators may necessitate changes to instrument panel design. Suppression may no longer be an option for some models with weight-based occupant classification sensors. Those models may have to switch from suppression to LRD approaches. In that case, the air bag module as well as the instrument panel may also need to be re-engineered. Significant changes may be required to accommodate the new systems. Our initial study indicates that, after further consideration of this matter by the affected parties and development of technical solutions, additional lead-time will likely be needed to implement these strategies, beyond what is proposed by the agency in the NPRM. This scenario will require full frontal crash development which typically takes more than two years.”

In its supplemental comment, the Alliance requested that the lead time be extended by two years with an additional four-year phase-in to allow for manufacturers' evaluation and implementation of design changes to advanced air bag systems.

²⁴ <https://downloads.aap.org/HC/carseats/3-all-in-one-seats.pdf>.

Agency Response: As discussed throughout this preamble, the CRS market has been trending toward heavier CRSs for some time. Although appendix A–1 provides manufacturers with a list of seats that NHTSA will test to determine compliance with FMVSS No. 208, the agency made it clear in the Advanced Air Bag Final Rule that manufacturers have a responsibility to ensure that their advanced airbag systems suppress deployment with all seats that are available on the CRS market. Accordingly, if manufacturers have been paying attention to the CRS market, they should have already begun the process of implementing heavier CRSs into their test programs. Furthermore, delaying compliance with the updated appendix would likely result in availability issues for the CRSs being added to the appendix given the frequent change in CRS model names, designs, or discontinuation of CRSs.

As part of NHTSA's own research, the agency acknowledges that some advanced air bag systems will likely have to undergo adjustments to comply with the updated appendix A–1. In response to commenters' compliance concerns as well as the agency's testing, the agency has decided that the phase-in of the revised appendix will be implemented in two stages. To ease the burden on manufacturers, NHTSA is amending the compliance phase-in to the following: Forty percent of all of a manufacturer's light vehicles must comply with the revised appendix by September 1, 2025, and all light vehicles must be fully compliant no later than September 1, 2026. We are also allowing optional early compliance. This change provides relief for an additional 10% of vehicles in the first part of the phase-in. However, NHTSA does not believe that an extension of the full compliance date beyond the second part of the phase-in is warranted or advisable. Among other risks, any additional delay raises the chances of inadvertently unsuppressed air bag systems in vehicles where certain heavier CRSs have been placed in the front seat. The agency encourages vehicle manufacturers to acquire sufficient inventory of the CRSs when the final rule is published to mitigate availability issues in the future.

VI. Discussion of Benefits and Costs Associated With the Final Rule

The NPRM discussed how this rule does not amend any of the FMVSS No. 208 performance test requirements; it merely updates the list of CRSs NHTSA may use for advanced air bag compliance tests. It further explained that we cannot quantify the incremental benefits of testing with these new CRSs

over those listed in the current appendix A–1, due to a lack of field performance test data, but that updating the CRSs used to assess the performance of advanced air bags addresses that potential issue by enabling manufacturers to design advanced air bag systems to factor in the features and characteristics of the CRSs used today.

With regards to the costs associated with the rule, the NPRM stated that the rule would result in a nominal cost to vehicle manufacturers for the purchase of the new CRSs. It provided a conservative cost estimate for the one additional CRS and then amortized this cost over 10 years and 16 million vehicles to get an annual per vehicle cost estimate. Essentially, based on the cost of a complete set of all the CRSs added, \$3,364, it estimated the cost for the one additional CRS being added as \$168.20 (1/20th of total cost). Then, based on an estimated 248 production lines and the assumption that vehicle manufacturers will purchase 10 sets of CRSs, the NPRM estimated that the total undiscounted 10-year cost to all vehicle manufacturers cumulatively would be \$417,136 ($\$168.20 \times 248 \times 10$). Assuming an annual production of 16 million vehicles, there would be 160 million vehicles for the same time period ($16 \text{ million} \times 10 \text{ years}$). Thus, the NPRM provided an annual per-vehicle cost estimate of \$0.0026 ($\$417,136/160 \text{ million}$).

These cost estimates have been updated for this final rule, given the differences between the final rule and NPRM in terms of the new CRSs being added. NHTSA observed an increased cost for most of the NPRM proposed CRSs that were not affected in the final rule. The estimated cost of a complete set of CRSs is now \$4,322.40 (in 2023 dollars). Therefore, the cost for the one additional CRS being added is \$216.12. The updated annual per vehicle cost is \$0.0033 ($(\$216.12 \times 248 \times 10)/160 \text{ million}$).

The agency believes this figure is an overestimate for the following reasons. NHTSA acknowledges that some manufacturers may purchase fewer of some CRSs (if their vehicles are equipped with air bag suppression systems) or more of some CRSs (if they are equipped with LRD air bags).²⁵

²⁵ The lineup of CRSs that a manufacturer actually purchases will likely vary depending on what type of advanced air bag system the manufacturer chooses for its vehicles. For example, CRSs can be more prone to damage in LRD tests, in particular rear-facing CRSs, due to the potential contact with the air bags, so manufacturers may choose to purchase more sets of certain CRSs to meet their testing needs. CRSs are more likely to be damaged in LRD tests because the air bags always deploy in an LRD test, they just deploy with less

Therefore, we consider 10 a high estimate for the number of complete sets vehicle manufacturers will purchase, because, based on our experience, one set can be used to certify several vehicle models for several years.

In its August 2023 supplemental comments, the Alliance also commented on the increased burden of dealing with the aftermarket acquisition process for CRSs that are no longer widely available. Accordingly, the agency believes vehicle manufacturers would also save an unquantified amount of time and money because they will no longer need to acquire the existing appendix A–1 CRSs that are out of production through aftermarket sourcing. In addition, it is reasonable to assume vehicle manufacturers are testing their advanced air bag systems with CRSs that are not in the appendix, so it is possible that they already possess and have conducted testing with some of the proposed CRS additions, particularly the popular CRSs.

VII. Regulatory Analyses

Executive Order 12866, Executive Order 14904, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the potential impact of this final rule under Executive Order 12866, Executive Order 14094, Executive Order 13563, DOT Order 2100.6A, and the Department of Transportation's regulatory policies and procedures. This final rule is not considered to be significant under the Department of Transportation's regulatory policies and procedures.²⁶

This final rule makes several changes to FMVSS No. 208; specifically, the changes amend appendix A–1 of FMVSS No. 208, which lists the child restraint systems NHTSA uses in compliance testing of advanced air bag systems. Due to the changes in the CRSs proposed in the NPRM versus the CRSs being adopted as part of this final rule, the agency updated the costs in preparation for this final rule. The agency estimates that compliance with the final rule would result in a nominal total annual cost to all vehicle manufacturers cumulatively of \$535,977 (over ten years) for the purchase of the new CRSs. Assuming an annual production of 16 million vehicles (with a GVWR of 8,500 lb or less), the per-

force. Conversely, CRSs are less likely to be damaged during suppression system testing because if the suppression system functions properly, the air bags do not deploy, and therefore cannot do damage to the CRS. The majority of vehicle manufacturers choose the suppression option for the child-sized dummies.

²⁶ 44 FR 11034 (Feb. 26, 1979).

vehicle cost is \$0.0033 annually for the purchase of the new CRSs. More information can be found in the “Discussion of Benefits and Costs Associated with the Final Rule” section above. The minimal impacts of this final rule did not warrant the preparation of a regulatory evaluation.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this action on small entities. I hereby certify that this final rule will not have a significant impact on a substantial number of small entities. The final rule affects motor vehicle manufacturers, multistage manufacturers, and alterers, but the entities that qualify as small businesses would not be significantly affected by this rulemaking because they are already required to comply with the advanced air bag requirements. This final rule would not establish new requirements, but instead would only adjust and update the CRSs used in FMVSS No. 208’s test procedures for advanced air bags. The small manufacturers would continue to certify their vehicles as meeting the advanced air bag requirements using the same methods and procedures they use today, only with more current CRSs.

Federalism

NHTSA has examined this final rule pursuant to E.O. 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments, or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. This final rule would not have 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.

NHTSA rules can have a preemptive effect in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision stating that, if NHTSA has established a standard for an aspect of motor vehicle or motor vehicle equipment performance a State may only prescribe or continue in effect a standard for that same aspect of performance if the State standard is identical to the Federal standard. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts

any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which “[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.” 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved.

NHTSA rules can also preempt State law if complying with the FMVSS would render the motor vehicle manufacturers liable under State tort law. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. *See Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

Pursuant to E.O. 13132, NHTSA has considered whether this final rule could or should preempt State common law causes of action. The agency’s ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation. To this end, the agency has examined the nature (*e.g.*, the language and structure of the regulatory text) and objectives of this final rule and finds that this final rule, like many NHTSA rules, prescribes only a minimum safety standard. Accordingly, NHTSA does not intend that this final rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by this final rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard finalized in this document. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

National Environmental Policy Act

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

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501, *et seq.*), a Federal agency must request and receive approval from the Office of Management and Budget (OMB) before it collects certain information from the public and 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 rulemaking creates new information collection requirements for phase-in reporting and record retention requirements.

In compliance with the requirements of the PRA, NHTSA is separately publishing a notice requesting comment on NHTSA’s intention to request approval for a reinstatement with modification of a previously approved information collection request. Specifically, NHTSA is requesting reinstatement of the information collection request (ICR) with OMB Control No. 2127–0535 and requesting that 49 CFR part 585 be renamed “Phase-In Reporting Requirements.” This ICR will be used to consolidate all phase-in reporting requirements that are included in 49 CFR part 585 and was chosen because the OMB Control Number is currently listed in 49 CFR part 509 as being associated with information collections contained in part 585.

NHTSA’s ICR describes the nature of the information collections and their expected burden. The ICR is to request approval for two new information collections for mandatory phase-in reporting for vehicle manufacturers and related information collections.

With this final rule NHTSA is amending Federal Motor FMVSS No. 208, “Occupant crash protection,” to update the child restraint systems (CRSs) listed in appendix A–1 of the standard. NHTSA uses the CRSs in appendix A–1 to test the performance of advanced air bag suppression and low risk deployment systems in either suppressing or deploying the air bag in a low-risk manner in the presence of a CRS. The proposed amendments would ensure that the CRSs used by NHTSA to test advanced air bags are representative of the current CRS fleet and would make it easier for vehicle manufacturers and test laboratories to acquire CRSs for testing purposes.

As part of the update to FMVSS No. 208, there will be a phase-in of the requirements for testing with the new CRSs listed in appendix A–1. This phase-in of the amendment gives vehicle manufacturers reasonable time

to certify their advanced air bag systems using the new CRSs. As with all phase-ins, the agency is adopting a reporting and recordkeeping requirement to facilitate the agency's enforcement of the standard by aiding NHTSA in determining whether a manufacturer has complied with the phase-in requirements during the phase-in period. These requirements are found in 49 CFR part 585, "Phase-In Reporting Requirements." The reporting and recordkeeping requirements require that manufacturers submit an annual production report to NHTSA that includes the number of vehicles manufactured in the current production year and the production of complying vehicles and that they retain records of compliance with the phase-in requirements for five years. NHTSA estimates this collection will impact 22 manufacturers each year and will have a total annual burden of approximately 22 hours and \$0.

Unfunded Mandates Reform Act (UMRA)

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 annually (adjusted annually for inflation, with base year of 1995). UMRA also requires an agency issuing an NPRM or final rule subject to the Act to select the "least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule." This final rule would not result in a Federal mandate that will likely result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted annually for inflation, with base year of 1995).

Executive Order 12778 (Civil Justice Reform)

When promulgating a regulation, agencies are required under Executive Order 12988 to make every reasonable effort to ensure that the regulation, as appropriate: (1) specifies in clear language the preemptive effect; (2) specifies in clear language the effect on existing Federal law or regulation, including all provisions repealed, circumscribed, displaced, impaired, or modified; (3) provides a clear legal standard for affected conduct rather than a general standard, while promoting simplification and burden reduction; (4) specifies in clear language

the retroactive effect; (5) specifies whether administrative proceedings are to be required before parties may file suit in court; (6) explicitly or implicitly defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship of regulations.

Pursuant to this Order, NHTSA notes as follows. The preemptive effect of this final rule is discussed above. NHTSA notes further that there is no requirement that an individual submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." 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, such as the International Organization for Standardization (ISO) and the Society of Automotive Engineers (SAE). The NTTAA directs this agency to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards. There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this final rule.

Plain Language Requirement

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
 - Does the rule contain technical language or jargon that isn't clear?
 - Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
 - Would more (but shorter) sections be better?
 - Could we improve clarity by adding tables, lists, or diagrams?
 - What else could we do to make the rule easier to understand?

NHTSA has considered these questions and attempted to use plain language in promulgating this final rule. Please inform the agency if you can suggest how NHTSA can improve its use of plain language.

Regulatory 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 year. The RIN contained in the heading at the beginning of this notice may be used to find this action in the Unified Agenda.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its decision-making process. DOT posts these comments, without edit, including any personal information the commenter provides, to www.regulations.gov, as described in the system of records notice (DOT/ALL-14 FDMS), which can be reviewed at www.transportation.gov/privacy. Anyone can 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 (65 FR 19477).

List of Subjects

49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Reporting and recordkeeping requirements, Rubber and rubber products.

49 CFR Part 585

Reporting and recordkeeping requirements.

For reasons stated in the preamble, NHTSA amends 49 CFR parts 571 and 585 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, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

- 2. Section 571.208 is amended by revising S14.8, S14.8.1, S14.8.2, S14.8.3, S14.8.4, S14.8.5 and appendices A and A-1 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S14.8 *Vehicles manufactured on or after September 1, 2025, and before September 1, 2026.* Vehicles manufactured on or after September 1, 2025, and before September 1, 2026, shall comply with S14.8.1 through S14.8.4 of this standard. At any time during the production year ending August 31, 2026, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles by make, model and vehicle identification number that have been certified as complying with S19, S21, and S23 of this standard (in addition to the other requirements specified in this standard) when using the child restraint systems specified in appendix A–1 of this standard. The manufacturer’s designation of a vehicle as meeting the requirements when using the child restraint systems in appendix A–1 of this standard is irrevocable.

S14.8.1 Subject to S14.8.2 of this standard, for vehicles manufactured on or after September 1, 2025, the number of vehicles certified as complying with S19, S21, and S23 of this standard when using the child restraint systems specified in appendix A–1 of this standard shall be not less than 40 percent of:

(a) The manufacturer’s average annual production of vehicles subject to S19, S21, and S23 of this standard manufactured on or after September 1, 2022, and before September 1, 2025; or

(b) The manufacturer’s production of vehicles subject to S19, S21, and S23 of

this standard manufactured on or after September 1, 2025, and before September 1, 2026.

S14.8.2 For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S14.8.1 of this standard, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as provided in S14.8.2(a) through (c) of this standard, subject to S14.8.3 of this standard.

(a) A vehicle which is imported shall be attributed to the importer.

(b) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer which markets the vehicle.

(c) A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle’s manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S14.8.2(a) or (b) of this standard.

S14.8.3 For the purposes of calculating average annual production of vehicle for each manufacturer and the number of vehicles by each manufacturer under S14.8.1 of this standard, each vehicle that is excluded from the requirement to test with child restraints listed in appendix A or A–1 of this standard is not counted.

S14.8.4 Until September 1, 2027, vehicles manufactured by a final-stage

manufacturer or alterer may certify compliance with S19, S21, and S23 of this standard when using the child restraint systems specified in appendix A. Vehicles manufactured on or after September 1, 2027, by these manufacturers must be certified as complying with S19, S21, and S23 when using the child restraint systems specified in appendix A–1 of this standard.

S14.8.5 Until September 1, 2027, manufacturers selling fewer than 5,000 vehicles per year in the U.S. may certify their vehicles as complying with S19, S21, and S23 of this standard when using the child restraint systems specified in appendix A. Vehicles manufactured on or after September 1, 2027, by these manufacturers must be certified as complying with S19, S21, and S23 when using the child restraint systems specified in appendix A–1 of this standard.

* * * * *

Appendix A to § 571.208—Selection of Child Restraint Systems

This appendix A applies to vehicles manufactured before September 1, 2025, and to not more than 60 percent of a manufacturer’s vehicles manufactured on or after September 1, 2025, and before September 1, 2026, as specified in S14.8 of this standard. This appendix does not apply to vehicles manufactured on or after September 1, 2026.

A. The following car bed, manufactured on or after the date listed, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with 49 CFR 571.208 S19:

SUBPART A—CAR BED CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Angel Guard Angel Ride XX2403XXX	September 25, 2007.

B. Any of the following rear-facing child restraint systems specified in the table in subpart B of this appendix, manufactured on or after the date listed, may be used by the

National Highway Traffic Safety Administration to test the suppression or low risk deployment (LRD) system of a vehicle that has been certified as being in compliance

with S19 of this standard. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

SUBPART B—REAR-FACING CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Century Smart Fit 4543	December 1, 1999.
Cosco Arriva 22–013 PAW and base 22–999 WHO	September 25, 2007.
Evenflo Discovery Adjust Right 212	December 1, 1999.
Graco Infant 8457	December 1, 1999.
Graco Snugride	September 25, 2007.
Peg Perego Primo Viaggio SIP IMUN00US	September 25, 2007.

C. Any of the following forward-facing child restraint systems, and forward-facing child restraint systems that also convert to rear-facing, manufactured on or after the date listed, may be used by the National Highway

Traffic Safety Administration to test the suppression or LRD system of a vehicle that has been certified as being in compliance with S19 or S21 of this standard. (Note: Any child restraint listed in this subpart that does

not have manufacturer instructions for using it in a rear-facing position is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a) and S20.4.2 of this standard);

SUBPART C—FORWARD-FACING AND CONVERTIBLE CHILD RESTRAINTS OF APPENDIX A

	Manufactured on or after
Britax Roundabout E9L02xx	September 25, 2007.
Graco ComfortSport	September 25, 2007.
Cosco Touriva 02519	December 1, 1999.
Evenflo Tribute V 379xxxx or Evenflo Tribute 381xxxx	September 25, 2007.
Evenflo Medallion 254	September 1, 1999.
Cosco Summit Deluxe High Back Booster 22–262	September 25, 2007.
Evenflo Generations 352xxxx	September 25, 2007.
Graco Toddler SafeSeat Step 2	September 25, 2007.
Graco Platinum Cargo	September 25, 2007.
Cosco High Back Booster 22–209	September 25, 2007.

D. Any of the following forward-facing child restraint systems and belt positioning seats, manufactured on or after the date

listed, may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle

that has been certified as being in compliance with S21 or S23 of this standard:

SUBPART D—FORWARD-FACING CHILD RESTRAINTS AND BELT POSITIONING SEATS OF APPENDIX A

	Manufactured on or after
Britax Roadster 9004	December 1, 1999.
Graco Platinum Cargo	September 25, 2007.
Cosco High Back Booster 22–209	September 25, 2007.
Evenflo Right Fit 245	December 1, 1999.
Evenflo Generations 352xxxx	September 25, 2007.
Cosco Summit Deluxe High Back Booster 22–262	September 25, 2007.

Appendix A–1 to § 571.208—Selection of Child Restraint Systems

This appendix A–1 applies to not less than 40 percent of a manufacturer’s vehicles manufactured on or after September 1, 2025, and before September 1, 2026, as specified in S14.8 of this standard. This appendix applies to all vehicles manufactured on or after September 1, 2026.

A. The following car bed, manufactured on or after [Date of publication of final rule], may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that has been certified as being in compliance with S19 of this standard:

SUBPART A—CAR BED CHILD RESTRAINTS OF APPENDIX A–1

Safety 1st Dreamride with LATCH #IC238xxx.

B. Any of the following rear-facing child restraint systems specified in the table below, manufactured on or after August 22, 2024, may be used by the National Highway Traffic Safety Administration to test the suppression or low risk deployment (LRD) system of a vehicle that has been certified as being in compliance with S19 of this standard. When the restraint system comes equipped with a removable base, the test may be run either with the base attached or without the base.

SUBPART B—REAR-FACING CHILD RESTRAINTS OF APPENDIX A–1

Evenflo Litemax #305xxxxx.
 Chicco Keyfit 30 #04061472xxxxxx.
 Doona Car Seat & Stroller.
 Nuna Pipa RX with Pipa RELX base.
 Cybex Cloud Q with SensorSafe.
 Evenflo NurtureMax #364xxxxx.

C. Any of the following forward-facing child restraint systems, and forward-facing child restraint systems that also convert to rear-facing, manufactured on or after August 22, 2024, may be used by the National Highway Traffic Safety Administration to test the suppression or LRD system of a vehicle that has been certified as being in compliance with S19 or S21 of this standard. (Note: Any child restraint listed in this subpart that does not have manufacturer instructions for using it in a rear-facing position is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a) and S20.4.2 of this standard):

SUBPART C—FORWARD-FACING AND CONVERTIBLE CHILD RESTRAINTS OF APPENDIX A–1

Britax Poplar #E1C93xx.
 Cosco Scenera Next #CC123xxx.
 Graco 4Ever DLX.

SUBPART C—FORWARD-FACING AND CONVERTIBLE CHILD RESTRAINTS OF APPENDIX A–1—Continued

Nuna Rava #CS05116CVR.
 Graco Contender Slim.
 Cybex Eternis S with SensorSafe.
 Safety 1st Grow and Go #CC138xxx.
 Evenflo Chase Plus #307xxxxx.
 Cosco Finale #BC110xxx.
 Chicco MyFit #04079783—0070.

D. Any of the following forward-facing child restraint systems and belt positioning seats, manufactured on or after August 22, 2024, may be used by the National Highway Traffic Safety Administration as test devices to test the suppression system of a vehicle that has been certified as being in compliance with S21 or S23 of this standard:

SUBPART D—FORWARD-FACING CHILD RESTRAINTS AND BELT POSITIONING SEATS OF APPENDIX A–1

Chicco MyFit #04079783—0070.
 Cybex Eternis S with SensorSafe.
 Safety 1st Grow and Go #CC138xxx.
 Evenflo Chase Plus #307xxxxx.
 Cosco Finale #BC110xxx.
 Cosco Rise #BC126xxx.
 Graco TurboBooster Backless Booster Seat.
 Britax Grow with You ClickTight #E1C19xx.

Figure A1 to Appendix A and Appendix A-1 to § 571.208: Loading Bar Foot Detail

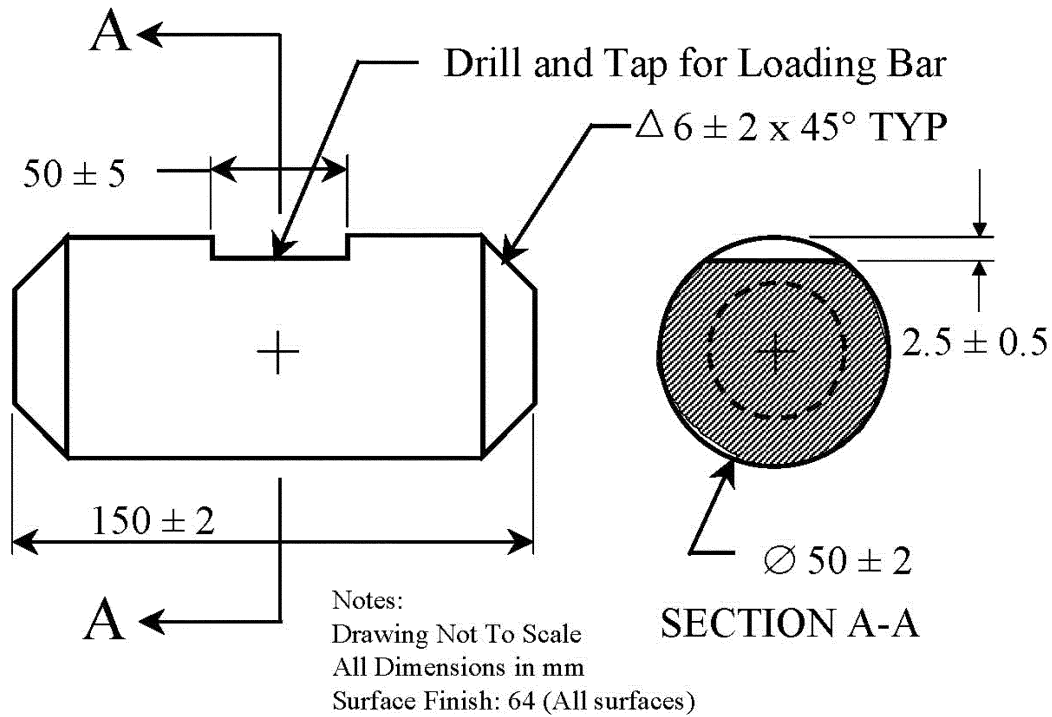
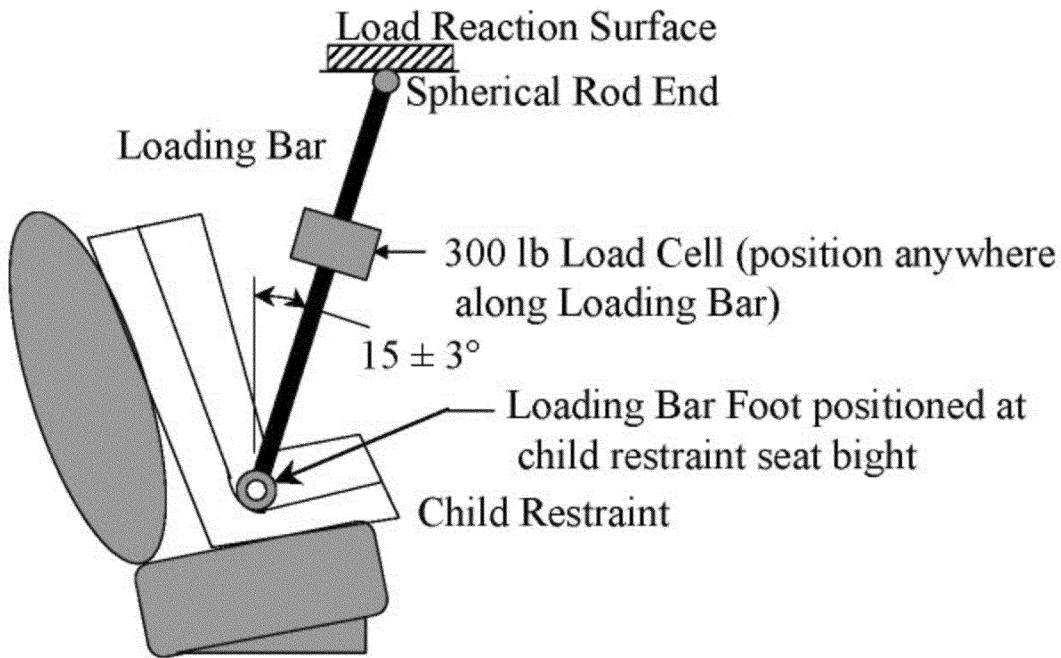


Figure A2 to Appendix A and Appendix A-1 to § 571.208: Loading Bar Installation



PART 585—PHASE-IN REPORTING REQUIREMENTS

■ 3. The authority citation for part 585 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 4. Sections 585.35 through 585.37 are revised to read as follows:

- * * * * *
- Sec.
- 585.35 Response to inquiries.
- 585.36 Reporting requirements.

585.37 Records.

* * * * *

§ 585.35 Response to inquiries.

At any time during the production year ending August 31, 2026, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with the requirements of Standard No. 208 when using the child restraint systems specified in appendix A–1 of that standard (49 CFR 571.208). The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

§ 585.36 Reporting requirements.

(a) *Phase-in reporting requirements.* Within 60 days after the end of the production year ending August 31, 2026, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with requirements of Standard No. 208 when using the child restraint systems specified in appendix A–1 of that standard (49 CFR 571.208) for its vehicles produced in that year. Each report shall provide the information specified in paragraph (b) of this section and in § 585.2.

(b) *Phase-in report content.* Basis for phase-in production goals. Each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option, in each of the three previous production years. A new manufacturer that is, for the first time, manufacturing passenger cars, trucks, multipurpose passenger vehicles or buses for sale in the United States must report the number of passenger cars, trucks, multipurpose passenger vehicles or buses manufactured during the current production year.

(1) Production of complying vehicles. Each manufacturer shall report on the number of vehicles that meet the requirements of Standard No. 208 when using the child restraint systems specified in appendix A–1 of that standard (49 CFR 571.208).

(2) [Reserved]

§ 585.37 Records.

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.36 until December 31, 2029.

Issued in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

Sophie Shulman,

Deputy Administrator.

[FR Doc. 2024–18114 Filed 8–21–24; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 240506–0128; RTID 0648–XE206]

Pacific Halibut Fisheries of the West Coast; Inseason Action for the 2024 Area 2A Pacific Halibut Directed Commercial Fishery

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment.

SUMMARY: NMFS announces inseason action for the 2024 Pacific halibut non-Tribal directed commercial fishery in the International Pacific Halibut Commission's (IPHC) regulatory Area 2A. This action adds a fishing period, August 27 through August 29, 2024, with a fishing period catch limit of 1,400 pounds (0.64 metric tons (mt)) per vessel, dressed weight. This action is intended to provide opportunity to achieve the 2024 non-tribal directed commercial fishery allocation.

DATES: Effective August 27, 2024 through December 7, 2024.

FOR FURTHER INFORMATION CONTACT: Heather Fitch, West Coast Region, NMFS, (360) 320–6549, heather.fitch@noaa.gov.

SUPPLEMENTARY INFORMATION: On May 10, 2024, NMFS published a final rule implementing fishing periods (*i.e.* season dates) and fishing period limits (*i.e.* catch limits), by vessel size class, for the IPHC Area 2A Pacific halibut non-tribal directed commercial fishery that operates south of Point Chehalis, WA (lat. 46°53.30' N) (89 FR 40417). The Area 2A non-Tribal directed commercial fishery allocation is 249,338 pounds (113 mt), net weight (*i.e.*, the weight of Pacific halibut that is without gills and entrails, head-off, washed, and without ice and slime) (89 FR 19275, March 18, 2024).

The initial fishing periods occurred on June 25–27 and July 9–11, 2024, with fishing period limits ranging from 1,800 pounds to 4,500 pounds (0.816 mt to

2.041 mt), dressed weight, varied by vessel size class. A third fishing period occurred on August 6–8, 2024, with a fishing period limit of 1,400 pounds (0.64 mt), dressed weight, for all vessel size classes. Landings information to date indicates that sufficient allocation remains to warrant an additional fishing period. Approximately 209,204 pounds (94.9 mt), net weight, have been harvested of the 249,338-pound (113 mt) allocation (84 percent), leaving 40,134 pounds (18.2 mt) remaining (16 percent).

NMFS is adopting an additional fishing period not previously implemented in the final rule on May 10, 2024 (89 FR 40417), in accordance with 50 CFR 300.63(e)(1)(iii). Fishing period limits implemented through inseason action are equal across vessel size classes and are based on the allocation estimated to be remaining and the projected participation and catch rates in this additional fishing period.

NMFS has determined the following inseason action is necessary to meet the management objective of attaining the allocation, is not anticipated to risk exceeding the allocation, and is consistent with the inseason management provisions allowing for additional fishing periods.

Inseason Action

This inseason action implements an additional fishing period, beginning August 27, 2024 at 8 a.m. and ending on August 29, 2024 at 6 p.m. This inseason action also implements a fishing period catch limit of 1,400 pounds (0.64 mt) per vessel, dressed weight (head-on, with ice and slime), for all vessel size classes.

Notice of this additional fishing period and fishing period limit will also be announced on the NMFS hotline at 206–526–6667 or 800–662–9825.

Classification

NMFS issues this action pursuant to the Northern Pacific Halibut Act of 1982. This action is taken under the regulatory authority at 50 CFR 300.63(e)(1)(iii), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest. The California, Oregon, and Washington Departments of Fish and Wildlife provided estimated harvest data to NMFS inseason. As of August 14, 2024, the Area 2A non-Tribal directed commercial fishery had caught only an estimated 84 percent of the