



U.S. DEPARTMENT OF TRANSPORTATION
NATIONAL HIGHWAY SAFETY BUREAU
WASHINGTON, D.C. 20591

IN REPLY REFER TO:

40-30

Mr. Lowell Dodge
Director
The Center for Auto Safety
759 National Press Building
Washington, D.C. 20004

NOV 18 1970

Dear Mr. Dodge:

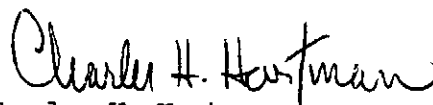
On October 5, 1970, you submitted a petition for rulemaking on the subject of flammability of vehicle interior materials. This petition noted that a notice of proposed rulemaking on this subject had been issued on December 31, 1969 (34 F.R. 20434), proposing a horizontal burn rate test with a 4-inch-per-minute maximum. The petition suggested a vertical test with essentially a self-extinguishment requirement.

The requirements suggested in the petition would be substantially more stringent than those proposed in the December 31 notice. In our judgment, the situation with respect to the availability of materials is such that it would not be feasible for industry to comply with such a requirement within the effective date planned for our present rulemaking. No standard exists on flammability at present, and I believe that it is important that one be issued with as short a leadtime as is reasonable, in order to reduce the hazards from fires starting in vehicle interiors from such sources as cigarettes and dropped matches. We also consider it extremely important that these requirements not inhibit developments in response to our Occupant Crash Protection rulemaking, and there is a serious possibility that more stringent requirements than we have proposed may do so.

Our present plan, therefore, is to proceed with rulemaking on the basis of the December 31 notice. At the same time, we will proceed to study intensively the feasibility of instituting still more stringent requirements with a later effective date. We are sponsoring continuing research work in this area, and in addition are requiring the three Experimental Safety Vehicle contractors to develop and utilize the greatest practicable level of flame-resistant materials.

Your petition thus presents a promising and useful approach for future rulemaking, and I compliment you on the quantity and quality of work that went into it. I am enclosing a copy of a letter that was sent to several Congressmen in response to inquiries concerning your petition. We appreciate your work in the field of motor vehicle safety.

Sincerely,

A handwritten signature in cursive script that reads "Charles H. Hartman". The signature is written in dark ink and is positioned above the typed name.

Charles H. Hartman
Acting Director

Enclosure

Final Copy

CENTER FOR AUTO SAFETY

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WASHINGTON, D.C. 20004
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Post Office Box 7250
Ben Franklin Station
Washington, D.C. 20044

December 17, 1970

Mr. Charles H. Hartman
Acting Director
National Highway Safety Bureau
400 Seventh Street, S.W.
Washington, D.C.

Re: 40-30

Dear Mr. Hartman:

Thank you for your letter of November 18, 1970, stating that the National Highway Safety Bureau intends to proceed with a rulemaking on the basis of the December 31, 1969 notice on flammability of interior materials.

As a general comment, it is distressing to note that the motor vehicle industry, after years of neglect in the area of material flammability, will now be required to meet no more than a minimal safety standard. As previous experience has shown, the initial safety standards in a previously unregulated area have done little more than incorporate the current industry practice and eliminate only the most flagrant abuses. The laxity of the proposed standard is illustrated in this candid comment from the chemical industry trade press, Oil, Paint and Drug Reporter, November 16, 1970 at page 20:

Months ago trade sources hoped that the passage of this bill(sic, standard 302) would elevate flammability standards for automobile interiors to such a high level that the demand for antimony oxide from interior manufacturers would double.

As it turns out, the standards in the bill(sic) are not extremely high. Most car interiors as they are now being manufactured already meet the standards, says an antimony oxide producer who was discussing the situation with Ford and Chrysler.

Reportedly only some thin gauge vinyls will be affected. (emphasis supplied)

As Mr. Ralph Nader said in his letter of October 5, 1970 to Director Toms:

The National Highway Safety Bureau, in its proposed federal motor safety standard on the flammability of interior materials, is decidedly failing in its mission to insure the maximum feasible protection to the motoring public.

* * *

Federal Motor Vehicle Standards, according to the 1966 auto safety law, are supposed to advance the adoption of increased safety levels.

The Center wishes to make the following specific comments in response to your letter of November 18, 1970 and your letter answering congressional inquiries about the Center's proposed standard. You state "We recognize, however, that the flame-resistance requirements should be strengthened as material technology advances." Your 1970 standard will be compatible with 1947 technology, the year the Federal Aviation Administration's standard went into effect. Current technology already provides plastics, textiles and foams that will pass the Center's proposed standard. The argument advanced by industry that advanced flame resistant materials, such as the polyimides and aromatic polyamides, are not commercially available in sufficient quantity is self-serving; one of the reasons that such materials have not been commercially available is because there has been no demand for them. This lack of demand is attributable to industry's failure to take even the most minimal steps toward providing the motoring public with flame resistant materials. However, Mr. R.C. Gazley, general manager of chemicals and polymers for Princeton Research, Inc., has predicted that the market in flame retardant polymers and textiles will grow between 35 and 45 per cent yearly through 1975. (Oil, Paint and Drug Reporter, September 28, 1970, p. 3.)

It is correct that the Oklahoma University Research Institute and the Illinois Institute of Technology Research Institute reports recommended adoption of the 4 inch standard. However, both reports expressly recognized that the proposed standard establishes only a minimal performance level and at best that its operational effect will be limited to eliminating the most hazardous materials now in use. (see OURI 4-57-58, 5-13; IITRI 58-59) Furthermore, with the use of the horizontal test method, there is no guarantee that even the most hazardous materials will be eliminated. For, many of the interior materials will be used in a vertical position (e.g. seat backs, door panels) and thus burn faster than if they were used in a horizontal position.

The argument concerning the scarcity and expense of antimony oxide is no longer valid. At the present time both foreign and domestic antimony oxide is available in substantial quantity. While the price of antimony oxide was at an all time high during the summer of 1970, the price ^{per pound} has since fallen 70 cents ^{from \$1.70} and according to the Oil, Paint and Drug Reporter of November 16th and 30th, there is every indication that the price will continue to decrease. Also, the need for antimony oxide as a flame retardant has been decreased by the increased use of zinc borate, alone and in combination with antimony oxide.

Although the FAA's strengthened standard on flammability has not been issued as yet, it is important to note that most of the materials being used in the Boeing 747 already meet the proposed standard. One wonders why the NHTSB fails to require equivalent protection for the many more millions of motorists exposed to the hazard of vehicle interior fires.

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With respect to your statement that the imposition of a stringent flammability standard may make it impossible for the automobile industry to meet NHTSB's crash protection requirement, the Center asks for explicit documentation of that point. In particular, would you offer evidence to show that padding materials required to pass the proposed amendment to standard #201 would be unable to pass the Center's-proposed standard on flammability?

Since your reply of November 18, 1970, fails explicitly to accept or reject the Center's petition as required by CFR Title 49, Chapter V, Part 553, Section 553.33 it thereby does not provide a basis for further action by the Center for Auto Safety. Moreover, the NHTSB failed to respond to the Center's request that the text of its petition be published in the Federal Register or alternatively, that notice of receipt of the petition and a summary of its contents together with a request for comments from interested parties appear in the Federal Register. No such notice has been published, but the Bureau has provided no reasons for its apparent decision not to publish it.

The basic arguments of the Center for Auto Safety have not been met. NHTSB's proposed standard establishes, at best, a minimal performance level which is exceeded by the majority of materials now in use in automobiles. Current technology provides materials which will pass the Center's proposed standard. The critical need for a strong standard is compellingly documented in the enclosed letters. The Center for Auto Safety repeats its original request that its petition for rulemaking be accepted.

Sincerely,

Justin Klein

Justin Klein

Jason Mirabito

Jason Mirabito

Stephen Oesch

Stephen Oesch

Enclosures