

“(incorporated by reference, *see* § 193.2013)” and

■ b. Remove “ANSI/NFPA 59A” wherever it appears in the section, and in its place add “NFPA 59A”.

§ 193.2303 [Amended]

■ 11. In § 193.2303, remove “ANSI/NFPA 59A” and in its place add “NFPA 59A (incorporated by reference, *see* § 193.2013)”.

§ 193.2401 [Amended]

■ 12. Amend § 193.2401 as follows:

■ a. In the first sentence, immediately after “ANSI/NFPA 59A” add “(incorporated by reference, *see* § 193.2013)” and

■ b. Remove “ANSI/NFPA 59A” wherever it appears in the section, and in its place add “NFPA 59A”.

§ 193.2503 [Amended]

■ 13. Amend § 193.2503 as follows:

■ a. In paragraph (e), remove the semicolon and in its place add a period;

■ b. In paragraph (g), remove the semicolon and the word “and” and add a period in the place of the removed semicolon; and

■ c. Remove paragraph (h).

■ 14. Revise the first sentence of § 193.2507 to read as follows:

§ 193.2507 Monitoring operations.

Each component in operation or building in which a hazard to persons or property could exist must be monitored to detect fire or any malfunction or flammable fluid that could cause a hazardous condition.

* * *

■ 15. Revise the first sentence of § 193.2509(b) to read as follows:

§ 193.2509 Emergency procedures.

* * * * *

(b) To adequately handle each type of emergency identified under paragraph (a) of this section and each fire emergency, each operator must follow one or more manuals of written procedures. * * *

§ 193.2521 [Amended]

■ 16. Amend § 193.2521 as follows:

■ a. In the second sentence, immediately after “ANSI/NFPA 59A” add “(incorporated by reference, *see* § 193.2013)” and

■ b. Remove “ANSI/NFPA 59A” wherever it appears in the section, and in its place add “NFPA 59A”.

■ 17. Revise § 193.2605(b)(2) to read as follows:

§ 193.2605 Maintenance procedures.

* * * * *

(b) * * *

(2) A description of other actions necessary to maintain the LNG plant according to the requirements of this subpart.

* * * * *

§ 193.2639 [Amended]

■ 18. Amend § 193.2639 as follows:

■ a. In the second sentence, immediately after “ANSI/NFPA 59A” add “(incorporated by reference, *see* § 193.2013)” and

■ b. Remove “ANSI/NFPA 59A” wherever it appears in the section, and in its place add “NFPA 59A”.

■ 19. Revise § 193.2705(b) to read as follows:

§ 193.2705 Construction, installation, inspection, and testing.

* * * * *

(b) Each operator must periodically determine whether inspectors performing construction, installation, and testing duties required by this part are satisfactorily performing their assigned functions.

■ 20. In § 193.2717, revise paragraph (a) and add paragraph (c) to read as follows:

§ 193.2717 Training: fire protection.

(a) All personnel involved in maintenance and operations of an LNG plant, including their immediate supervisors, must be trained according to a written plan of initial instruction, including plant fire drills, to:

- (1) Know the potential causes and areas of fire;
- (2) Know the types, sizes, and predictable consequences of fire; and
- (3) Know and be able to perform their assigned fire control duties according to the procedures established under § 193.2509 and by proper use of equipment provided under § 193.2801.

* * * * *

(c) Plant fire drills must provide personnel hands-on experience in carrying out their duties under the fire emergency procedures required by § 193.2509.

■ 21. Revise § 193.2801 to read as follows :

§ 193.2801 Fire protection.

Each operator must provide and maintain fire protection at LNG plants according to sections 9.1 through 9.7 and section 9.9 of NFPA 59A (incorporated by reference, *see* § 193.2013). However, LNG plants existing on March 31, 2000, need not comply with provisions on emergency shutdown systems, water delivery systems, detection systems, and personnel qualification and training until September 12, 2005.

Appendix A—[Removed]

■ 22. Remove appendix A to part 193.

Issued in Washington, DC on March 1, 2004.

Samuel G. Bonasso,

Deputy Administrator.

[FR Doc. 04–4857 Filed 3–9–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–04–17230]

RIN 2127–AJ15

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Final rule, response to petition for reconsideration; correction.

SUMMARY: In response to a congressional mandate to consider the need for clearer and simpler labels on child restraint systems, NHTSA amended the requirements for child restraint labels and written instructions. This document responds to a petition for reconsideration of the final rule making those amendments, by amending some of the format and location requirements for child restraint system labels. It also corrects minor errors contained in the regulatory text of the final rule.

DATES: The amendments made in this rule are effective September 6, 2004. At your option, you may comply with the amended requirements prior to the effective date. If you wish to petition for reconsideration of this rule, your petition must be received by April 26, 2004.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration:

For non-legal issues: Ms. Mary Versailles of the NHTSA Office of Planning and Consumer Programs, at (202) 366–2057.

For legal issues: Mr. Christopher Calamita of the NHTSA Office of Chief Counsel at (202) 366–2992.

You may send mail to both of these officials at the National Highway Traffic and Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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I. Background

On October 1, 2002, NHTSA published a final rule amending the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child restraint systems*, for child restraint labels and the written instructions that accompany child restraints (67 FR 61523; Docket No. 2001–10916.) The October 2002 rulemaking was in response to a mandate by Congress as part of the Transportation Recall Enhancement, Accountability, and Documentation Act (TREAD Act) that required NHTSA to consider whether to prescribe clearer and simpler labels and instructions for child restraints (Pub. L. 106–414, 114 Stat. 1880 (2002)). Among other things, the October 2002 final rule changed the location requirements for some labels, required most labels to be white with black text, simplified the required language of the statements on the labels, mandated that the required label statements be in a bulleted list headed by the statement “WARNING! DEATH or SERIOUS INJURY can occur,” and required a new diagram showing the child restraint installed by means of a child restraint anchorage system that conforms with FMVSS No. 225, *Child restraint anchorage systems*.

II. Petition for Reconsideration

NHTSA received a petition for reconsideration of the October 2002 final rule from David E. Campbell & Associates, Inc. (Campbell; a consultant to child restraint manufacturers). The petition made four requests: to allow the bulleted warning list to be on separate, side-by-side labels; to extend the application of the “as appropriate” condition to the required statement concerning use of belt positioning seats with a child restraint anchorage system; to allow installation illustrations on the child restraint to be covered if the child restraint has been properly installed; and to correct an improper cross reference.

a. Side-by-Side Labels

To reduce the misuse of child restraints, FMVSS No. 213 requires all restraints to be labeled with a warning regarding the consequences of not following instructions, followed by a bulleted list of mandated statements in a specified order. Campbell stated that the language mandated by S5.5.2(g)(1), when printed in the type size required by S5.5.2, could result in a label too large to fit in any single visible location available on the child restraint. Campbell further stated that this problem might be compounded by placing belt routing illustrations at the bottom of the label in order to optimize placement of product information.

Campbell requested that separate, side-by-side labels be allowed if (1) the mandated statements are in the specified sequence, and (2) each label that is not directly below one with the required heading start with the heading as specified in S5.5.2(g)(1). By allowing side-by-side labels, Campbell stated that manufacturers would have greater flexibility in placing the warning statement in visible locations on the restraint.

Agency Response: The agency has granted this request. S5.5.2 of FMVSS No. 213 is amended to make it clear that more than one label may be used for the required list of bulleted statements, including side-by-side labels.

In the preamble to the October 2002 final rule, we stated that the bulleted list is not required to be on a single label, so long as the separate components are attached to the child restraint in the correct order and without any intervening labels (67 FR at 61526). At that time, the agency envisioned one label component being placed directly below another label component. Given that the standard practice in reading the English language is to read left to right and top to bottom, this final rule further permits, under limited situations, the separate warning labels to be placed side-by-side. The alternate arrangement for this label is only permitted when available space on the child restraint would not allow a vertical arrangement of the list.

When the side-by-side arrangement is used, the required sequence must be maintained when reading the leftmost label from top to bottom, then the next rightmost label top to bottom. There must be no intervening labels.

We do not agree with the petitioner’s suggestion that each separate label must restate the warning heading. We are concerned that multiple headings could overwhelm a consumer given the close proximity of the labels and the strong

nature of the required heading (WARNING! DEATH or SERIOUS INJURY can occur). To maintain a clear and direct warning the heading must appear at the top of the first label in the sequence. We are not allowing the warning to appear in the subsequent portions of the label.

b. Required Language for Belt-Positioning Seats

As amended by the October 2002 final rule, S5.5.2(g)(1)(ii) of FMVSS No. 213 requires a statement that directs consumers to install the restraint with the “vehicle’s child restraint anchorage system if available or vehicle seat belt.” The petitioner pointed out that belt-positioning seats are not designed to be attached with a child restraint anchorage system and therefore, this statement is not applicable to belt-positioning seats. Further, Campbell stated that requiring this statement could cause confusion with another statement mandated for belt-positioning booster seats, which specifies, “use only the vehicle’s lap and shoulder belt system when restraining the child in this booster seat.” S5.5.2(i)(1)(i). To avoid any potential confusion, Campbell recommended requiring the statement in S5.5.2(g)(1)(ii) only when appropriate.

Agency Response: The agency agrees that there was an error in requiring the S5.5.2(g)(1)(ii) statement on labels for belt-positioning seats, since those restraints are not designed to use child restraint anchorage systems. This document corrects that error by not requiring the statement for belt-positioning seats.¹

c. Visibility Requirements for Installation Diagrams

The October 2002 final rule amended FMVSS No. 213 to require installation information to be visible when the restraint is installed. Campbell expressed concern that the visibility requirement would mandate placing diagrams in a location away from the vehicle belt path and/or in a location less visible because of the limited space available on a child restraint. Campbell requested an amendment that would permit the restraint’s installation diagrams to be covered by a vehicle belt when the restraint is properly installed using the belt, provided that the diagrams would be visible if the vehicle seat belt were not routed properly.

¹ In a September 5, 2003, letter to Mr. Campbell, we acknowledged that the reference was in error and stated that we would be correcting it. www.nhtsa.dot.gov/cars/rules/interps/files/Campbell_petition.html.

The petitioner cited two examples. The first example, the AngelRide Infant Car Bed, has a forward edge that, when the child restraint is installed, protrudes from the restraint in a triangular manner. Because the belt path is on the upper portion of the forward edge, Campbell stated that under the current requirement the only available location for the installation information would be on the lower portion below the protrusion. This location is visible if the person placing the child in the car bed is looking straight at the restraint from the front, but not visible if that person is looking down on the restraint from above, as is likely once the restraint is installed. Campbell reasoned that information placed along the seat belt routing path would be more visible during installation than information placed underneath a forward-facing overhang.

The second example is the type of restraint that has a detachable base. Typically, the installation diagrams for the base are located on the top surface, visible when the base alone is installed but not visible when the infant carrier is locked on the base. Campbell stated that the base is often installed without the carrier, and the installation instructions can be conveniently located on the top surface of the base. When the carrier is placed on the seat base so that it covers the instructions, the seat base has already been installed and secured.

Agency Response: The agency does not agree with the recommendation by Campbell to allow information to be covered by a properly routed seat belt. NHTSA does not want the information to be covered by the belt because if it were, consumers would have to unbuckle and undo or loosen the routing of the belt in order to review or double check the installation information. Vehicle belts are often misused when used to attach child restraints, by not being properly routed or tightened for a secure attachment of the restraint. NHTSA believes that labels should not be placed where to read them the vehicle belt would have to be detached, or its routing undone or loosened or otherwise manipulated, because the child restraint might not be re-secured properly. Consumers might also be discouraged from double checking the information to determine whether they have properly attached the restraint when they would have to undo the belt to do so. Accordingly, this request to allow installation information to be covered when a restraint is

properly installed is denied, with one caveat, noted below.²

NHTSA is granting the request with respect to restraints with a detachable base. For child restraints with a detachable base, typically the base is installed separately from the carrier portion of the restraint and left attached to the vehicle. Because the base is normally secured without the carrier, in the past some manufacturers have placed the labels with the installation information on the top surface of the base. This allows the user of the system to conveniently reference the installation diagrams and information while installing the base. Even after the carrier portion has been attached to the base, the carrier portion can be easily removed to reference the information related to installation and securing while the base remains secured to the vehicle.

Accordingly, this final rule amends the visibility requirements so that, for child restraints with a detachable base, the information regarding installation and the securing of the child need only be visible when the base alone is installed. Because the detachable base is typically installed without the carrier portion attached, allowing installation information to be on the base places that information in an easily referenced location during installation. Further, because of the ease and frequency with which the carrier portion can be removed from the base, the information remains in a location that is easily accessible by a child restraint user.

d. Correction of Cross-Reference

S5.5.2(g)(1) of the October 2002 final rule intended to specify that labels must have a heading meeting the requirements of S5.5.3(k)(3)(i), *i.e.*, the heading area must be yellow with the word “warning” and the alert symbol in black. Campbell notes that S5.5.2(g)(1) erroneously refers to S5.5.2(k)(4)(i) rather than S5.5.2(k)(3)(i). This final rule corrects the cross-reference. In addition, the cross-reference in S5.5.5(g)(1), relating to the heading of the labeling of built-in child restraints, is corrected in the same manner.

III. Technical Correction

Children who have outgrown child safety seats should use a booster seat until they are at least 8 years old, unless they are 4 feet 9 inches tall. To clearly convey this message, the October 2002 final rule permitted seats that can only

² NHTSA notes that a manufacturer may place a label where it would be covered by the belt if a duplicate label were placed elsewhere on the restraint, in a location where it is visible when the restraint is installed.

be used as belt-positioning seats to be labeled only with the *maximum* height of the children for whom the seat is recommended. References to weight are no longer required for these restraint systems. However, to properly reflect the entire message, a *minimum* height for the children must also be included on the label. Providing a minimum height recommendation will help prevent children from being placed in booster seats prematurely and will help keep children in “toddler” restraints (child restraints with internal harness systems) until they can be safely accommodated by a booster seat. To convey the entire message as intended by the October 2002 final rule, this document amends the labeling requirement for restraints that can only be used as booster seats to require the specification of both the minimum and maximum height of the children for whom the seat can be used. This document amends the relevant requirements for both add-on and built-in booster seats. See, S5.5.2 and S5.5.5 of FMVSS No. 213 as amended below.

IV. Effective Date

This rule is effective in 180 days. We believe that this is sufficient time for CRS manufacturers to redesign their labels in accordance with the technical correction described above. To permit manufacturers the flexibility of the other amendments made by this document, we are permitting early compliance.

V. Rulemaking Analyses and Notices

a. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation’s regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, “Regulatory Planning and Review.” This action has been determined to be “nonsignificant” under the Department of Transportation’s regulatory policies and procedures. The agency concludes that the impacts of the amendments are so minimal that preparation of a full regulatory evaluation is not required. The October 2002 final rule estimated that the cost of changing the location and text of the labels to be only \$.01 to \$.03 per label. The amendments made by today’s final rule will not change that estimate. This final rule does provide slightly more flexibility in the placement of required warning labels.

b. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. The rule will provide manufacturers slightly more flexibility in placing mandatory warning labels on child restraint systems.

c. Paperwork Reduction Act

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

d. National Environmental Policy Act

NHTSA has analyzed this amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

e. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that 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." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA may also not issue a regulation with Federalism implications that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

The rule will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

f. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. Section 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

g. National Technology Transfer and Advancement Act

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

The agency searched for, but did not find any voluntary consensus standards relevant to this final rule.

h. Unfunded Mandates Reform Act

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

which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This final rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule will not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

i. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 571 as set forth below.

PART 571—[AMENDED]

■ 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 1.50.

■ 2. Section 571.213 is amended as follows:

■ a. by revising the introductory text of S5.5.2(f), adding S5.5.2(f)(4); revising S5.5.2(g)(1) introductory text, revising S5.5.2(g)(1)(ii), and adding S5.5.2(g)(3);

■ b. by revising S5.5.3, and

■ c. by revising the introductory text of S5.5.5(f), and adding S5.5.5(f)(4); and,

■ d. by revising S5.5.5(g)(1).

The revised and added text read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.5.2 * * *

(f) One of the following statements, as appropriate, inserting the manufacturer's recommendations for the maximum mass of children who can safely occupy the system, except that booster seats shall not be recommended for children whose masses are less than 13.6 kg. For seats that can only be used as belt-positioning seats, manufacturers must include the maximum and minimum recommended height, but may delete the reference to weight:

* * * * *

(4) Use only with children who weigh between ___ and ___ pounds (*insert appropriate English and metric values; use of word "mass" is optional*) and whose height is between ___ and ___ (*insert appropriate values in English and metric units*).

(g) * * *

(1) A heading as specified in S5.5.2(k)(3)(i), with the statement "WARNING! DEATH or SERIOUS INJURY can occur," capitalized as written and followed by bulleted statements in the following order:

* * * * *

(ii) Secure this child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt. [For car beds, harnesses, and belt positioning boosters, the first part of the statement regarding attachment by the

child restraint anchorage system is optional.]

* * * * *

(3) More than one label may be used for the required bulleted statements. Multiple labels shall be placed one above the other unless that arrangement is precluded by insufficient space or shape of the child restraint. In that case, multiple labels shall be placed side by side. When using multiple labels, the mandated warnings must be in the correct order when read from top to bottom. If the labels are side-by-side, then the mandated warnings must appear top to bottom of the leftmost label, then top to bottom of the next label to its right, and so on. There shall be no intervening labels and the required heading shall only appear on the first label in the sequence.

* * * * *

S5.5.3 The information specified in S5.5.2(f) through (l) shall be located on the add-on child restraint system so that it is visible when the system is installed as specified in S5.6.1, except that for child restraints with a detachable base, the installation diagrams specified in S5.5.2(l) are required to be visible only when the base alone is installed.

* * * * *

S5.5.5 * * *

(f) One of the following statements, inserting the manufacturer's recommendations for the maximum mass of children who can safely occupy

the system, except that booster seats shall not be recommended for children whose masses are less than 13.6 kg. For seats that can only be used as belt-positioning seats, manufacturers must include the maximum and minimum recommended height, but may delete the reference to weight:

* * * * *

(4) Use only with children who weigh between ___ and ___ pounds (*insert appropriate English and metric values; use of word "mass" is optional*) and whose height is between ___ and ___ (*insert appropriate values in English and metric units*).

* * * * *

(g) * * *

(1) A heading as specified in S5.5.2(k)(3)(i), with the statement "WARNING! DEATH or SERIOUS INJURY can occur," capitalized as written and followed by the bulleted statement: Follow all instructions on the child restraint and in the vehicle's owner's manual. At the manufacturer's option, the phrase "DEATH or SERIOUS INJURY can occur" in the heading can be on either a white or yellow background.

* * * * *

Issued on: March 3, 2004.

Jeffrey W. Runge,
Administrator.

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