

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18653; Notice 2]

Baby Trend, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Baby Trend, Inc. (Baby Trend) has determined that certain child restraint seats that it produced and sold between approximately June 2002 and June 2003 do not comply with S5.2.3.2(a) of 49 CFR 571.213, Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child restraint systems." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Baby Trend has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety. Notice of receipt of Baby Trend's petition was published, with a 30 day comment period, on July 29, 2004, in the **Federal Register** (69 FR 45372). NHTSA received no comments.

S5.2.3.2 of FMVSS No. 213 requires that:

Each system surface * * * which is contactable by the dummy head when the system is tested in accordance with S6.1 shall be covered with slow recovery, energy absorbing material with the following characteristics: (a) A 25 percent compression-deflection resistance of not less than 0.5 and not more than 10 pounds per square inch when tested in accordance with S6.3.

Baby Trend produced a total of approximately 150,730 Latch-Loc infant car seats whose foam covering as molded onto the seat back of these seats has a compression-deflection resistance of 0.3 pounds per square inch, and therefore does not meet the compression-deflection resistance required by S5.2.3.2(a).

Baby Trend does not believe that the product presents any real world safety hazard as verified by highly sensitive testing with calibrated dummies on actual production product. In June 2003, FMVSS No. 213 underwent a number of revisions including amendments to incorporate advanced test dummies and updated test procedures (68 FR 37620, June 24, 2003). This included amending S5.2.3.1 to eliminate subjecting child restraint systems to the compression-deflection resistance requirements if they are tested to the revised standard using the advanced Part 572 Subpart R test dummy.

The revised S5.2.3.1 of FMVSS No. 213 states:

Each child restraint system other than a child harness, manufactured before August 1, 2005, that is recommended under S5.5.2 for a child whose mass is less than 10 kg and that is not tested with the Part 572 Subpart R dummy, shall comply with S5.2.3.

Section S5.2.3 specifies the head impact protection requirements for the child restraint systems and includes the compression-deflection resistance requirements for the energy absorbing materials covering the child restraint system surfaces that are contactable by the dummy head when tested in accordance with S6.1.

As stated in its petition, Baby Trend conducted testing of the subject child restraint systems in accordance with the revised FMVSS No. 213. Its testing included dynamic sled testing with the 12-month-old size CRABI test dummy (Part 572 Subpart R dummy). The test results yielded head injury criterion (HIC36) values of approximately 500 to 600, which are well within the maximum HIC36 requirement of 1000.

NHTSA agrees that the noncompliance is inconsequential to motor vehicle safety. Based on the successful dynamic testing conducted by Baby Trend on the non-compliant child restraint systems using the Part 572 Subpart R dummy in accordance with the revised FMVSS No. 213, the head foam material appears to provide adequate head impact protection given the low HIC36 values measured.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Baby Trend's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: September 28, 2004.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34541]

Spokane County, WA, Division of Engineering and Roads—Acquisition Exemption—The Burlington Northern and Santa Fe Railway Company

Spokane County, Division of Engineering and Roads (Spokane), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF), a line of railroad known as the Geiger Spur from milepost 1493.95, on its Columbia River Subdivision, to milepost 4.93, on the Geiger Spur, a total distance of 4.93 miles.

This transaction is related to a verified notice of exemption in STB Finance Docket No. 34546, *Western Rail Switching, Incorporated—Operation Exemption—Rail Line of Spokane County, WA*, wherein Western Rail Switching, Incorporated seeks to operate the line being acquired by Spokane.

Spokane certifies that its projected annual revenues as a result of this transaction will not exceed \$5 million, and the transaction will not result in the creation of a Class I or Class II rail carrier.

The transaction was scheduled to be consummated on October 1, 2004.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34541, must be filed with the Surface Transportation Board, 1925 K Street NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on Martin Rollins, Spokane County Prosecuting Attorney's Office, Civil Division, 1115 West Broadway Avenue, Spokane, WA 99260.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: September 24, 2004.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

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