

FR 67249, November 9, 2000). This action also does not have federalism implications because it does 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state negative declaration, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing section 111(d)/129 negative declaration submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), EPA has no authority to disapprove a section 111(d)/129 negative declaration related submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a 111(d)/129 plan related submission, to use VCS in place of a negative declaration that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 8, 2005. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, approving the MDE's negative declaration for CISWI units, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### **List of Subjects in 40 CFR Part 62**

Environmental protection, Administrative practice and procedure, Air pollution control, Aluminum, Fertilizers, Fluoride, Intergovernmental relations, Paper and paper products industry, Phosphate, Reporting and recordkeeping requirements, Sulfur oxides, Sulfur acid plants, Waste treatment and disposal.

Dated: September 1, 2005.

**Richard J. Kampf,**

*Acting Regional Administrator, Region III.*

■ 40 CFR part 62 is amended as follows:

#### **PART 62—[AMENDED]**

■ 1. The authority citation for part 62 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

#### **Subpart V—Maryland**

■ 2. A new center heading, after § 62.5122, consisting of § 62.5127 is added to read as follows:

#### **Emissions From Existing Commercial and Industrial Solid Waste Incinerator (CISWI) Units—Negative Declaration**

##### **§ 62.5127 Identification of plan—Negative Declaration**

May 12, 2005 Maryland Department of the Environment letter certifying that existing CISWI units, subject to 40 CFR part 60, subpart DDDD, have been permanently shut down and have been dismantled in the state.

[FR Doc. 05-17929 Filed 9-8-05; 8:45 am]

**BILLING CODE 6560-50-P**

#### **DEPARTMENT OF TRANSPORTATION**

#### **National Highway Traffic Safety Administration**

#### **49 CFR Parts 571 and 588**

[Docket No. NHTSA-2005-22324]

RIN 2127-AI95

#### **Federal Motor Vehicle Safety Standards; Child Restraint Systems; Child Restraint Systems Recordkeeping Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** This document amends Federal Motor Vehicle Safety Standard No. 213, "Child restraint systems," to permit information regarding online product registration to be included on the owner registration form required under the standard. This amendment enhances the opportunity of restraint owners to register their restraints online, which may increase registration rates and the effectiveness of recall campaigns. The final rule also better enables manufacturers to supplement (but not replace) recall notification via first-class mail with e-mail notification, which increases the likelihood that owners learn of a recall. The agency is also requiring that the telephone number required on child restraint labels for the purpose of enabling consumers to register by telephone be a U.S. number.

**DATES:** This final rule is effective November 8, 2005.

**Petitions:** Petitions for reconsideration must be received by October 24, 2005 and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

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

*For non-legal issues:* Mr. Tewabe Asebe of the NHTSA Office of Rulemaking at (202) 366-2365.

*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 Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

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## I. Background

### FMVSS No. 213

Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child restraint systems* (49 CFR 571.213), establishes an owner registration program for child restraint systems. NHTSA implemented the program to improve the effectiveness of manufacturer campaigns to recall child restraint systems that contain a safety-related defect or that fail to conform to FMVSS No. 213. By increasing the number of identified child restraint owners, the program increases the manufacturers' ability to inform owners of restraints about defects or noncompliances in those restraints.

Under the standard, child restraint manufacturers are required to provide a registration form attached to each child restraint (S5.8). The registration form must conform in size, content and format to forms depicted in the standard (figures 9a and 9b). Each form must include a detachable postage-paid addressed postcard that provides a space for the consumer to record his or her name and address, and must be preprinted with the restraint's model name or number and its date of manufacture. Except for information that distinguishes a particular restraint from other systems, no other information is permitted to appear on the postcard. Child restraint manufacturers have not been prohibited from using the internet in their owner registration programs. However, wording about registering online was not permitted on the card.

Child restraint manufacturers are also required to supply a telephone number on child restraint system labels to enable owners (particularly second-hand owners) to register over the telephone.

NHTSA requires manufacturers to keep a record of registered owner information along with the relevant child restraint system information (restraint model, serial number, and manufactured dates) for not less than six

years from the date of manufacture of the child restraint system (49 CFR part 588, *Child restraint systems recordkeeping requirements*).

In the event of a recall, manufacturers must send notification by first-class mail to the registered child restraint owners. (Public notice of the recall can be also required.) Prior to the registration requirement<sup>1</sup>, an estimated 3 percent of consumers registered their child restraints. Currently, according to data from NHTSA's Office of Defects Investigation, the registration rate is at 27 percent.

### Notice of Proposed Rulemaking (NPRM)

In an effort to increase the registration rate and in response to the public's increasing access to the Internet<sup>2</sup>, the agency proposed to permit child restraint manufacturers to include information regarding online registration of a child restraint on the registration card required under S5.8 of FMVSS No. 213 (69 FR 32954; June 14, 2004). NHTSA believed that the rapid growth of the Internet and of Internet access provided an opportunity to improve the child restraint registration rate, which in turn could improve the effectiveness of child restraint recall campaigns. To facilitate the registration of owners who seek to register by telephone, the NPRM also proposed to require that the telephone number that manufacturers must provide on child restraint labels be a U.S. number.

### Comments

In response to the NPRM, the agency received comments from National Safe Kids Campaign (Safe Kids); American Academy of Pediatrics; Advocates for Highway and Auto Safety (Advocates), child restraint manufacturers Evenflo Company, Inc. (Evenflo) and Graco; American Automobile Association (AAA); and Locker Greenberg & Brainin, P.C., representing the Juvenile Products Manufacturers Association (JPMA). All of the commenters were generally supportive of the proposed amendments to FMVSS No. 213. Commenters representing child restraint manufacturers generally requested that additional flexibility be provided in the method of recall notification, while consumer groups stressed that the first class mail requirement be maintained. Consumer groups also commented that

<sup>1</sup> The final rule establishing the registration requirement was published September 10, 1992 and became effective March 9, 1993. (57 FR 41428).

<sup>2</sup> The September 2001 U.S. Census Bureau report, *Home Computer and Internet Use in the United States: August 2000*, revealed that forty-two percent of all households had at least one household member who used the Internet at home in 2000.

any revision include a requirement for child restraint manufacturers to maintain the privacy of customer information. Commenters also provided several alternative suggestions for the format of the paper registration card and the online registration form.

## II. Final Rule

This final rule adopts the proposals of the June 2004 notice, with minor changes. We are amending FMVSS No. 213 to permit child restraint manufacturers the option of including specified wording in the child restraint paper registration card to provide for online registration of child restraints. The minor changes relate to where on the form certain information must be provided, and to the information required to be in the child restraint owners manual. Today's rule also requires that manufacturers provide a U.S. phone number for purposes of facilitating registration by telephone.

Today's rule does not amend the notification requirements, *i.e.*, manufacturers must still provide recall notification via first-class mail. A manufacturer may choose to supplement this notification via an e-mail message, but it is not required to do so.

The purpose of the rulemaking is to facilitate registration of child restraints, to increase registration rates. For those child restraint owners with access to the Internet, online registration may be a preferred method of registering a child restraint. Providing for another means of registration may increase registration rates, which may increase the number of owners learning of a recall and responding to it. A related purpose of this rule is to improve how consumers currently register. As stated by Evenflo, Graco, and the JPMA in their comments to the NPRM, permitting manufacturers the option of including electronic registration information on the paper registration card will help minimize errors and omissions in consumer information that now occur as a result of transcribing information submitted on paper cards, difficulty in reading consumers' handwriting, or cards damaged in the mail. In addition, this final rule also enhances manufacturers' abilities to notify owners of a safety recall. Manufacturers may supplement recall notification via first-class mail with voluntary e-mail notification.

NHTSA is not mandating online registration because such a requirement would implicitly require manufacturers to have and maintain an Internet registration system. While over forty percent of U.S. households had Internet access in 2000, a majority did not.

Further, it is uncertain how many households in that forty percent had consistent access to the Internet. At present, Internet access is not so prevalent as to justify mandating electronic registration.

#### *a. Changes to the Current Registration Card*

Under today's final rule, a manufacturer is permitted to add to the registration card attached to the child restraint (referred to in this preamble as the "the paper registration card"): (a) Specified statements informing child restraint owners that they may register online; (b) the Internet address for registering with the company; (c) specified statements reflecting use of the Internet to register; and (d) a space for the consumer's e-mail address.

This final rule provides manufacturers the option of including electronic registration information on the paper registration card. However, if a manufacturer does provide such information, the information must be provided as prescribed in today's final rule. The reason for this requirement is to ensure that the paper registration card continues to be standardized in size, content, and format, so that it is easy to read and clutter-free.

##### 1. Providing Manufacturer's Internet Address

To prevent the consumer from having to search for an electronic registration form (referred to in this document as the "e-form") on a manufacturer's Web site, we proposed that manufacturers that choose to provide electronic registration information on the paper registration card must provide an Internet address that directly links to the e-form. We stated that this would likely increase the ease and convenience of registering. We also proposed that this Internet address should be placed on the mail-in portion of the paper registration card.

In its comments, Safe Kids suggested that the required location for a manufacturer's Internet address should be the portion of the paper registration card that is kept by the consumer. It stated that this would allow a child restraint owner to register online even after the paper registration card was mailed and may facilitate the registration of subsequent owners, if this portion of the card were transferred with the child restraint.

We agree with Safe Kids that the Internet registration address should be placed on the portion of the paper card retained by the owner. This will provide the consumer a quick reference for locating the electronic registration site. Therefore, under today's final rule, the

required location for the Internet address is placed on the portion of the paper registration card maintained by the consumer.

Graco recommended that language be included on the paper registration card to indicate that the customer should have the card available when he or she registers online and that the card includes information on the model number, serial number, and the date of manufacture, *i.e.*, information that would be required to register the restraint.

We do not agree to this request. The information required to be provided on the paper registration card is intentionally very limited and standardized to provide only the most critical information necessary to the consumer. Providing the information suggested by Graco would potentially clutter the card and overload the reader. Further, as explained later in this preamble, we have made provisions to include this information on the e-form. If a consumer attempts to register online and does not have the paper registration card at hand, then he or she will be directed to locate the necessary information by either locating the card, or by getting the information from the label on the child restraint. As such, we are not requiring any additional language for the paper registration card.

##### 2. Collecting E-mail Addresses

###### A. Space on the Card for Consumers' E-mail Addresses

The agency proposed to permit manufacturers to include a space on the paper registration card for a customer's e-mail address. This was consistent with an agency October 2002 report on the registration program, which stated that: "Adding a space for an e-mail address on the registration form could make initial recall notification faster. It could also be helpful in locating seat owners that have changed residence but retained their e-mail address."<sup>3</sup> Under the proposal, if a manufacturer were to collect e-mail addresses, it would be required to maintain a record of all collected e-mail addresses for a period of 6 years, just as with the other registration information.

We are adopting this provision as proposed. Under today's final rule, manufacturers are permitted to provide a space for a child restraint owner's e-mail address. This space must specify that providing an e-mail address is not required. By permitting the collection of e-mail addresses on the child restraint

registration form, manufacturers would have the ability to provide e-mail notification of a recall in conjunction with the mandatory first-class mail notification. Providing an additional method of notifying child restraint owners of a recall would increase the likelihood of a recalled child restraint being remedied.

###### B. Consequences of Having the Information

In the proposal, we requested comment on whether a manufacturer that has voluntarily collected a customer's e-mail address should be required to provide a recall notification via e-mail, as well as via first-class mail. We noted that use of customer e-mail addresses could also make initial recall notification faster. Conversely, first-class mail notification can take up to several days to reach the intended customer, and even longer if the letter must be forwarded to a new address. Further, a child restraint owner may maintain the same e-mail address even after moving to a new street address, resulting in an e-mail notification reaching the owner even if mail forwarding has been discontinued.

Commenters generally recognized the potential benefits of e-mail notification, but raised a variety of concerns. Safe Kids, Advocates and AAA recommended that manufacturers be provided the option of supplementing first-class mail notification with an e-mail message. Advocates noted that computer e-mail users may change services, and thus their e-mail addresses, while remaining at the same street address. Safe Kids noted that with the sizable amount of junk e-mails that most people receive, there is the potential for electronic notifications to go unread or be deleted. Evenflo further noted that mass corrective action e-mailings may be blocked by filtering software as unsolicited e-mails. Evenflo was also concerned that unassociated advertising e-mails, or "spoof" e-mails may be formatted to appear as legitimate consumer contacts from a child restraint manufacturer.

Both Evenflo and the JPMA expressed concern that the development of State or Federal "anti-spam" legislation may complicate mass consumer e-mail contacts, even for legitimate purposes such as a recall notification. JPMA and Graco commented that customers should be provided the option of choosing the method of contact, *i.e.*, first-class mail or electronic notification.

The requirement for notification of a defect or noncompliance via first class mail is prescribed by statute (49 U.S.C. 30119(d)). That requirement to provide

<sup>3</sup> "Evaluation of Child Safety Seat Registration," DOT HS 809 518, NHTSA Technical Report (October 2002).

notification by first class mail is unchanged by today's final rule. With regard to e-mail notification, we recognize the potential difficulties raised by commenters. Therefore, we are not generally requiring manufacturers to send electronic notification of a defect or noncompliance if manufacturers collect consumer e-mail addresses. However, manufacturers are not prohibited from using electronic notification as a supplement to notification by first class mail. (Additionally, the agency could compel electronic notification as a supplement if the traditional means of notifying the public of a recall (first class mail, public notices) are insufficient.<sup>4</sup> This determination would be made on a case-by-case basis.) As e-mail services evolve and develop, we may further assess at a future date the merits of electronic notification.

### C. Use of Consumer Information

In the notice of proposed rulemaking, we stated that we would expect that manufacturers would not use any registration information, including e-mail addresses, for commercial purposes. We noted that in developing the original registration requirements, focus groups reacted favorably to the idea of being assured by the manufacturer that information retained in these records would not be used for commercial mailing lists. We expected that the public would respond similarly to assurances that a registered e-mail address would not result in unsolicited e-mails.

Safe Kids, Advocates, and AAA commented that safeguards against commercial use of registration information should be mandated. Safe Kids requested that the agency require registration materials to contain language stating that information would not be used for commercial purposes. Advocates raised the possibility of instituting penalties for violations of such a requirement.

Graco, Evenflo, and the JPMA all supported restricted use of a consumer's e-mail address obtained through child restraint registration. Graco and Evenflo suggested that manufacturers be permitted to have a field on the e-form that would provide consumers the option of receiving product information.

<sup>4</sup> Under 49 U.S.C. 30119(d)(2), the agency can require a manufacturer of equipment to provide public notice to effectuate the recall of a defective or noncompliant product. In the past, child restraint manufacturers have provided notice through a variety of means including, but not limited to, retailers, child safety centers, pediatricians, and the media.

As stated in the preamble of the proposed rulemaking, NHTSA expects that manufacturers will respect owners' preferences that this information, along with other registration information, will be kept separate from other customer lists. To date, we have not received complaints from consumers that would indicate manufacturers were doing otherwise. Accordingly, at this time we do not see the need to change the status quo by instituting the safeguards suggested by Safe Kids and Advocates.

Nonetheless, while manufacturers may provide avenues for customers to receive additional product information, manufacturers must provide this separate from the registration process. That is, whether that process be via the paper registration card, telephone registration, or electronic registration, those processes must be absent any solicitation of the consumer for commercial purposes. As stated above, the information required to be provided to customers for purposes of registration is intentionally very limited and standardized to provide only the most critical information necessary to the consumer. This conveys the importance of registration in a clear manner.

#### *b. The Electronic Registration Form (E-form)*

To increase the likelihood that owners will find electronic registration user-friendly, we proposed a standardized appearance of the online registration form (e-form) presented to the consumer. That is, similar to the standardized mail-in registration form,<sup>5</sup> the only fields that would be permitted on an e-form would be those for: (a) The owner's name and address; (b) the restraint model and serial number; (c) date of manufacture of the child restraint; and (d) at the manufacturer's option, the owner's e-mail address.

Under the proposal, the e-form would be required to contain relevant portions of the standardized warnings and other information mandated for paper registration forms. The only additional information permitted on the e-form would be information identifying the manufacturer and a link to the manufacturer's Web site home page. We requested comment on whether some additional information should be permitted or required on the form, e.g., instructions to the consumer as to where the restraint's model name and number can be found.

<sup>5</sup> In developing the mail-in registration form, the agency found that focus groups "widely and enthusiastically accepted the text and format of the parts of the form that did not vary among the proposed options." 57 FR 414321.

Commenters were generally supportive of the format of the e-form proposed by the agency. The manufacturers requested that a prompt be permitted to notify an owner if the e-form was not filled out completely. The prompt would be generated upon clicking a "confirm" or "submit" field, which could be located next to the manufacturer's logo or link to the manufacturer's homepage. Graco and Evenflo also recommended that the e-form inform consumers what child restraint specific information is required to properly fill out the form and where that information can be located.

We are adopting the proposed e-form format requirements, with a few changes suggested by the commenters and with other minor additions. We are permitting manufacturers to use a prompt to indicate that a form has not been fully completed. We note however, that as with the paper registration card, the e-form must indicate that inclusion of a consumer's e-mail address may be provided at the consumer's option.

Further, manufacturers are prevented from having additional screens or advertisement banners appear as a result of a child restraint owner accessing the Web page that contains the e-form (e.g., "pop-up advertisements" are prohibited). By preventing additional information or advertising from appearing on the registration page or as a result of accessing the e-form, the benefits of a standardized registration form are maintained, helping to improve the rate of registration.

The JPMA requested that a statement be included on the electronic registration form informing readers that the registration is not applicable to consumers outside the U.S. The JPMA expressed concerns with potential conflicts with the laws of non-U.S. jurisdictions and child restraints purchased outside of the U.S.

We concur with the suggested change. Paper registration cards now accompanying child restraints do not need such language because only child restraints manufactured for sale in the U.S. are required to have registration cards. In contrast, an electronic registration form available on a manufacturer's Web site may be accessed anywhere in the world. Persons purchasing a child restraint outside of the U.S. may not know that the FMVSS No. 213 registration program is limited to the U.S. Therefore, we have included a statement on the electronic registration form that clarifies its applicability to child restraints purchased in the U.S.

Advocates requested that the agency require that the electronic registration

information be encrypted. Advocates stated that encrypting the data would protect the information from being accessed by third parties.

We are not including an "encryption" requirement for electronic registration. The registration form does not entail the submission of financial information or other identifiers such as a Social Security number. The information provided is the same information that commonly can be obtained through a telephone directory. Further, because technology changes at such a rapid pace, any level of encryption required by the agency would likely become obsolete in a short time frame.

Manufacturers' means of securing the information they now receive from consumers should be adequate to protect the registration information they will receive through the electronic registration program.

#### *c. Registration by Telephone*

When the agency established the current child restraint registration program (requiring the paper registration card), we also established a requirement for child restraint manufacturers to label each child restraint with a telephone number that consumers could use to register their restraints as an alternative to the mail-in form. A phone number was particularly important for persons owning secondhand restraints, since the original registration card would likely be missing from such restraints.

The NPRM proposed that the telephone number must be a U.S. number.<sup>6</sup> No opposing comments were received on this issue. This final rule adopts the proposed restriction. While we are unaware of any manufacturer currently providing a non-U.S. telephone number, this rule will ensure that a non-U.S. number is not provided in the future. A non-U.S. telephone number would present a high cost to a child restraint owner seeking to register a child restraint and would be a disincentive for consumers, particularly second-hand owners, to register.

#### *d. Child Restraint Label and Printed Instructions*

The NPRM would have permitted the printed instructions accompanying a restraint to include a discussion on registering via the Internet, but would not have required the Web site address be included in the instructions even if a manufacturer opted to include a Web site on the paper registration card. In its

comments, Safe Kids suggested that Internet registration information be included in the instruction manual. We agree with Safe Kids that including the Internet address in the printed instructions may facilitate registration by owners' who have misplaced the paper registration card, who have changed address, or by subsequent owners. Therefore, under today's final rule, if a manufacturer opts to include an Internet address on the paper registration card, it must also include the Internet address in the printed instructions.

In their comments, the JPMA and Evenflo recommended that the agency include language on the child restraint label and in the instruction manual directed specifically at second-hand owners and owners who have moved since registering their child restraint. The suggested language stated: "If you have moved or are not the original purchaser of this child restraint, please contact (manufacturer) to register this restraint."

We are not adopting such a requirement. Child restraint labels already require general language on the importance of product registration ("Register your child restraint with the manufacturer," see *e.g.*, S5.5.2(g)(iv)). Space on the labels is limited, and in order to maintain the effectiveness of the information contained on the labels, we need to limit the required information. Also, the requested information is already provided in instruction manuals. The manuals are required to provide information on the importance of registration ("You must register this restraint to be reached in a recall," S5.6.1.7), and, under today's final rule, if a manufacturer opts to include an Internet address on the paper registration card, it must also include the Internet address in the printed instructions. Manufacturers are not prohibited from supplementing the information with a statement as suggested by the commenters.

#### **III. New NHTSA Hotline Number**

Child restraint manufacturers are required to provide the telephone number for the U.S. Government's (NHTSA's) Auto Safety Hotline on both child restraint labels and the accompanying printed instructions. (See FMVSS No. 213, S5.5.1(m), S5.5.5(k), S5.6.1.7, S5.6.2.2.) The Auto Safety Hotline provides child restraint owners with information on product recalls.

Until recently, FMVSS No. 213 required two phone numbers; a toll-free number and a number for the District of Columbia area. The separate phone number for the District of Columbia area

is no longer needed, as the toll-free number now functions for the entire U.S. Accordingly, child restraint labels and instructions only need refer to the toll-free number. Thus, on June 21, 2005, the agency published a technical amendment that replaced the required telephone number in FMVSS No. 213 with 1-888-327-4236 (70 FR 35556; Docket No. NHTSA-2005-21564). The technical amendment is effective June 21, 2006. Early compliance is permitted.

#### **IV. 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. We do not anticipate this final rule to result in any costs for child restraint system manufacturers. The final rule does not establish any new requirements for manufacturers of child restraint systems unless a manufacturer voluntarily chooses to collect e-mail addresses or provide an Internet address for electronic registration on the child restraint registration card. If a manufacturer voluntarily collects customer e-mail addresses and provides for electronic registration of restraints, the anticipated costs for the recordkeeping requirements are minimal.

Many child restraint system manufacturers already provide an electronic product registration service and by encouraging electronic registration, manufacturers could reduce the number of postage-paid registration cards returned, thereby reducing postage fees for the manufacturer.<sup>7</sup> Manufacturers that collect customer e-mail addresses could incorporate this information into the registration records currently maintained. Also, child restraint system owner information submitted online would be in electronic format, minimizing the data entry burden required to record owner information and reduce recordkeeping costs.

While the use of online resources for child restraint system registration has the potential for increased child restraint registration and enhanced recall notification, we are not requiring

<sup>6</sup> This amendment arose out of a concern about the potential use of non-U.S. phone numbers for registration purposes. [http://www.nhtsa.dot.gov/cars/rules/interps/files/002775cmc\\_phoneno.html](http://www.nhtsa.dot.gov/cars/rules/interps/files/002775cmc_phoneno.html).

<sup>7</sup> A manufacturer is not charged a fee by the post office for a postage pre-paid postcard until the card is actually sent through the mail.

manufacturers to have a means by which consumers can register their restraint via the Internet. We want to avoid imposing potentially prohibitive costs on manufacturers not currently equipped to incorporate Internet resources into child restraint system registration. Manufacturers not currently situated for Internet registration would have the cost of developing an Internet system to process registrations as well as the costs associated with revising the mandated registration forms and modifying recordkeeping procedures. If and when Internet and e-mail access becomes more universal, the benefit of mandatory Internet registration provisions can be evaluated.

#### B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

I certify that this final rule does not have a significant economic impact on a substantial number of small entities. The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)).

The final rule directly affects child restraint manufacturers. According to the Small Business Administration's small business size standards (see 5 CFR 121.201), a child restraint manufacturer (NAICS code 336360, Motor Vehicle Seating and Interior Trim Manufacturer) must have 500 or fewer employees to qualify as a small business. Most if not all of the affected manufacturers are small businesses under this definition. However, the final rule does not impose any new requirements on manufacturers that produce child restraint systems. The final rule provides flexibility in child restraint system registration by allowing manufacturers to promote electronic registration. Given the final rule does not impose any new

requirements, a regulatory flexibility analysis was not prepared.

#### C. Paperwork Reduction Act

Under the procedures established by 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. The final rule reconfigures the information collection and recordkeeping requirements of FMVS No. 213 and 49 CFR part 588, which have been approved under OMB No. 2127-0576. The agency does not anticipate this reconfiguration to increase the cost or burden of the approved collection.

*Agency:* National Highway Traffic Safety Administration (NHTSA).

*Title:* Voluntary Child Safety Registration Form.

*Type of Request:* Reconfiguration of existing collection.

*OMB Clearance Number:* 2127-0576.

*Form Number:* None.

*Summary of the Collection of Information:* Under the final rule in this document, if a child restraint manufacturer voluntarily collects an e-mail address as part of the child restraint registration, then the manufacturer is required to maintain a record of that information. The recordkeeping format and retention requirements for child restraint owner e-mail addresses are identical to the format and retention requirements mandated for owner registration under 49 CFR part 588. The final rule also requires that if a manufacturer voluntarily provides for electronic registration, then the manufacturer is required to use a standardized format similar to the format currently required for the postage-paid registration form.

The final rule does not mandate the collection of e-mail addresses or the use of electronic registration.

*Description of the Need for the Information and Use of the Information:* Public access and use of the Internet has increased exponentially since its inception. The proposed rule would permit manufacturers to take advantage of this growth in technology and use electronic registration as a supplement to registration by mail. This provides child restraint system owners with an additional option for registering a child restraint system and potentially increases the number of child restraint systems registered. By increasing the number of identified child restraint purchasers, the program increases the manufacturers' ability to inform owners of restraints about defects or noncompliances in those restraints.

*Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information):* NHTSA estimates that twenty-three child restraint manufacturers are subject to the reconfigured collection requirements. If a manufacturer voluntarily collects a child restraint system owner's e-mail address as part of the child restraint registration, then the manufacturer is required to record and maintain that e-mail address along with the registration information currently recorded and maintained. If a child restraint manufacturer provides for electronic registration, the electronic registration form is required to be in a format similar to the format for the postage-paid form.

*Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information:* NHTSA does not anticipate a significant change to the hour burden or costs associated with child restraint registration. By allowing manufacturers the ability to promote online registration, we anticipate a reduction in the collection and recordkeeping burden. Internet registration reduces a manufacturer's postage costs by reducing the number of postage-paid registration cards sent through the mail. Registration information collected on the Internet is in an electronic form, which can be transferred more easily and stored than paper registration cards. Registration information received in electronic form reduces the data entry burden of child restraint system manufacturers. This reduction in burden offsets any burden created by the e-mail recordkeeping requirement and the standardized Internet registration form.

Manufacturers commented that by permitting electronic registration, data will be provided in a more usable format and as well as improve the accuracy of the data. Manufacturers did not provide additional comment regarding the collection of information requirements or the associated recordkeeping burden.

#### D. National Environmental Policy Act

NHTSA has analyzed this rule 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. The subject of this rule is the labeling and registration information requirements of child restraint systems.

#### 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 and 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 will 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 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.

#### *J. Privacy Act*

Anyone is able to search the electronic form of all submissions 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 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

#### **List of Subjects**

##### *49 CFR Part 571*

Motor vehicle safety, Reporting and recordkeeping requirements, Tires, Incorporation by Reference.

##### *49 CFR Part 588*

Motor vehicle safety, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 571 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 1.50.

■ 2. Section 571.213 is amended to revise paragraph (m) of S5.5.2, paragraph (k) of S5.5.5, S5.6.1.7, S5.6.2.2, S5.8, and Figures 9(a) and 9(b), and

■ 3. Section 571.213 is amended by adding S5.8.1 and S5.8.2, to read as follows:

#### **§ 571.213 Standard No. 213; Child restraint systems.**

\* \* \* \* \*

S5.5.2 \* \* \*

(m) One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available [preceding four words is optional] and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

(ii) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available [preceding four words are optional], and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number) or register online (insert Web site for electronic registration form). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

\* \* \* \* \*

S5.5.5 \* \* \*

(k) One of the following statements, inserting an address and a U.S. telephone number. If manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number). For recall information, call the U.S. Government's Auto Safety Hotline an 1-800-424-9393."

(ii) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert telephone number) or register online at (insert Web site for electronic registration form). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

\* \* \* \* \*

S5.6.1.7 One of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

(ii) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert telephone number) or register online at (insert Web site for electronic registration form). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

\* \* \* \* \*

S5.6.2.2 The instructions for each built-in child restraint system other than a factory-installed restraint, shall include one of the following statements, inserting an address and a U.S. telephone number. If a manufacturer opts to provide a Web site on the registration card as permitted in Figure 9a of this section, the manufacturer must include the statement in part (ii):

(i) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert a U.S. telephone number). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

(ii) "Child restraints could be recalled for safety reasons. You must register this restraint to be reached in a recall. Send your name, address, e-mail address if available (optional), and the restraint's model number and manufacturing date to (insert address) or call (insert U.S. telephone number) or register online at (insert Web site for electronic registration form). For recall information, call the U.S. Government's Auto Safety Hotline at 1-800-424-9393."

\* \* \* \* \*

S5.8 Information requirements— attached registration form and electronic registration form.

S5.8.1 Attached registration form.

(a) Each child restraint system, except a factory-installed built-in restraint system, shall have a registration form attached to any surface of the restraint

that contacts the dummy when the dummy is positioned in the system in accordance with S6.1.2 of Standard 213.

(b) Each attached form shall:

(1) Consist of a postcard that is attached at a perforation to an informational card;

(2) Conform in size, content and format to Figures 9a and 9b of this section; and

(3) Have a thickness of at least 0.007 inches and not more than 0.0095 inches.

(c) Each postcard shall provide the model name or number and date of manufacture (month, year) of the child restraint system to which the form is attached, shall contain space for the purchaser to record his or her name, mailing address, and at the manufacturer's option, e-mail address, shall be addressed to the manufacturer, and shall be postage paid. No other information shall appear on the postcard, except identifying information that distinguishes a particular child restraint system from other systems of that model name or number may be preprinted in the shaded area of the postcard, as shown in figure 9a.

(d) Manufacturers may voluntarily provide a web address on the informational card enabling owners to register child restraints online, provided that the Web address is a direct link to the electronic registration form meeting the requirements of S5.8.2 of this section.

S5.8.2 Electronic registration form.

(a) Each electronic registration form must meet the requirements of this S5.8.2. Each form shall:

(1) Contain the following statements at the top of the form:

(i) "FOR YOUR CHILD'S CONTINUED SAFETY" (Displayed in bold type face, caps, and minimum 12 point type.)

(ii) "Although child restraint systems undergo testing and evaluation, it is possible that a child restraint could be recalled." (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(iii) "In case of a recall, we can reach you only if we have your name and address, so please fill in the registration form to be on our recall list." (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(iv) "In order to properly register your child restraint system, you will need to provide the model number, serial number and date of manufacture. This information is printed on the registration card and can also be found on a white label located on the back of the child restraint system." (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(v) “This registration is only applicable to child restraint systems purchased in the United States.” (Displayed in bold typeface, caps and lower case, and minimum 12 point type.)

(2) Provide as required registration fields, space for the purchaser to record the model name or number and date of manufacture (month, year) of the child restraint system, and space for the purchaser to record his or her name and mailing address. At the manufacturer’s

option, a space is provided for the purchaser to record his or her e-mail address.

(b) No other information shall appear on the electronic registration form, except for information identifying the manufacturer or a link to the manufacturer’s home page, a field to confirm submission, and a prompt to indicate any incomplete or invalid fields prior to submission. Accessing the web page that contains the electronic registration form shall not cause

additional screens or electronic banners to appear.

(c) The electronic registration form shall be accessed directly by the web address that the manufacturer printed on the attached registration form. The form must appear on screen when the consumer has inputted the web address provided by the manufacturer, without any further keystrokes on the keyboard or clicks of the mouse.

\* \* \* \* \*

**BILLING CODE 4910-59-P**

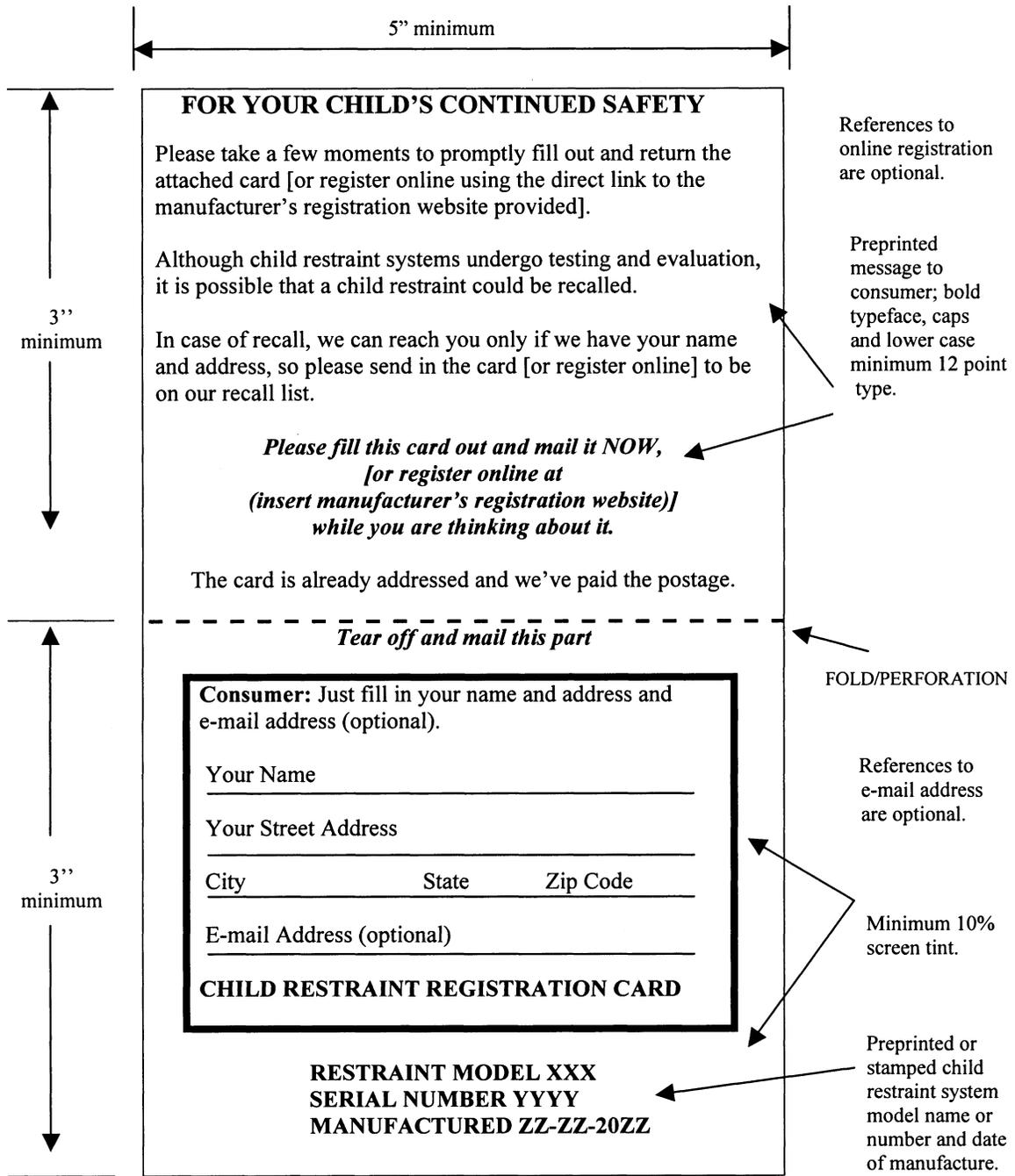


Figure 9a - Registration form for child restraint systems - product identification number and purchaser information side.

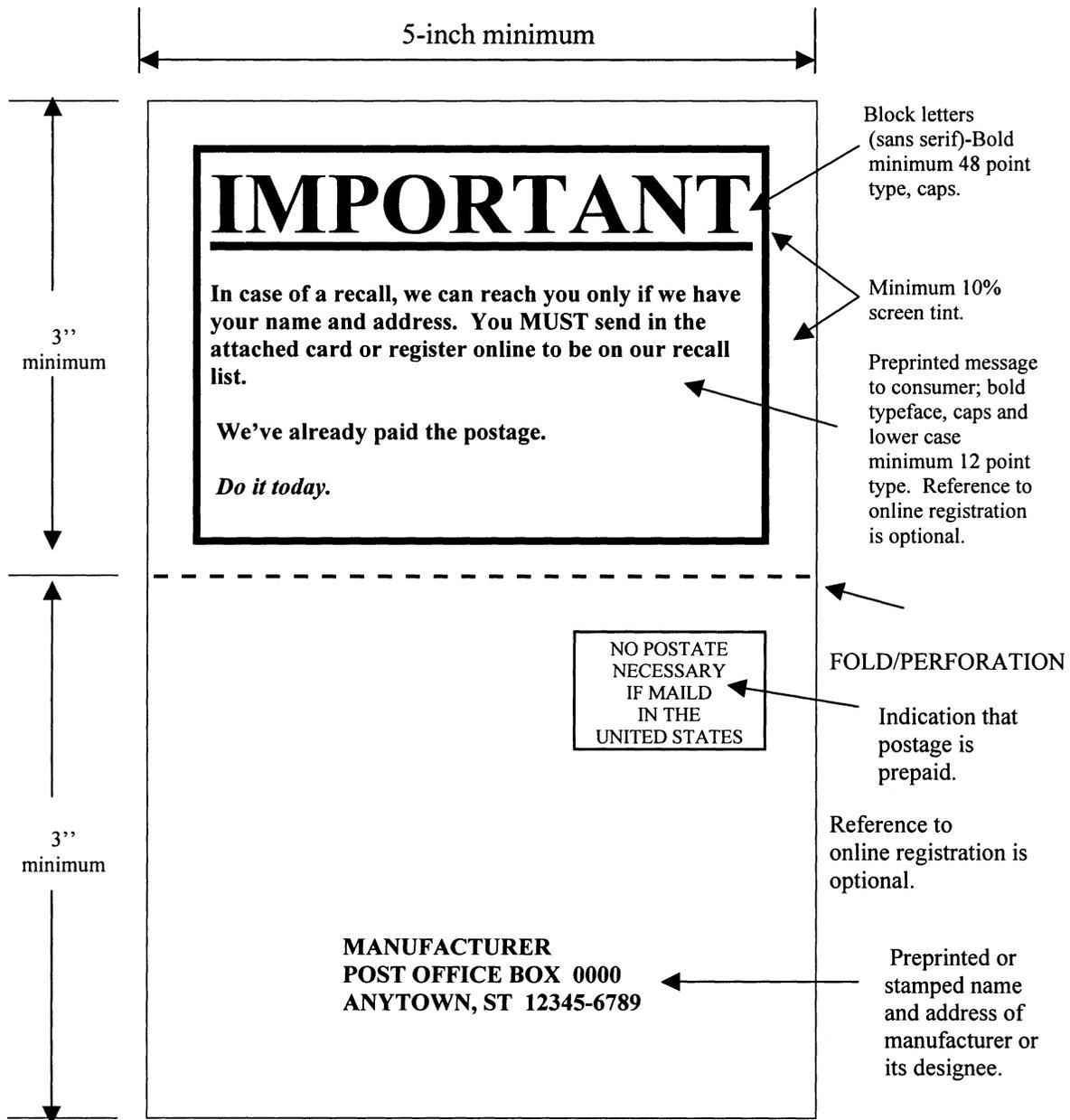


Figure 9b - Registration form for child restraint systems — address side.

BILLING CODE 4910-59-C

\* \* \* \* \*

**PART 588—CHILD RESTRAINT SYSTEMS RECORDKEEPING REQUIREMENTS**

■ In consideration of the foregoing, NHTSA is amending 49 CFR part 588 as follows:

■ 1. The authority citation for part 588 reads as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

■ 2. Section 588.5 is revised to read as follows:

**§ 588.5 Records.**

Each manufacturer, or manufacturer's designee, shall record and maintain records of the owners of child restraint systems who have submitted a registration form. The record shall be in a form suitable for inspection such as computer information storage devices or card files, and shall include the names, mailing addresses, and if collected, se-mail addresses of the owners, and the model name or number and date of manufacture (month, year) of the owner's child restraint systems.

Issued on: August 31, 2005.

**Jacqueline Glassman,**  
*Deputy Administrator.*

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