43. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 20

Communications common carrier, Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications amends 47 CFR part 20 as follows:

PART 20—COMMERCIAL MOBILE RADIO SERVICES

1. The authority citation for part 20 continues to read as follows:

Authority: 47 U.S.C. 154, 160, 251–254, 303, and 332 unless otherwise noted.

2. Section 20.18 is amended by revising paragraph (j) to read as follows:

§ 20.18 911 Service.

* * * * *

(j) *Conditions for enhanced 911 services.* The requirements set forth in paragraphs (d) through (h) of this section shall be applicable only if the administrator of the designated Public Safety Answering Point has requested the services required under those paragraphs and is capable of receiving and utilizing the data elements associated with the service, and a mechanism for recovering the Public Safety Answering Point's costs of the enhanced 911 service is in place. A Public Safety Answering Point will be deemed capable of receiving and utilizing the data elements associated with the service requested if it can demonstrate that it has ordered the necessary equipment and has commitments from suppliers to have it installed and operational within the six-month period specified in paragraphs (f) and (g) of this section, and can demonstrate that it has made a timely request to the appropriate LEC for the necessary trunking and other facilities. In the alternative, a Public Safety Answering Point will be deemed capable of receiving and utilizing the data elements associated with Phase II service if it is Phase I-capable using an NCAS methodology, and if it can demonstrate that it has made a timely request to the appropriate LEC for the ALI database upgrade necessary to receive the Phase II information.

* * * * *

[FR Doc. 01–27605 Filed 11–1–01; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2001–10916]

RIN 2127–AI55

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: NHTSA has been mandated by Congress to consider whether to prescribe clearer and simpler labels and instructions for child restraints. This notice reviews research NHTSA has conducted on child restraint labels and proposes changes to those labels and to the written instructions that accompany child restraints. NHTSA is proposing changes to the format, location, and content of some of the existing requirements. NHTSA is also proposing a new labeling requirement for harness slots.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than January 2, 2002.

ADDRESSES: You should mention the docket number of this document in your comments and submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590.

You may call Docket Management at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mary Versailles of the NHTSA Office of Planning and Consumer Programs, at 202–366–2057.

For legal issues, you may call Deirdre Fujita of the NHTSA Office of Chief Counsel at 202–366–2992.

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

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I. Overview

NHTSA has been mandated by Congress to consider whether to prescribe clearer and simpler labels and instructions for child restraints. This notice reviews research NHTSA has conducted on child restraint labels and proposes changes to those labels and to the written instructions that accompany child restraints. NHTSA is proposing changes to the format, location, and content of some of the existing requirements. Specifically, NHTSA is proposing (1) a requirement that some information be molded into or heat embossed to the shell to improve durability, (2) changes to existing location requirements for some labels, (3) a uniform font specified for all labels on all child restraints, (4) a requirement that most labels be white with black text, and (5) color-coding of installation information to distinguish forward-facing from rear-facing information.

With regard to content, NHTSA is proposing (1) a reworded warning statement, (2) a requirement that all mandated statements related to use be arranged below that statement in a bulleted form, and (3) rewording of some of these statements to simplify their language. With regard to written instructions, NHTSA is proposing conforming changes with those proposed for labels and a new requirement for information to assist owners in determining the meaning of the term ''snugly'' used on child restraint labels. Last, NHTSA is proposing a new labeling requirement for harness slots.

II. Tread

The National Highway Traffic Safety Administration (NHTSA) has been mandated by Congress to consider whether to prescribe clearer and simpler labels and instructions for child restraints (Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, November 1, 2000, Pub.L. 106–414, 114 Stat. 1800). Section 14 of the TREAD Act directed NHTSA to initiate a rulemaking for the purpose of improving the safety of child restraints by November 1, 2001, and to complete it by issuing a final rule or taking other action by November 1, 2002.

III. Current Requirements

A. Labels

Federal Motor Vehicle Safety Standard (FMVSS) No. 213 (49 CFR 571.213) requires that all currently manufactured add-on child restraint systems[1] must be labeled with the following information (S5.5.2): the model name or number, the manufacturer's (or distributor's) name, the statement ''manufactured in (*month, year*),'' the place of manufacture (or location of the distributor's principal office), a certification statement, a statement concerning the manufacturer's recommendations for maximum mass and height of children who should use the child restraint, a warning statement concerning the consequences of failing to follow the instructions, statements about proper use of belts or other restraints as appropriate, an air bag warning label if the child restraint can be used rear-facing, an installation diagram, a registration statement for recalls, and a statement about use in motor vehicles and/or aircraft as appropriate.[2] This information must be in English, lettered not smaller than 10 point type, and on contrasting background, except the air bag warning label has very specific requirements for location and size.[3] The warning statement to follow the instructions, the statements about proper use of belts and other restraints, and the air bag warning must also be visible when the restraint is installed in a vehicle.

B. Written Instructions

Each add-on child restraint system must have printed installation instructions (an owner's manual) that includes a step-by-step procedure, including diagrams, for installing the system in motor vehicles, securing the system in the vehicles, positioning a child in the system, and adjusting the system to fit the child (S5.6). The installation instructions must include information on attaching the child restraint to a tether anchorage or a child restraint anchorage system[4] if appropriate. The owner's manual must also include a statement that children are safer in rear seating positions; information about the types of vehicles, seats and seat belts with which the restraint can or cannot be used; a statement about the consequences of not following the warnings; a statement that the restraint should be secured in the vehicle even when not occupied, an air bag warning statement, and a registration statement for recalls. There are also some specific statements about proper use required for various types of restraints. Finally, the child restraint must have a location on the restraint for storing the owner's manual.

IV. History

A. 1978 NPRM and 1979 Final Rule

On May 18, 1978, NHTSA proposed to upgrade and extend the applicability of then Standard No. 213, Child Seating Systems (43 FR 21470). Included was a proposal for new labeling requirements to encourage proper use of child restraints. So that information would serve as a constant reminder, NHTSA proposed information on the correct use of the restraint be visible on the child restraint when it is installed in a vehicle and include a diagram showing the restraint properly installed, height and weight limits, warnings to use and snugly adjust all belts, and to secure the restraint according to instructions. The proposal also required the label to identify the manufacturer; make of the child restraint; month, year and place of manufacture; and a statement that the child restraint complies with all applicable Federal motor vehicle safety standards. Also included was a proposal that an instruction sheet accompany all child restraints.

On December 13, 1979, NHTSA published a final rule establishing a new Standard No. 213, Child Restraint Systems (44 FR 72131). In response to manufacturer concerns about the limited space available for labels visible when the child restraint is installed, only some of the new labeling requirements had to be visible. Depending on the design, the following information had to be visible when the child restraint was installed: a warning to secure the restraint with the vehicle lap belt, a warning to snugly adjust all belts provided with the restraint, a warning to correctly attach the top tether strap, a warning to only use a restraint adjustment position which is intended for use in a motor vehicle, a warning to not use rear-facing infant restraints in any other position, and a statement about the primary consequences of misusing the restraint. The following information did not have to be visible when the child restraint was installed: manufacturer, model, date and place of manufacture, and the certification statement. Because of the complexity of showing a diagram for all types of belt systems, NHTSA only required two diagrams—a diagram showing the restraint correctly installed with a continuous loop lap/shoulder belt and a diagram showing the restraint correctly installed in the center rear seating position with a lap belt. For restraints with top tethers, the diagram had to show the tether correctly attached. The agency adopted the instruction sheet requirement, but, based on comments also added a requirement that the restraint include a place to store it.

B. 1995 Public Meeting

On April 2, 1995, NHTSA held a public meeting in Indianapolis, Indiana regarding the misuse of child restraint systems. In the notice announcing the meeting, NHTSA asked

* * *child seat labeling requirements have often been criticized as overwhelming the consumer with long and complex warnings

[1] Please note that the requirements for built-in child restraint systems are not summarized here. Factory-installed built-in's are required to have some, but not all, of the information required for add-on's, primarily due to the lack of need for warnings about proper installation. While this section of the preamble will only discuss requirements in terms of add-on's, this NPRM is proposing conforming changes to the built-in labeling requirements. These changes can be found in the proposed regulatory text for paragraphs S5.5.4, S5.5.5, S5.5.5(f), S5.5.5(g), S5.5.5(J), and S5.5.5(m). NHTSA is also proposing conforming changes to written instruction requirements in S5.6.1 and S5.6.2(a).

[2] The use statement must be in red lettering and placed after the certification statement.

[3] These requirements can be found in S5.5.2(k)(4).

[4] See 49 CFR 571.225.

and instructions. How can these labeling requirements be improved? Which aspects of the labeling requirements should be retained, and which should be abolished, and why? (60 FR 12192, 12193; March 6, 1995)

A number of commenters to the public docket for this notice criticized existing labels as difficult for consumers to read. One commenter noted that the cloth cover sometimes conceals seat belt routing slots and labels, resulting in misuse when consumers only use the visible routing slots. Commenters suggested that the labels be written for a lower reading comprehension level, and suggested point-by-point or numbered instructions accompanied by pictures.

C. 1996 Air Bag Warning Label

On November 27, 1996, NHTSA issued a final rule requiring rear-facing child restraints to bear a new, enhanced warning label to replace the existing label (61 FR 60206). The labels were developed using focus groups, with the aim to make the labels clearer and easier to understand. Because the goal of this rulemaking is to make child restraint labels clearer and easier to understand also, and because of the tight deadline set for completing this rulemaking action, the air bag warning label on rear-facing child restraints will not be considered in this rulemaking.

D. 2000 Public Meeting

On February 9, 2000, NHTSA conducted a public meeting in Washington, DC, to discuss the safety performance of child restraint systems and options for providing consumers with information on the safety performance of different child restraints. In the notice announcing the meeting, improved labeling was one of the listed topics (65 FR 1224, January 7, 2000).

While most of the comments submitted to the docket, and most of the presentations at the public meeting focused on child restraint ratings, some labeling issues were also raised. The most common issue discussed was permanency of labels, particularly the labels with identifying information and date of manufacturer. Most notably, Transport Canada gave a presentation about their on-going research on possible performance criteria and tests to ensure that labels will be permanent. SafetyBeltSafe noted that 26% of the child restraints checked by the Family Safety in the Car program from 1992 to 1998 had no readable manufacture date. The Juvenile Products Manufacturers Association noted that some of the language required by NHTSA on child restraint labels requires up to a 12th grade education to read and understand. Other issues raised were the need for an additional warning that a restraint should not be used after even a minor crash, clearer wording, and a requirement that recommended heights and weights be limited to the size of the dummy used for certification.

E. 2000 Plan

1. Labels

On November 27, 2000, NHTSA published a notice requesting comments on a draft Child Restraint Systems Safety Plan (65 FR 70687). With regard to labels, the agency indicated that it would have current labels analyzed to determine whether to propose changes to the existing labels. The agency also indicated that it would consider proposing a requirement for basic identifying information to be permanently molded into the shell of the restraint at a specific location. Finally, the agency indicated that it would monitor ongoing research being conducted by Transport Canada on the durability of child restraint labels.

The agency did not receive extensive comments on aspects of the plan concerning child restraint labels. One commenter stated that the height and weight limits labeled on child restraints should not be allowed to exceed the size of the dummy used for certification. Another commenter requested that NHTSA prohibit additional information on child restraints and that NHTSA consider the space constraints when developing its proposal.

2. Harness Slots

In the draft Child Restraint Systems Safety Plan, NHTSA also indicated that it planned to study alternatives to address misuse of adjustable child restraint systems regarding child size and seat orientation. One of the suggested alternatives was a label requiring height indicator lines for each harness slot. One commenter, the American Academy of Pediatrics, addressed the issue of labeling harness slots. That commenter recommended a performance standard rather than a labeling requirement, as incorrect harness slot usage is believed to be a widespread problem.

V. Research

In anticipation of conducting research, NHTSA contacted child restraint manufacturers to obtain samples of currently used child restraint labels. Of the labels provided to the agency, three sets of labels were chosen by the agency to use in our research. The labels were chosen because they provide three distinctly different styles of child restraint labels. Each had a different amount of text ranging from extensive text to little text. Each uses graphic elements differently and has a differing amount of graphics. Additionally, each label uses color differently.

Our research on the readability of child restraint labels consisted of two phases: consumer focus group testing and a passive evaluation. Passive evaluation refers to an evaluation based on the characteristics of the language, vocabulary and visual presentation of the information using standard readability measures, rather than an evaluation based on consumer feedback. Copies of the full report on each research phase are available in the docket for this notice.

A. Child Restraint Focus Groups

Four focus groups were conducted in the suburbs of Chicago, IL, and Phoenix, AZ during the week of February 12, 2001. The purpose of this research was to explore parent/guardian perceptions about current child restraint labels. While many group participants admitted that they did not read the written instructions or labels that came with the child restraints, at least until they perceived they were having a problem, they also felt that it was important to have such information readily available. Participants also noted, that while they felt the language on the labels or instructions was clear when they read them, it was often difficult to translate the information into action. One of the most common problems noted was knowing for sure that the vehicle safety belt was threaded through the correct location. Of the samples shown, some of the features that participants felt made the instructions easier to understand were: color-coded distinction between forward- and rearward-facing use instructions, clear illustrations showing the vehicle belt path, numbered installation steps, dark copy on white background, positioning of the labels to indicate placement of the vehicle belts[5], strongly worded warnings, use of color to highlight warnings, illustrations which are ''see-through'' so it is clear where the belts path is, and good illustrations of what the restraint should look like when properly installed. Some common criticisms were: vague words such as ''snugly,'' unfamiliar words like ''child restraint'' rather than ''child seat,'' other words with which they

[5] **Note:** While the participants were not shown the labels on child restraints, it was clear that some of the labels would be positioned on the child restraint to mark belt paths. For example, one label states: ''Belt here forward facing 20–40 lbs.''

were not familiar and that were not defined, not enough specifics about the risks of improper use, and lack of illustrations of what the child should look like in the restraint.

B. Passive Evaluation of Child Restraint Labels

The vocabulary and syntax of the sample labels were evaluated using standard readability tests, including: Flesch Reading Ease Score, Flesch-Kincaid Grade Level Score, and the Simple Measure of Gobbledegook (SMOG). The written language was also reviewed for overall tone, overall information organization, presence of subordinate clauses and other potential hindrances, presence of distant or formal language, presence of prescriptive or negative language, and presence of patronizing language. The labels were also evaluated based on visual examination using criteria that screen for: visual tone, visual appearance and justification of written material, typeface selection, arrangement of written and illustrative information, graphic discrimination, presence of subheadings, bullets and other visual aids, and presence of illustrations, photographs and other visual references. A team of reading and language experts performed the readability analysis. Because child restraints are used by a wide variety of persons with a wide variety of literacy, including persons with less than 8 years of formal education and persons whose first language is not English, readability was evaluated against a Grade 5 reading level.

The passive evaluation found that the most clear and ''readable'' samples were characterized by:

- Distinctive color-coding of information and illustrations to indicate importance and to lead the reader
- Simplicity of language
- Clear integration of written and visual information
- High contrast type/background relationships
- Clear, easy-to-follow illustrations
- Heavy use of ''white space''

The least ''readable'' samples were characterized by:

- Dull, monochromatic visual appearance
- Densely packed written information
- Low contrast combinations of type, illustration and background.

While the language on the samples required by FMVSS No. 213 fell within the desirable ranges on many of the standard readability tests, it was found that the information is not written for a suitably low grade level. The Flesch-Kincaid Reading Grade Level analysis found that the mandatory information required between a 10.9 and an 11.1 grade reading level to comprehend.[6] The SMOG test found the 3 sets of sample labels to require 8th, 9th, and 11th grade reading levels. The evaluators noted that information added beyond the mandatory statements tended to use more readable language. The visual considerations varied widely however. Some of the features criticized were: full justification, sans serif typefaces, arrangements which made it difficult to distinguish warnings information from other less critical information, gray backgrounds and densely packed labels.

VI. Proposed Changes to the General Label Requirements

The following sections discuss format requirements for mandatory labels. NHTSA requests comments on whether NHTSA should require additional voluntary labels to comply with the any or all of these requirements.

A. Permanence and Location (S5.5.1, S5.5.3 and S5.5.4)

NHTSA currently requires that mandatory information be ''permanently labeled'' on the child restraint. One of the most common criticisms about child restraint labels is that they are not permanent. Unlike vehicle labels that are often printed directly on the vehicle component, child restraint labels are usually paper glued to the shell. As such, they fade from exposure to sunlight and peel off restraints. Because NHTSA does not have performance criteria for permanence in FMVSS No. 213, enforcing the existing requirement is difficult.

NHTSA also requires the warning statement about failure to follow the instructions, the statements about proper use of belts and other restraints, and the air bag warning to be visible when the restraint is installed in a vehicle. Location is not specified for other mandatory information.

Transport Canada is currently conducting research to develop an objective test for permanence. NHTSA is monitoring that activity, and depending on its outcome, may consider proposing criteria for permanence in the future.

In the interim, NHTSA is proposing to require the model name or number, manufacturer name, manufacturing date, and place of manufacture to be permanently molded into the rear surface of the structure supporting the child's back or on the side of the restraint if the restraint does not have a back. While focus group participants felt this was important information, NHTSA does not believe that it is as critical that this information be visible when the child restraint is installed in the vehicle. However, by standardizing the location, recall notices and announcements can direct owners to the location of this information. A requirement that the information be molded into the shell similar to the way tire information is molded should ensure that the information is always available in case of a recall.

NHTSA requests comments on whether the specification that this information be permanently molded is design restrictive in that it assumes that the child restraint shell is made out of a material such as plastic. Are there shells made out of materials that could not be molded? How else could NHTSA ensure the permanence of this information? Would other technologies better achieve the goals of this proposal? Would molding create problems with readability unless the molded material is color contrasted with the child restraint plastic?

NHTSA is proposing that all other required information be labeled on the child restraint so that it is visible when the restraint is installed in a motor vehicle. This is a change for the requirements for the certification statement, height and weight labeling, the installation diagram, the registration statement, and the statement about use in motor vehicles and/or aircraft, which are not currently required to be visible by FMVSS No. 213. NHTSA believes that this is important information that should be readily available to the user. NHTSA also notes that most, if not all, child restraint labels are currently visible, even when not required by NHTSA. Because most are already visible, and because as discussed in the previous section NHTSA is proposing that some information be located in a new location, it does not believe that this new requirement will cause space problems.

B. English language (S5.5.2, S5.5.5, and S5.5.6)

NHTSA is keeping the English language requirement for child restraints. However, NHTSA notes that many manufacturers also label child restraints in Spanish or other languages. NHTSA applauds these attempts to convey the information to owners who do not speak English, or for whom English is not their first language. NHTSA does not intend to restrict in any way a manufacturer's ability to also label child restraints in one or more

[6] The mandatory language on the three samples scored differently depending on how the manufacturer had organized the information.

additional languages as long as the required information is labeled in English. NHTSA also requests comments on whether Spanish should be required on child restraint labels.

C. Typeface (S5.5.2 and S5.5.5)

NHTSA currently requires information to be in letters and numbers that are not smaller than 10 point type. While we have not had any complaints about font size on existing labels, NHTSA notes that specifying a point size without also specifying a font does not guarantee legibility. In addition, the passive evaluation criticized the labels that were reviewed because all used a sans serif font, and serif fonts are considered easier to understand. NHTSA's graphics department has indicated that the most common serif font in publications and graphics is Times New Roman. Therefore, NHTSA is proposing to require all labels to be in Times New Roman and no less than 10 point.

D. Background (S5.5.2 and S5.5.5)

NHTSA currently requires the information to be labeled ''on a contrasting background.'' Both the passive evaluation and the focus group participants noted the difficulty in reading the sample labels that were on a gray background or conversely, the ease of reading the labels with a white background. For this reason, unless specified otherwise, NHTSA is proposing to require all information to be in black text on a white background.

E. Color (S5.5.2(l), S5.5.5(j), and S5.6.5)

NHTSA currently has minimal color requirements for child restraint labels. Other than the air bag warning, the only color requirement is that the statement about use in motor vehicles and/or aircraft must be in red lettering (S5.5.2(n)). NHTSA is not proposing changes to either of these requirements, however we are proposing a new color requirement.

Focus group participants preferred sample labels which used different colors to indicate different instructions for forward- or rearward-facing use. Distinctive color coding was also mentioned as a desirable attribute in the passive evaluation. European Regulation 44 (4.3) requires that ''the correct routing of the webbing shall be clearly indicated by means of a drawing,'' and the routing diagram must be color coded red for forward-facing and blue for rearward-facing. The same colors are required for labels ''that illustrate the methods of use.''

NHTSA is proposing a new requirement that illustrations and instructions for forward-facing use be enclosed within a red box, and that illustrations and instructions for rearward-facing use be enclosed within a blue box. NHTSA is also proposing to require vehicle belt routing to be indicated in red for forward-facing, and in blue for rearward-facing.

F. All Capital Letters

While the text required by FMVSS No. 213 is shown in all capital letters in the standard, capitalization is not generally required if not expressly required by the standard. However, because ''block letters'' are generally more difficult to read, NHTSA is proposing to delete this requirement. In this proposal the only requirement for all capital letters is the heading for the warnings.

VII. Proposed Changes To Label Contents

In the following subsections, NHTSA discusses possible changes and additions to mandated language for child restraint labels. NHTSA requests comments on whether instead of mandating specific language NHTSA should mandate only that specific information be provided, leaving the wording to each individual manufacturer. For example, S5.5.2(f) of FMVSS No. 213 mandates that child restraints be labeled with one of three statements regarding height and weight limits. As an alternative, NHTSA could require only that manufacturers label child restraints with either the maximum weight and height or a permissible range of weight and height.

A. Statement Regarding Height and Weight (S5.5.2(f) and S5.5.5(f))

NHTSA has made minor changes to simply the language. Currently each option states, ''This child (infant) restraint is designed for use only by children * * *'' NHTSA is proposing to revise the options to read, ''Use only with children * * *'' NHTSA further asks for comments on deleting the height references in these statements to further simplify them.

B. Warning Regarding the Consequences of Not Following Instructions (S5.5.2(g) and S5.5.5(g))

NHTSA currently requires the following statement to be on each child restraint:

WARNING! FAILURE TO FOLLOW EACH OF THE FOLLOWING INSTRUCTIONS CAN RESULT IN YOUR CHILD STRIKING THE VEHICLE'S INTERIOR DURING A SUDDEN STOP OR CRASH. SECURE THIS CHILD RESTRAINT WITH A VEHICLE BELT AS SPECIFIED IN THE MANUFACTURER'S INSTRUCTIONS LOCATED _____.

Both the passive analysis and the focus group participants criticized this statement as difficult to understand and too indirect about the risks. Consumer feedback after the changes to the air bag warning label indicate that the new air bag labels were noticed. Therefore, NHTSA is proposing to require the following similar statement on child restraints:

WARNING! DEATH OR SERIOUS INJURY CAN OCCUR

- Follow all instructions on this child restraint and in the written instructions located _____

This would be followed with additional bullets for any additional mandated statements, including the statement about maximum height and weight, and the statements about use of belts or other restraints. NHTSA is also proposing to require the heading (Warning! Death or Serious Injury Can Occur) to be in black text on a yellow background. NHTSA also requests comments on whether it should require or allow the alert symbol used on the air bag warning label (see Figure 10 in FMVSS No. 213).

C. Belt Use Statement (S5.5.2(h), S5.5.5(h) and S5.6.6)

Focus group participants criticized the term ''snugly'' used on child restraint labels as being too vague. NHTSA has not changed this language, because it would be difficult to have a more accurate description of how tightly belts should be adjusted on a label. However, NHTSA is requiring the following information to be included in the written instructions. This information is used in NHTSA's Standardized Child Passenger Safety Training Curriculum.

—A snug harness should not allow any slack. A snug harness should not, however, be so tight as to press into the child's body.

—A ''snug'' strap lies in a relatively straight line without sagging, but neither does it press on the child's flesh or push the child's body into an unnatural position.

D. Installation Diagram (S5.5.2(l))

NHTSA currently requires an installation diagram showing the child restraint installed in a seating position with a continuous-loop lap/shoulder belt and another diagram showing the child restraint installed in a seating position equipped with a lap belt. NHTSA is proposing to require an additional installation diagram showing the child restraint installed in a seating position with a child restraint anchorage system. By September 1, 2002, all child

restraints are required to have attachments that work with these anchorages. Most new vehicles will have the child restraint anchorage system by the same date. NHTSA requests comments on whether the requirement for a diagram showing the child restraint installed in a seating position equipped with a lap belt can be deleted.

E. Registration Statement and Card (S5.5.2(m), S5.5.5(k) and S5.8)

Some focus group participants indicated that they would like to be able to register their child restraint via the internet. Currently, NHTSA requires a child restraint to be labeled with a statement about how to register the child restraint. NHTSA also requires a registration card to be attached to the child restraint that conforms to a specified format. In order to inform owners about the ability to register a child restraint via the internet, child restraint manufacturers could currently add an additional statement to a label or they could attach a separate card to the child restraint. Child restraint manufacturers could not modify the mandatory registration card. NHTSA requests comments on the availability now or in the future of online registration to determine whether the current requirements related to registration be modified to allow child restraint manufacturers the option of informing purchasers about this method of registration. Given that the current return rate on child restraint registrations is approximately 33%, NHTSA believes that anything which improves the number of registrations should be considered.

F. Harness Slot Labeling (S5.5.2(o) and S5.5.5(m))

NHTSA has decided to propose a requirement that all harness slot positions be labeled with information indicating the maximum height and weight of the children who should be restrained by the harness in the slot position. Child restraints are often misused because parents do not use the correct harness slots for the size child and/or seat orientation. In the event of a crash, the force of an older child loading harness strap slots that were designed only for the weight of an infant can result in structural damage to the child restraint and cause severe injury to the child.

A performance requirement is likely to have much higher costs than a labeling requirement. NHTSA also believes that more obviously available information about which harness slots to use can correct the misuse problem. In looking at labels and written instructions, NHTSA has found that this advice is often buried in the written instructions. As focus group participants stated, consumers often fail to read the written instructions unless they believe that they are having difficulty with the restraint. For these reasons, NHTSA has decided that it would be preferable to propose labeling to see if that can reduce the incidence of misuse. NHTSA will use child restraint fitting stations to determine if labeling has reduced the incidence of harness slot misuse, and if the problem continues will revisit the issue.

G. Reading Level Requirement

In the passive evaluation, sample labels were evaluated using the Flesch Reading Ease Score, the Flesch-Kincaid Grade Level Score, and the Simple Measure of Gobbledegook (SMOG). The Flesch Reading Ease Score, highly validated since its introduction in 1943, rates text on a 100-point scale in which the higher the score the easier it is to understand the material. The State of Indiana mandates that insurance policies sold in the state must have a Flesch Readability Ease score of 40 or better. The Flesch-Kincaid Grade Level Score converts the Reading Ease score to a U.S. grade-school level. The SMOG test is similarly based on a U.S. grade-school level and is intended to predict 90–100% comprehension. It is used extensively in health oriented literature.

NHTSA requests comments on whether it should mandate a minimum score on one or more of these standard tests. NHTSA believes such a requirement may be particularly useful if the final rule were to replace mandatory statements with requirements that certain topics are covered by labeling.

H. Other Information

In their comments on the child plan, Graco asked the agency to prohibit any labeling on child restraints other than that which is required or design specific instructions. NHTSA is not proposing such a prohibition. NHTSA prohibits information from being given to consumers in some limited situations. For example, vehicle manufacturers are prohibited from labeling sun visors with air bag information other than that required by NHTSA regulation because of concern that other information in close proximity to the required warnings would detract from the attention paid to those warnings. However, a broad prohibition such as Graco suggests would prevent manufacturers from providing supplementary information that could enhance the correct use of child restraints, or mitigate a safety problem that present labels do not address. Because supplementary information can benefit consumers, NHTSA is generally not prohibiting additional labeling. However, such supplementary labeling must not obscure or confuse the meaning of the required labeling, or be otherwise misleading to the consumer.

NHTSA has been asked in the past to limit the maximum height and weight recommendations to the size of the dummy used in the certifications tests. NHTSA has declined to make such a change in the past, and is not proposing such a change at this time either. In 1996, NHTSA denied a petition for reconsideration from Consumers Union (61 FR 30824, June 18, 1996). At the time, NHTSA expressed concerns that such a change would actually detract from safety, stating:

> Because 20 pounds is the weight of an average nine-month-old child, CU's approach would continue to limit weight recommendations in such a way as to possibly mislead consumers into thinking that an infant must be switched to face forward when the baby is only nine months old. This is likely to be before the infant's bones and muscular system have developed sufficiently to make seating the child in a forward facing position appropriate. Thus, CU's approach could have the unintended effect of detracting from the real-world safety needs of older infants (ages nine- to 12-months) to make such a change to the labeling requirements. (61 FR 30824, 30827)

NHTSA continues to believe this is true.

VIII. Future Research

Because of the tight deadline set for completion of this rulemaking action, NHTSA did not conduct additional research on the proposed changes to child restraint labels. NHTSA is confident that the proposed formatting and content changes to the mandatory warnings have reduced the grade level needed to read the labels. Figure 1 shows a label that is similar to some seen on child restraints today. Figure 2 shows an example of how the new warnings would look for an infant restraint. In addition, after reviewing the comments NHTSA may want to make further changes to the mandatory language and final version is the version that should be evaluated. NHTSA intends to conduct further passive analysis, at a minimum, prior to issuance of a final rule to verify that the changes have reduced the reading level necessary to comprehend the labels.

BILLING CODE 4910–59–P

Black Text with Gray Background

WARNING! Failure to follow each of the following instructions can result in your child striking the vehicle's interior during a sudden stop or crash. Secure this child restraint with a vehicle belt as specified in the manufacturer's instructions located on the bottom of the child restraint. Snugly adjust the belts provided with this child restraint around your child. Place this infant restraint in a rear-facing position when using it in a vehicle. This infant restraint is designed for use by children who weigh 20 pounds (9 kg) or less and whose height is 26 inches (61 cm) or less.

Figure 1-Sample Current Label

Black Text with Yellow Background

WARNING! DEATH OR SERIOUS INJURY CAN OCCUR

- Follow all instructions on this child restraint and in the written instructions located on the bottom of the restraint.
- Secure this child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt.
- Place this infant restraint in a rear-facing position when using it in the vehicle.
- Use only with children who weigh 20 pounds (9 kg) or less and height is 26 inches (61 cm) or less.
- Snugly adjust the belts provided with this child restraint around your child.
- Register your child restraint with the manufacturer.

Black Text with White Background

Figure 2-Sample Proposed Label

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IX. Rulemaking Analyses and Notices

A. Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, ''Regulatory Planning and Review.'' The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not ''significant'' under them. In the ''Final Economic Assessment, FMVSS No. 213, FMVSS No. 225, Child Restraint Systems, Child Restraint Anchorage Systems,'' February 1999, the agency estimated that there were 68 fatalities and 874 injuries caused annually by misuse of child restraints. We are unable to estimate the effectiveness of these proposals on this target population, but by providing clearer instructions we expect to reduce misuse.

NHTSA anticipates that the cost of changing the location and text of the labels to be minor. There is a cost for adding color, estimated to be $.01 to $.03 per label. NHTSA requests comments on the cost of technologies such as molding or other technologies which would be used to meet the requirements of proposed S5.5.1 and S5.5.4.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Public Law 96–354), as amended, requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. Section 603 of the Act requires agencies to prepare and make available for public comment a preliminary regulatory flexibility analysis (PRFA) describing the impact of proposed rules on small entities. NHTSA has not included a PRFA in the PRE for this proposal. Of the 10 current child restraint manufacturers, 4 are small business. However, we do not believe this proposal adds a significant economic cost to child restraints.

Business entities are generally defined as small businesses by the North American Industry Classification System (NAICS) code, for the purposes of receiving Small Business Administration assistance. One of the criteria for determining size, as stated in 13 CFR 121.201, is the number of employees in the firm. To qualify as a small business in the Motor Vehicle Seating and Interior Trim Category (NAICS 336360) or the All Other Transportation Equipment Manufacturing Category (NAICS 336999), the firm must have fewer than 500 employees. The agency has considered the small business impacts of this proposed rule based on this criterion.

C. Paperwork Reduction Act

The Department of Transportation has not submitted an information collection request to OMB for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). The affected public is 10 child restraint manufacturers. Except for the proposal for harness slot labeling, this rule does not impose any new information collection requirements on manufacturers. NHTSA does not anticipate a significant change to the hour burden or costs associated with child restraint labels and written instructions.

D. 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 compliance 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, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may 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.

We have analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132 and have determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposed rule would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. National Environmental Policy Act

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

F. Executive Order 12778 (Civil Justice Reform)

This proposed rule would not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this proposed rule. This proposed rule would not preempt the states from adopting laws or regulations on the same subject, except that it would preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

X. Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted By Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

I. Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).
II. On that page, click on ''search.''
III. On the next page type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1999–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''
IV. On the next page, which contains docket summary information for the docket you selected, click on the desired comments.

You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

List of Subjects in 49 CFR Part 571

Federal Motor Vehicle Safety Standards; Child Restraint Systems.

PART 571—[AMENDED] FEDERAL MOTOR VEHICLE SAFETY STANDARDS

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

1. The authority citation for part 571 would continue to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166 and 30177; delegation of authority at 49 CFR 1.50.

2. Section 571.213 would be amended by revising S5.5.1, the introductory text of S5.5.2, S5.5.2(f), S5.5.2(g), S5.5.2(k), S5.5.2(l), S5.5.3, S5.5.4, the introductory text of S5.5.5, S5.5.5(f), S5.5.5(g), and S5.5.5(j); and adding new sections S5.5.2(o), S5.5.5(m), S5.6.5, and S5.6.6 to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.5.1 Each add-on child restraint system shall be permanently labeled with the information specified in S5.5.2(a) through (o). The information specified in (a) through (d) shall be molded or heat embossed on the shell on the rear surface of the structure supporting the child's back, or on the side of the restraint if the restraint does not have a back.

S5.5.2 The information specified in paragraphs (a) through (o) of this section shall be stated in the English language and lettered and numbered using Times New Roman font not smaller than 10 point. Unless otherwise specified, the information shall be labeled on a white background with black text.

* * * * *

S5.5.2(f) One of the following statements, inserting the manufacturer's recommendations for the maximum mass and height 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:

(1) Use only with children who weigh __ pounds (__ kg) or less and whose height is (insert values in English and metric units; use of word ''mass'' in label is optional) or less; or

(2) 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 (insert appropriate values in English and metric units) or less and who are capable of sitting upright alone; or

(3) Use only with children who weigh between __ and __ pounds (insert appropriate metric values; use of word ''mass'' is optional) and whose height is (insert appropriate values in English and metric units) or less.

S5.5(g) The following statement specified in paragraphs (1) through (3):

(1) The statement WARNING! DEATH OR SERIOUS INJURY CAN OCCUR in all capitalized letters and in yellow with black text. This statement will be followed by the bulleted statements in the following order:

(i) Follow all instructions on this child restraint and in the written instructions located (insert storage location on the restraint for the manufacturer's installation instruction booklet or sheet).

(ii) Secure this child restraint with the vehicle's child restraint anchorage system if available or with a vehicle belt.

(2) As appropriate, the statements required by the following sections will be bulleted and placed after the statements required by 5.5.2(g)(1) in the following order: 5.5.2(k)(1)(i) or 5.5.2(k)(2)(i), 5.5.2(f), 5.5.2(h), 5.5.2(j), and 5.5.2(i).

(3) The statements required by 5.5.2(g)(1) and 5.5.2(g)(2) will be followed by the following statement:

Register your child restraint with the manufacturer.

* * * * *

S5.5(k)(1) In the case of each rear-facing child restraint system that is designed for infants only, the statement: Place this infant restraint in a rear-facing position when using it in the vehicle.

(2) In the case of a child restraint system that is designed to be used rearward-facing for infants and forward-facing for older children, the statement: PLACE THIS CHILD RESTRAINT IN A REAR-FACING POSITION WHEN USING IT WITH AN INFANT WEIGHING LESS THAN (insert a recommended weight that is not less than 20 pounds).

(3) Except as provided in paragraph (k)(4) of this section, each child restraint system that can be used in a rear-facing position shall have a label that conforms in content to Figure 10 of this section and to the requirements of S5.5.2(k)(3)(i) through S5.5.2(k)(3)(iii) of this standard permanently affixed to the outer surface of the cushion or padding in or adjacent to the area where a child's head would

rest, so that the label is plainly visible and easily readable.

(i) The heading area shall be yellow with the word ''warning'' and the alert symbol in black.

(ii) The message area shall be white with black text. The message area shall be no less than 30 square cm.

(iii) The pictogram shall be black with a red circle and slash on a white background. The pictogram shall be no less than 30 mm in diameter.

(4) If a child restraint system is equipped with a device that deactivates the passenger-side air bag in a vehicle when and only when the child restraint is installed in the vehicle and provides a signal, for at least 60 seconds after deactivation, that the air bag is deactivated, the label specified in Figure 10 of this section may include the phrase ''unless air bag is off'' after ''on front seat with air bag.''

S5.5.2(l) Installation diagrams and instructions.

(1) An installation diagram showing the child restraint system installed in:

(i) A seating position equipped with a continuous-loop lap/shoulder belt;

(ii) A seating position equipped with only a lap belt, as specified in the manufacturer's instructions; and

(iii) A seating position equipped with a child restraint anchorage system.

(2) Any installation diagrams and installation instructions labeled on child restraints shall be outlined in red for forward-facing use and blue for rearward-facing use. No other color shall be used for each orientation position.

* * * * *

S5.5.2(o) Except for child restraints with a single position for the harness straps, each child restraint system that has belts designed to restrain children using them shall have one of the following statements, inserting the manufacturer's recommendations for the maximum mass and height of children:

(1) Use only with children who weigh __ pounds (__ kg) or less and whose height is (insert values in English and metric units; use of word ''mass'' in label is optional) or less; or

(2) 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 (insert appropriate values in English and metric units) or less; or

(3) Use only with children who weigh more than ____ pounds (insert appropriate English and metric values; use of word ''mass'' is optional) and whose height is more than (insert appropriate values in English and metric units).

S5.5.3 The information specified in S5.5.2(e) through (j) and S5.5.2(l) through (n) 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.

S5.5.4 (a) Each built-in child restraint system other than a factory-installed built-in restraint shall be permanently labeled with the information specified in S5.5.5 (a) through (m). The information specified in (a) through (d) shall be molded or heat embossed on the shell. The information specified in S5.5.5(a) through (l) shall be visible when the system is activated for use. The information specified in S5.5.5(a) through (d) shall be located on the rear surface of the structure supporting the child's back, or on the side of the restraint if the restraint does not have a back.

(b) Each factory-installed built-in child restraint shall be permanently labeled with the information specified in S5.5.5(f) through (m), so that the information is visible when the restraint is activated for use. The information shall also be included in the vehicle owner's manual.

S5.5.5 The information specified in paragraphs (a) through (m) of this section that is required by S5.5.4 shall be in English and lettered in letters and numbers using Times New Roman Font not smaller than 10 point. Unless specified otherwise, the information shall be labeled on a white background with black text.

* * * * *

(f) One of the following statements, inserting the manufacturer's recommendations for the maximum mass and height 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:

(1) Use only with children who weigh ____ pounds (____ kg) or less and whose height is (insert values in English and metric units; use of word ''mass'' in label is optional) or less; or

(2) 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 (insert appropriate values in English and metric units) or less and who are capable of sitting upright alone; or

(3) 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 (insert appropriate values in English and metric units) or less.

(g) The following statement specified in paragraph (1), and if appropriate, the statements in paragraph (2) and (3):

(1) The statement WARNING! DEATH OR SERIOUS INJURY CAN OCCUR in all capitalized letters and in yellow with black text. This statement will be followed by the bulleted statement: Follow all instructions on this child restraint and in the written instructions located (insert location).

(2) In the case of each built-in child restraint system which is not intended for use in motor vehicles in certain adjustment positions or under certain circumstances, an appropriate statement of the manufacturers restrictions regarding those positions or circumstances.

(3) As appropriate, the statements required by the following sections will be bulleted and placed after the statement required by 5.5.5(g)(1) in the following order: 5.5.5(g)(2), 5.5.5(f), S5.5.5(h) and S5.5.5(i).

* * * * *

(j) Installation diagrams and instructions.

(1) A diagram or diagrams showing the fully activated child restraint system in infant and/or child configurations.

(2) Any installation diagrams and installation instructions labeled on child restraints shall be outlined in red for forward-facing use and blue for rearward-facing use. No other color shall be used for each orientation position.

* * * * *

(m) Except for child restraints with a single position for the harness straps, each child restraint system that has belts designed to restrain children using them shall have one of the following statements, inserting the manufacturer's recommendations for the maximum mass and height of children:

(1) Use only with children who weigh ____ pounds (____ kg) or less and whose height is (insert values in English and metric units; use of word ''mass'' in label is optional) or less; or

(2) 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 (insert appropriate values in English and metric units) or less; or

(3) Use only with children who weigh more than ____ pounds (insert appropriate English and metric values; use of word ''mass'' is optional) and whose height is more than (insert

appropriate values in English and metric units).

* * * * *

S5.6.5 Any installation diagrams and installation instructions included in the written instructions shall be outlined in red for forward-facing use and blue for rearward-facing use. No other color shall be used for each orientation position.

S5.6.6 The printed instructions for each child restraint system shall include the following statement:

(a) A snug harness should not allow any slack. A snug harness should not, however, be so tight as to press into the child's body.

(b) A ''snug'' strap lies in a relatively straight line without sagging, but does not press on the child's flesh or push the child's body into an unnatural position.

* * * * *

Issued on October 29, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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