(v) For computer programs (including videogames), the identifying description should include to the extent known at the time of filing, the nature, purpose and function of the computer program, including the programming language in which it is written, any particular organization or structure in which the program has been created; the form in which it is expected to be published, e.g. as an online–only product; whether there have been previous versions (and identification of such previous versions); the identities of persons involved in the creation of the computer program; and, if the work is a videogame, also describe the subject matter of the videogame and the overall object, goal or purpose of the game, its characters, if any, and the general setting and surrounding found in the game.

(vi) For advertising or marketing photographs, the description should include the subject matter depicted in the photograph or photographs, including information such as the particular product, event, public figure, or other item or occurrence which the photograph is intended to advertise or market. To the extent possible and applicable, the description for photographs should give additional details which will assist in identifying the particular photographs, such as the party for whom such advertising photographs are taken; the approximate time periods during which the photographs are taken; the approximate number of photos which may be included in the grouping; any events associated with the photographs; and the location and physical setting or surrounding depicted in the photographs. The description may also explain the general presentation, e.g., the lighting, background scenery, positioning of elements of the subject matter as it is seen in the photographs, and should provide any locations and events, if applicable, associated with the photographs.

(7) *Review of preregistration information.* The Copyright Office will conduct a limited review of applications for preregistration, in order to ascertain whether the application describes a work that is in a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release. However, a work will not be preregistered unless an applicant has provided all of the information requested on the application and has certified that all of the information provided on the application is correct to the best of the applicant's knowledge.

(8) *Certification.* The person submitting an application for preregistration must certify on the application that he or she is the author, copyright claimant, or owner of exclusive rights, or the authorized agent of the author, copyright claimant, or owner of exclusive rights, of the work submitted for this preregistration; that the information given in this application is correct to the best of his or her knowledge; that the work is being prepared for commercial distribution; and that he or she has a reasonable expectation that the work will be commercially distributed to the public.

(9) *Effective date of preregistration.* The effective date of a preregistration is the day on which an application and fee for preregistration of a work, which the Copyright Office later notifies the claimant has been preregistered or which a court of competent jurisdiction has concluded was acceptable for preregistration, have been received in the Copyright Office.

(10) *Notification of preregistration.* Upon completion of the preregistration, the Copyright Office will provide the claimant official notification by email of the preregistration.

(11) *Certification of preregistation.* A certified copy of the official notification may be obtained in physical form from the Certification and Documents Section of the Information and Reference Division at the address stated in § 201.1(a)(3) of this chapter.

(12) *Public record of preregistration.* The preregistration record will also be available to the public on the Copyright Office website, *http://www.copyright.gov.*

(13) *Effect of preregistration.* Preregistration of a work offers certain advantages to a copyright owner pursuant to 17 U.S.C. 408(f), 411 and 412. However, preregistration of a work does not constitute prima facie evidence of the validity of the copyright or of the facts stated in the application for preregistration or in the preregistration record. The fact that a work has been preregistered does not create any presumption that the Copyright Office will register the work upon submission of an application for registration.

(14) *Petition for recognition of a new class of works.* At any time an interested party may petition the Register of Copyrights for a determination as to whether a particular class of works has had a history of copyright infringement prior to authorized release that would justify inclusion of that class of works among the classes of works eligible for preregistration.

Dated: October 19, 2005

Marybeth Peters,

Register of Copyrights.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 05–21381 Filed 10–26–05; 8:45 am]

BILLING CODE 1410–30–S

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 2005–21048]

Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition for rulemaking submitted by Honda Motor Co., Ltd. (Honda), to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 213, ''Child restraint systems.'' Honda requested that FMVSS No. 213 be amended to limit the weight of all child restraint systems used with the 3-year-old dummy. Honda stated that such an amendment would assure the proper operation of weight-based occupant detection systems used to meet the air bag suppression requirements of FMVSS No. 208, ''Occupant crash protection.''

FOR FURTHER INFORMATION CONTACT:

For Non-Legal Issues: Mr. Tewabe Asebe, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–2365.

For Legal Issues: Mr. Chris Calamita, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–2992, Facsimile: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On May 12, 2000, NHTSA issued a final rule for advanced air bags, amending FMVSS No. 208 to, among other things, minimize injuries to small adults and young children due to air bag deployment (65 FR 30680). To address the risk air bags pose to young children in child restraint systems, the agency amended FMVSS No. 208 to include a number of alternative tests, one of which requires the front passenger air

bag system to automatically suppress when a child or child in a child restraint system is present. Some manufacturers rely on weight-based technology to comply with the automatic air bag suppression requirement. Weight-based technologies utilize load cells or other sensors designed into the vehicle seat. With this option, the vehicle air bag in the right front passenger seat is suppressed when a child or a child in a child restraint system is placed on the seat. If an adult occupies the front passenger seat, the feature enables the air bag deployment. The threshold for enabling the air bag deployment is dependent on the design and calibration of the suppression system used.

The agency selected certain child restraint systems to be used for compliance testing of the air bag suppression systems. The selected child restraint systems are included as an appendix (Appendix A, ''Selection of child restraint systems'') in FMVSS No. 208. The list of child restraint systems is periodically updated to reflect child restraint systems currently on the market. On November 19, 2003, the agency updated the list of child restraint systems in Appendix A of FMVSS No. 208 (68 FR 65179). FMVSS No. 208 requires that vehicles be certified for compliance using any of the child restraint systems in Appendix A.

II. The Petition

On February 11, 2004, the agency received a petition for rulemaking from Honda requesting that NHTSA amend FMVSS No. 213 to limit the weight of all child restraint systems, including rear-facing, forward-facing, and convertible type restraints used by 3-year-old children and produced in accordance with FMVSS No. 213, for the purpose of maintaining the appropriate air bag deployment for small occupants. Honda suggested that, based on available child restraint system designs, ''perhaps a weight limit of about 8.5 kilograms (kg) (18.7 lb) may be appropriate.''

As Honda's petition specifically addresses the air bag suppression requirements for child restraints used with the 3-year-old dummy, NHTSA notes that manufacturers choosing to certify to FMVSS No. 208 S21.2, Option-Automatic suppression feature, must demonstrate compliance when using any of the child restraints listed in sections C and D of FMVSS No. 208 Appendix A. These child restraints include (1) forward-facing toddler and forward-facing convertible seats, and (2) forward-facing toddler/belt positioning-booster seats and belt-positioning booster seats.

In its petition, Honda stated that it agrees with NHTSA that it is very important to periodically update the child restraint system list in Appendix A of FMVSS No. 208. However, Honda claimed that the weight of certain child restraint system models recommended for 3-year-old children in the updated list were heavier than others. Honda proposed to limit the child restraint system mass to about 8.5 kg (18.7 pounds). Specifically, the petitioner stated:

> A current, popular system for automatic suppression of the air bag for the infant and small child is seat weight detection. If increasingly heavier CRSs are added to the market endlessly, the stable and reliable performance of small occupant detection systems cannot be achieved. Consequently, future air bag suppression systems designed to prevent deployment with infants or small children in very heavy future CRSs could also suppress deployment for small adults such as the AF5 (5th percentile adult female). We are also concerned that older vehicles already on the road with suppression systems calibrated to the lower weights of older CRS specifications will fail to recognize newer, heavier designs. This means the air bag could deploy for an infant or small child in a very heavy CRS in vehicles calibrated to lighter weight CRSs that were on the market at the time the vehicle suppression system was designed.
>
> Therefore, we believe NHTSA should amend the FMVSS No. 213, ''Child Restraint Systems,'' to limit the weight of all C3Y (Three-year-old Child Dummy) CRSs (including rear-facing, forward-facing and convertible type CRSs) produced in accordance with FMVSS 213 for the purpose of maintaining the appropriate airbag deployment for small occupants. Based on the CRS designs available, perhaps a weight limit of about 8.5 kilograms may be appropriate.
>
> Based on the wide variety of CRS designs already on the market, Honda does not believe this simple requirement would unduly limit CRS designs or performance. A lighter CRS weight would assist in assuring the proper operation of weight-based air bag suppression systems and would add to consumer convenience and usage by being easier to carry and install in a vehicle.

III. Data

Honda provided the mass distribution for the child restraint systems in Appendix A of FMVSS No. 208. The weight distribution for these restraints ranged from about 1.5 kg (3.3 pounds) for Evenflo Right Fit to about 7.9 kg (17.4 pounds) for Britax Expressway ISOFIX, with an average weight of about 4.6 kg (11 pounds). Honda proposed to limit the child restraint system weight to about 8.5 kg (18.7 pounds). It is important to note that as currently written, FMVSS No. 213 is a performance standard, and as such, does not specify any weight limit on particular child restraint system designs.

While Honda's petition provided the weight of the child restraint systems currently included in Appendix A of FMVSS No. 208, NHTSA obtained the weight of a number of varying restraint designs, either currently available or available in recent years, including infant beds, infant seats with and without a base, convertible child seats, forward-facing only seats, combination child and booster seats, and booster seats child restraints.[1] From this list, NHTSA examined the weights of those restraints that could possibly be included in sections C and D of FMVSS No. 208 Appendix A, and therefore relevant to the subject petition (*e.g.*, forward-facing toddler, forward-facing convertible seats, forward-facing toddler/belt positioning-booster seats, and belt-positioning booster seats). While the vast majority of these child restraint systems weigh less than the Britax Expressway ISOFIX (currently, the heaviest child restraint system included in Appendix A of FMVSS No. 208), NHTSA found at least seven child restraint systems heavier than the Britax Expressway ISOFIX. Further, six of these are heavier than the 8.5 kg limit suggested by Honda in its petition.

IV. Analysis

Appendix A of FMVSS No. 208 specifies a list of child restraint systems that may be used by NHTSA to test the air bag suppression systems of a vehicle that has been certified as complying with S19, S21, or S23 of FMVSS No. 208. When selecting a child restraint system to be included in Appendix A, the agency considers a number of different factors. These factors are outlined in the agency's November 2003, final rule as follows:

> In deciding whether to amend Appendix A, NHTSA will consider a number of factors, such as whether a particular restraint has been a high volume model, whether it has mass and dimensions that are representative of many restraints on the market, whether its mass and dimensions represent outliers, and whether a variety of restraint manufacturers are represented in the appendix. This approach will allow us to limit Appendix A to those restraints that represent large portions of the CRS market, while including exceptionally large or small restraints. We believe a combination of restraints is needed to assure the robustness of automatic suppression systems under real world conditions.

Specifically with respect to Honda's concern about the increasing weight of

[1] SafetyBeltSafe U.S.A. provided the weights of these varying child restraints to NHTSA. A list of the restrint make/models and weights has been submitted separately to this docket.

child restraint systems, the heaviest child restraint system selected for inclusion in Appendix A, as amended in the November 19, 2003 final rule, is about 0.5 kg (1.1 lbs) heavier than the heaviest child restraint system removed from Appendix A. However, as noted earlier, the Britax Expressway ISOFIX is lighter than at least seven other child restraint systems either currently available or available in recent years that could be included in sections C and D of FMVSS No. 208 Appendix A. Importantly, NHTSA notes that there is no single established weight threshold for all weight-based air bag suppression systems on the market. The design of these systems may vary depending on a number of different parameters, as long as the system adequately suppresses the air bag when tested in accordance with the requirements of FMVSS No. 208.

Honda stated that for weight-based occupant detection systems used for air bag suppression, if increasingly heavier child restraint systems are added to the market endlessly, the stable and reliable performance of small occupant detection systems could not be achieved. NHTSA does not believe that the addition of the Britax Expressway ISOFIX, the heaviest child restraint system included in Appendix A of FMVSS No. 208 to date, serves as an indication that child restraints are becoming heavier. As noted earlier, NHTSA has identified at least nine child restraint systems that are above the 8.5 kg mass limit proposed by Honda. However, as FMVSS No. 213 does not require child restraint systems to meet specific weight limits, NHTSA does not weigh the restraints as part of its annual compliance test program. As such, the agency has no historical data to show that there is a trend towards increasingly heavier child restraint systems as implied by Honda. Further, Honda did not provide such data in support of its petition.

The agency did estimate that, in order to comply with the requirement that all child restraint systems have hardware enabling the restraint to attach to the universal child restraint anchorage system required in vehicles as a result of FMVSS No. 225, ''Child restraint anchorage systems,'' each child restraint system would have an incremental weight increase ranging from less than 0.45 kg (1 pound) to 1.36 kg (3 pounds) depending on the type of attachment hardware used.[2] To date, virtually all child restraint systems have adopted the use of flexible-type attachment hardware, which only marginally increases the weight of the child restraint system. Notably, the heaviest child restraint system in Appendix A of FMVSS No. 208-the Britax Expressway ISOFIX-is a restraint that utilizes a rigid lower attachment system to connect to the vehicle anchorages and is designed for forward-facing use. These rigid anchorages are typically heavier than the flexible attachment hardware that is predominant in current designs. However, we note that the Britax Expressway ISOFIX, at 7.9 kg (17.4 lb), is still significantly lighter than the heaviest child restraint system examined by NHTSA-the Britax Super Elite (a forward-facing seat for children weighing between 22 and 80 pounds, equipped with a 5-point harness restraint system) at 11.6 kg (25.6 lb).

Honda stated that based on the wide variety of child restraint system designs already on the market, the company does not believe a weight limit requirement would unduly limit child restraint system design or performance. However, Honda did not present evidence to support this claim. Absent such evidence, there is no way for the agency to confirm Honda's assertion. As noted earlier, FMVSS No. 213-as with the other FMVSSs-is a performance standard. The agency does not believe that it is appropriate to impose design-restrictive requirements that may hinder the development of safety features for use in future child restraint system designs. For example, NHTSA is conducting ongoing research in the area of improved side impact protection for children in crashes in response to the Transportation Recall, Enhancement, Accountability and Documentation (TREAD) Act. NHTSA does not want to put constraints on potential innovative designs that could improve safety for children in this or other areas in the future, and believes that imposing design-restrictive parameters for child restraints-such as imposing a weight limit as suggested in the subject petition-could potentially preclude the development of safety advances. While FMVSS No. 213 does not currently specify weight limits on child restraint designs, the agency notes, as did Honda, that lighter weight child restraint systems can be considered more user-friendly in that they are easier to move from one vehicle to another and from one seating position to another in the same vehicle if needed.

Honda stated that it is concerned that older vehicles that are already on the road, with suppression systems calibrated to the lower weights of older child restraint systems, will fail to recognize newer and heavier child restraint systems. Honda stated that the air bag could deploy for an infant or small child in a very heavy child restraint system in vehicles calibrated to lighter weight child restraint systems that were on the market at the time the vehicle suppression system was designed. NHTSA notes that the mass of the Britax Expressway ISOFIX is only 0.5 kg (1.1 lb) more than the previous heaviest child restraint system included in Appendix A. This is a very nominal increase (approximately 3 percent) in child restraint mass, and the agency would expect that the margin of safety designed into the occupant detection systems used to control air bag suppression systems is sufficient to address such small changes in child restraint system mass. This is especially important given that the agency has identified a number of child restraints either currently available or available in the recent past that are heavier- and in some cases, significantly heavier-than the Britax Expressway ISOFIX.

While Honda proposed to limit child restraint system design mass to about 8.5 kg (18.7 lb), it did not provide any rationale or supporting data to justify this 8.5 kg limit. This, coupled with the fact that there is no single established weight threshold for all weight-based air bag suppression systems on the market, does not support the adoption of Honda's proposed amendment. The agency does not have a rationale to restrict the mass of child restraint systems to a limit of 8.5 kg at this time.

While NHTSA does not believe that amendments are necessary at this time, the agency shares Honda's concern. As noted earlier, the agency does not weigh child restraints as part of the FMVSS No. 213 compliance test program. However, the agency does now weigh these seats for use in (1) developing future upgrades to Appendix A of FMVSS No. 208 and (2) the agency's Child Restraint Ease of Use Ratings Program. In addition, we will continue to monitor developments on this matter through the Society of Automotive Engineers-Child Restraint Systems Standard Committee, whose members include motor vehicle and motor vehicle equipment manufacturers, and child restraint systems manufacturers. This committee has been and continues to be in dialog on this subject, and we will ensure that the concerns are well communicated.

VI. Conclusion

The agency has clearly noted the composition of Appendix A is intended to represent large portions of the child restraint system market, while including

[2] Final Economic Assessment, FMVSS No. 213, FMVSS No. 225, Child Restraint Systems, Child Restraint Anchorage Systems. Docket No. NHTSA–1998–3390–27, Page 44, February 1999.

exceptionally large or small restraints. This combination of restraints is needed to assure the robustness of automatic suppression systems under real world conditions. It is also important to note that when Appendix A was amended in November 2003, the Britax Expressway ISOFIX was unique in design, in that it was the only child restraint system available with rigid Lower Anchors and Tethers for Children (LATCH) attachments. While the agency has identified a small percentage of child restraint systems that weigh more than the Britax Expressway ISOFIX, the inclusion of heavier child restraint system designs is not inconsistent with the intent of Appendix A of FMVSS No. 208. Further, while the Britax Expressway ISOFIX is approximately 0.5 kg (1.1 lb) heavier than the heaviest child restraint system that was removed from Appendix A as amended in the November 2003 final rule, the agency does not consider this to be an indication that child restraint system designs are increasing in weight.

As noted earlier, FMVSS No. 213 is a performance standard, and does not specify particular design constraints such as mass and/or dimensions. Honda did not provide any rationale for its proposal to limit child restraint system designs to a maximum of 8.5 kg (18.7 lb). NHTSA has not identified any real-world data to support the need to limit the weight of child restraint systems, and specifically as it relates to the performance of occupant detection systems for automatic air bag suppression. Further, specification of a child restraint system mass limit, when considered in conjunction with the mass of the dummy used in air bag suppression testing, would effectively establish a weight threshold for weight-based air bag suppression systems. It is not the intent of the agency to specify such a threshold. Each vehicle manufacturer is responsible for meeting the requirements of FMVSS No. 208 when using any of the child restraint systems listed in Appendix A.

In consideration of the foregoing, NHTSA is denying Honda's petition for rulemaking to amend FMVSS No. 213 to adopt a design weight limit for child restraint systems used with the 3-year-old dummy. In accordance with 49 CFR Part 552, this completes the agency's review of the petition.

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

Issued on: October 13, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05–21465 Filed 10–26–05; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 223

[Docket No.050922245–5276–02; I.D. 092005A, 100505D]

RIN 0648–AT89

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS issues this temporary rule to allow shrimp fishermen to continue to use limited tow times as an alternative to Turtle Excluder Devices (TEDs) in inshore and offshore waters from the Florida/Alabama border, westward to the boundary shared by Matagorda and Brazoria Counties, Texas, and extending offshore 50 nautical miles, as initially authorized in rules published on September 28 and October 14, 2005. This action is necessary because environmental conditions resulting from Hurricanes Katrina and Rita persist on the fishing grounds, preventing some fishermen from using TEDs effectively.

DATES: Effective from October 24, 2005, through 11:59 p.m, local time, November 23, 2005.

ADDRESSES: Requests for copies of the Environmental Assessment on this action should be addressed to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727–551–5794.

SUPPLEMENTARY INFORMATION:

Background

All sea turtles that occur in U.S. waters are listed as either endangered or threatened under the Endangered Species Act of 1973 (ESA). The Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and hawksbill (*Eretmochelys imbricata*) turtles are listed as endangered. The loggerhead (*Caretta caretta*) and green (*Chelonia mydas*) turtles are listed as threatened, except for breeding populations of green turtles in Florida and on the Pacific coast of Mexico, which are listed as endangered.

Sea turtles are incidentally taken, and some are killed, as a result of numerous activities, including fishery-related trawling activities in the Gulf of Mexico and along the Atlantic seaboard. Under the ESA and its implementing regulations, the taking of sea turtles is prohibited, with exceptions identified in 50 CFR 223.206(d), or according to the terms and conditions of a biological opinion issued under section 7 of the ESA, or according to an incidental take permit issued under section 10 of the ESA. The incidental taking of turtles during shrimp or summer flounder trawling is exempted from the taking prohibition of section 9 of the ESA if the conservation measures specified in the sea turtle conservation regulations (50 CFR 223) are followed. The regulations require most shrimp trawlers and summer flounder trawlers operating in the southeastern United States (Atlantic area, Gulf area, and summer flounder sea turtle protection area, see 50 CFR 223.206) to have a NMFS-approved TED installed in each net that is rigged for fishing to allow sea turtles to escape. TEDs currently approved by NMFS include single-grid hard TEDs and hooped hard TEDs conforming to a generic description, the flounder TED, and one type of soft TED the Parker soft TED (see 50 CFR 223.207).

TEDs incorporate an escape opening, usually covered by a webbing flap, which allows sea turtles to escape from trawl nets. To be approved by NMFS, a TED design must be shown to be 97 percent effective in excluding sea turtles during testing based upon specific testing protocols (50 CFR 223.207(e)(1)). Most approved hard TEDs are described in the regulations (50 CFR 223.207(a)) according to generic criteria based upon certain parameters of TED design, configuration, and installation, including height and width dimensions of the TED opening through which the turtles escape.

The regulations governing sea turtle take prohibitions and exemptions provide for the use of limited tow times as an alternative to the use of TEDs for vessels with certain specified characteristics or under certain special circumstances. The provisions of 50 CFR 223.206(d)(3)(ii) specify that the NOAA Assistant Administrator for Fisheries (AA) may authorize compliance with tow time restrictions as an alternative to the TED requirement if the AA determines that the presence of algae, seaweed, debris, or other