

Military and Associated Terms") are familiar and comply with applicable: (i) Military Service and Department of Defense regulations, directives, instructions, general orders, policies, and procedures, in particular Army Regulation 715-9 and Field Manual 3-100.21; (ii) U.S., host country, local, and international laws and regulations; and (iii) treaties and international agreements (e.g., Status of Forces Agreements, Host Nation Support Agreements, and Defense Technical Agreements) relating to safety, health, force protection, and operations under this contract.

(4) The Contractor shall ensure that this clause is included in all subcontracts.

(b) *Compliance with Combatant Command Orders.* The Contractor shall ensure that Contractor Personnel, regardless of residency status, working in the AO comply with all orders, directives, and instructions of the combatant command relating to non-interference in military operations, force protection, health, and safety. The Combatant Commander or his subordinate commanders, in conjunction with the Contracting Officer or the Contracting Officer's Representative, may direct the Contractor, at the Contractor's own expense, to replace and, where applicable, repatriate any Contractor personnel who fail to comply with this provision. Such action may be taken at the Government's discretion without prejudice to its rights under any other provision of this contract, including the Termination for Default clause.

(c) *Contractor Personnel Administration.* (1) In order to maintain accountability of all deployed personnel in the AO, the Contractor shall follow instructions issued by the Army Materiel Command's Logistics Support Element (AMC LSE) or other Contracting Officer's designated representative to provide, and keep current, requested data on Contractor Personnel for entry into military personnel database systems.

(2) The Contractor shall coordinate with the AMC LSE or other Contracting Officer's designated representative for logistics support, as follows: (i) Upon initial entry into the AO; (ii) upon initiation of contract performance; (iii) upon relocation of contract operations within the AO; and (iv) upon exiting the AO.

(3) Before deployment, the Contractor shall ensure that:

(i) All Contractor Personnel complete two DD Forms 93, Record of Emergency Data Card. One copy of the completed form shall be returned to the Government official specified by the Contracting Officer's designated representative; the other shall be hand-carried by the individual employee to the AO.

(ii) All required security and background checks are completed.

(iii) All medical screening and requirements are met.

(4) The Contractor shall ensure that Contractor Personnel have completed all pre-deployment requirements specified by the Contracting Officer's designated representative (including processing through the designated Continental United States (CONUS) Replacement Center unless another deployment processing method is

specifically authorized), and the Contractor shall notify the Contracting Officer's designated representative that these actions have been accomplished.

(5) The Contractor shall have a plan for timely replacement of employees who are no longer available for deployment for any reason, including mobilization as members of the Reserve, injury, or death.

(d) *Clothing and Equipment Issue.* (1) To help distinguish them from combatants, Contractor Personnel shall not wear military clothing unless specifically authorized by a written Department of Army waiver. Contractor Personnel may wear specific items of clothing and equipment required for safety and security such as ballistic or NBC (Nuclear, Biological, Chemical) protective clothing. The CONUS Replacement Center or the combatant command may provide to the Contractor Personnel military unique Organizational Clothing and Individual Equipment (OCIE) to ensure security and safety.

(2) All issued OCIE shall be considered Government Furnished Property, and will be treated in accordance with Government Furnished Property clauses included elsewhere in this contract.

(e) *Weapons and Training.* (1) Contractor Personnel may not possess privately owned firearms in the AO. The combatant command may issue weapons and ammunition to Contractor Personnel, with the employee's company's consent as well as the individual employees' consent, and may require weapons and other pre-deployment training.

(2) The Contractor shall ensure that Contractor Personnel follow all instructions by the combatant command, as well as applicable Military Service and DoD regulations, regarding possession, use, safety, and accountability of weapons and ammunition.

(3) All issued weapons, ammunition, and accessories (e.g., holsters) shall be considered Government Furnished Property. Upon redeployment or notification by the combatant command, the Contractor shall ensure that all Government issued weapons and unused ammunition are returned to the point of issue using a method that complies with Military Service regulations for issue and turn-in of firearms.

(f) *Vehicle and Equipment Operation.* (1) The Contractor shall ensure that Contractor Personnel possess the required licenses to operate all vehicles or equipment necessary to perform the contract in the AO.

(2) Contractor-owned or leased motor vehicles or equipment shall meet all requirements established by the combatant command and shall be maintained in a safe operating condition.

(g) *Passports, Visas and Customs.* The Contractor is responsible for obtaining all passports, visas, and other documents necessary for Contractor Personnel to enter and exit any AO.

(h) *Purchasing Limited Resources.* When the Combatant Command establishes a Commander-in-Chief Logistics Procurement Support Board (CLPSB), Joint Acquisition Review Board, or similar purchase review committee, the contractor will be required to coordinate local purchases of goods and

services designated as limited, in accordance with instructions provided by the Administrative Contracting Officer or the Contracting Officer's designated representative.

(End of Clause)

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2002-12065]

RIN 2127-A188

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Delay of expiration date of interim final rule.

SUMMARY: On October 22, 2002, NHTSA published an interim final rule that amended the Federal motor vehicle safety standard on child restraint systems to permit the manufacture and sale of harnesses that attach to school bus seat backs as long as the harnesses are properly labeled. The agency scheduled the interim final rule to terminate on December 1, 2003, while requesting comments on permanently adopting the provisions of the interim final rule. To allow for more time to respond to the comments, this document delays the expiration date of the interim final rule for an additional nine months.

DATES: The expiration of the interim final rule published at 67 FR 64818 (October 22, 2002), as amended by this rule, is delayed until September 1, 2004. The amendment published in this rule is effective November 28, 2003, and expires on September 1, 2004.

Any petitions for reconsideration of this final rule must be received by NHTSA not later than January 12, 2004.

ADDRESSES: Petitions for reconsideration, identified by DOT DMS Docket No. NHTSA-2002-12065, should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590:

For technical issues: Mr. Tewabe Asebe, Office of Crashworthiness Standards, NVS-113, telephone (202) 366-2365, facsimile (202) 493-2739.

For legal issues: Mr. Christopher Calamita, Office of Chief Counsel, NCC-112, telephone (202) 366-2992, facsimile (202) 366-3820.

SUPPLEMENTARY INFORMATION: Interim Final Rule

On October 22, 2002, NHTSA published an interim final rule to permit, temporarily, the manufacture and sale of harnesses designed to attach to school bus seats. (67 FR 64818; Docket No. NHTSA-2002-12065). The interim rule was adopted to facilitate the transportation of preschool and special needs children for the new school year, and to relieve a restriction imposed by FMVSS No. 213, *Child restraint systems*, on the manufacture and sale of the harnesses.

The interim rule responded to a petition for rulemaking from a harness manufacturer, E-Z-On Products, Inc. ("E-Z-On"), which requested that NHTSA amend a prohibition in S5.3.1 of FMVSS No. 213 against seat-mounted harnesses. The petitioner believed that the harnesses were especially needed to help transport preschool and special needs children in school buses, because the devices could restrain the children and provide upper body support without the use of seat belts.

In the interim rule, NHTSA determined that permitting the manufacture and sale of seat-mounted harnesses for use on school buses would enhance the safe transportation of preschool and special needs children, subject to a precautionary measure to avoid overloading the seat to which the harness is attached in a collision. The interim rule provided that, as of February 1, 2003, seat-mounted harnesses for school buses could be manufactured if they bore a permanent warning label that warned about overloading the seat. The agency decided that the likelihood of seat failure in a collision would be reduced if the entire seat directly rearward of a child restrained in a seat-mounted harness were vacant or occupied only by restrained passengers. NHTSA required the label to be placed on the part of the restraint that attaches the harness to the vehicle seat back, and it must be visible when the harness is installed. The label must bear a pictogram and the following statements: "WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants."

The interim rule also added a definition of "harness"¹ to the standard. The definition of a harness is "a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child."

The interim rule made several other amendments to FMVSS No. 213 relating to this issue. These other amendments specified the means of attachment by which a harness must be capable of meeting the requirements of FMVSS No. 213 and established the dynamic test procedures of the standard for testing seat-mounted harnesses.

NHTSA determined that it was in the public interest to make the changes effective immediately on an interim basis (until December 1, 2003) to enable the restraints to be manufactured and sold for immediate use during the school year. A one-year period was provided to enable us to decide whether to amend the standard permanently.

A large majority of the commenters supported adopting a permanent exclusion for harnesses manufactured and sold for use on school bus seats from the prohibition against such a design. Some commenters raised questions about the warning label text and placement. Comments were also received on the specific test conditions of the standard.

The agency is in the process of determining whether to amend the standard permanently in response to the comments received. We anticipate issuing a response to comments in early 2004. A nine-month extension of the temporary amendments, to September 1, 2004, preserves the status quo until then.

Effective Date of This Document

Because the December 1, 2003 date for the termination of the period during which seat-mounted harnesses can be manufactured is fast approaching, NHTSA finds for good cause that today's action extending the temporary amendments must take effect immediately. Today's final rule makes no substantive change to the standard as amended by the interim rule, but extends the temporary amendments for nine months while the agency complete its response to the comments. If the effective date were not delayed, manufacturers would be required to stop production and sales of harnesses

¹ We consider the term "harness" to be interchangeable with the term "vest", which is commonly used to describe seat-mounted restraints.

that attach to school bus seat backs prior to the agency's response to comments that requested the interim rule to be made permanent. Also, pupil transportation operators would find it increasingly difficult to purchase seat-mounted harnesses beginning December 1, 2003.

Rulemaking Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "nonsignificant" under the Department of Transportation's regulatory policies and procedures. The agency concludes that the impacts of the amendments are so minimal that preparation of a full regulatory evaluation is not required. The rule will not impose any new requirements or costs on manufacturers, but instead will continue to allow manufacturers to produce a type of harness for nine months if the harness bears a label providing information regarding how the harness should be used.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. The rule will not impose any new requirements or costs on manufacturers, but instead will extend the period in which manufacturers are permitted to produce seated-mounted harnesses, so long as the harnesses bear a label providing information regarding how the restraint should be used. We anticipate that the seat-mounted harnesses will be sold to school districts and to other pupil transportation providers. NHTSA has learned of the existence of two manufacturers, both of which are small businesses. The agency believes that this rule will not have a significant impact on these businesses since it only preserves the status quo for nine months.

C. Paperwork Reduction Act

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

establish any new information collection requirements.

D. National Environmental Policy Act

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

E. Executive Order 13132 (Federalism)

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

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The rule will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

F. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to

the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE).

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

H. Unfunded Mandates Reform Act

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

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

I. Regulation Identifier Number (RIN)

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

document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

PART 571—[AMENDED]

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

■ 1. The authority citation for part 571 continues to read as follows:

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

§ 571.213 [Amended]

■ 2. In § 571.213, S5.3.1 is revised to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S5.3.1 Add-on child restraints shall meet the requirements of either paragraph (a) or (b) of this section, as appropriate.

(a) Except for components designed to attach to a child restraint anchorage system, each add-on child restraint system must not have any means designed for attaching the system to a vehicle seat cushion or vehicle seat back and any component (except belts) that is designed to be inserted between the vehicle seat cushion and vehicle seat back. Harnesses manufactured before February 1, 2003 that are manufactured for use on school bus seats are excluded from S5.3.1(a).

(b) Harnesses manufactured on or after February 1, 2003, but before September 1, 2004, for use on school bus seats must meet S5.3.1(a) of this standard, unless a label that conforms in content to Figure 12 and to the requirements of S5.3.1(b)(1) through S5.3.1(b)(3) of this standard is permanently affixed to the part of the harness that attaches the system to a vehicle seat back.

(1) The label must be plainly visible when installed and easily readable.

(2) The message area must be white with black text. The message area must be no less than 20 square centimeters.

(3) The pictogram shall be gray and black with a red circle and slash on a white background. The pictogram shall be no less than 20 mm in diameter.

* * * * *

Issued on: November 21, 2003.

Jeffrey W. Runge,
Administrator.

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