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Synopsis

There are several forms of TRS, including three that are Internet-based TRS: Video Relay Service (VRS), Internet Protocol (IP) Relay (IP Relay), and IP captioned telephone service (IP CTS). The Bureau has received requests for guidance concerning the transferability of Commission certification of Internet-based TRS providers as eligible for compensation from the Fund, pursuant to the provider certification rules contained in 47 CFR 64.606 (as redesignated at 73 FR 21259, Apr. 21, 2008). The Bureau clarifies that such certification is not transferable. Therefore, in the event that an entity *not* certified pursuant to 47 CFR 64.606 purchases, acquires, or merges with another TRS provider, the acquiring or surviving provider must be certified under 47 CFR 64.606 (or otherwise eligible for compensation from the Fund) before it can receive payments from the Fund. Because the Commission certifies providers based on the attestations of their owners or their representatives, who are ultimately responsible for compliance with the Commission's rules, the certification of a provider does not automatically transfer to new owners.

On the other hand, if an entity that *is* certified pursuant to 47 CFR 64.606 purchases, acquires, or merges with another TRS provider, the acquiring or surviving provider need only notify the Commission of the change in its TRS program and provision of service within 60 days pursuant to 47 CFR 64.606(f)(2). Under this rule, the acquiring or surviving company must notify the Commission of the changes to its program and provision of service that result from the acquisition and "must certify that the interstate TRS provider continues to meet federal minimum standards." To meet the latter requirement, the provider may either certify that the responses provided in its initial certification application upon

which the Commission based certification remain accurate, or describe any changes and certify their compliance with the Commission's rules.

Federal Communications Commission.

Nicole McGinnis,

Deputy Chief, Consumer and Governmental Affairs Bureau.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 08-0137]

RIN 2127-AK36

Federal Motor Vehicle Safety Standards, Child Restraint Systems

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

ACTION: Final rule.

SUMMARY: This final rule amends a provision in Federal Motor Vehicle Safety Standard (FMVSS) No. 213 that specifies that child restraints manufactured on or after August 1, 2008 are tested by NHTSA with the Hybrid III version of the 6-year-old child dummy. NHTSA is postponing the August 1, 2008 date to August 1, 2010. The August 1, 2010 date provides NHTSA time to consider comments on seating procedures proposed earlier this year for the dummy and to complete an evaluation of technical issues relating to the use of the Hybrid III dummy in FMVSS No. 213, and provides the public more time to become experienced with testing with the dummy. As a result of this final rule, FMVSS No. 213 will permit, at the manufacturer's option, the use of either the Hybrid II or Hybrid III 6-year-old dummy in compliance tests of child restraints manufactured on or before August 1, 2010. Child restraints manufactured on or after August 1, 2010 will be tested with the Hybrid III 6-year-old child test dummy.

DATES: If you wish to petition for reconsideration of this rule, your petition must be received by September 19, 2008.

Effective date: This final rule is effective August 5, 2008.

ADDRESSES: If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket

number of this document and submit your petition to: Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

The petition will be placed in the docket. Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

FOR FURTHER INFORMATION CONTACT: For technical issues, you may call Shashi Kuppaa, PhD, Office of Rulemaking (Telephone: 202-366-1740) (Fax: 202-493-2990). For legal issues, you may call Deirdre Fujita, Office of Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820). You may send mail to these officials at the National Highway Traffic Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This final rule amends S7.1.3 of FMVSS No. 213 to permit, at the manufacturer's option, the use of either the Hybrid II or Hybrid III 6-year-old dummy in compliance tests of child restraints manufactured before August 1, 2010. A notice of proposed rulemaking preceding this final rule was published January 23, 2008 (73 FR 3901, Docket No. 2007-0048).

Background

On July 28, 2005, NHTSA issued an interim final rule (70 FR 44520) that amended a provision in FMVSS No. 213 that had specified that child restraints¹ manufactured on or after August 1, 2005 would be subject to compliance testing with a Hybrid III 6-year-old child test dummy (August 3, 2005, Docket No. 05-22010). The Hybrid III 6-year-old child test dummy is specified in 49 CFR part 572, subpart N. The agency had incorporated the Hybrid III test dummy in FMVSS No. 213 to replace its Hybrid II counterpart believing that the Hybrid III test dummy's enhanced biofidelity and extensive instrumentation would lead to a more thorough and precise assessment of child restraint performance over that resulting from the Hybrid II dummy. However, a child

¹ These child restraints are recommended by their manufacturer for children weighing over 18 kilograms (40 pounds (lb)) or whose height is greater than 1100 millimeters.

restraint manufacturer (Dorel Juvenile Group (Dorel)) asked to delay the compliance date for the mandatory use of the Hybrid III dummy because of unexpectedly high Head Injury Criterion (HIC) measurements Dorel found when it tested its booster seats with the Hybrid III dummy. In the interim final rule, the agency agreed that the August 2005 date should be postponed to August 1, 2008 to provide more time to work with the dummy and make needed adjustments to child restraints to enable them to meet FMVSS No. 213 performance criteria.

Supplemental Notice

Following publication of the interim final rule, NHTSA developed FMVSS No. 213 test dummy seating procedures that could be used with Hybrid III test dummies in belt-positioning booster seats to better control variability of HIC measurements obtained by the test dummy. Seating procedures were developed and proposed for the Hybrid III 10-year-old and Hybrid III 6-year-old child test dummies in a supplemental notice of proposed rulemaking (SNPRM) published January 23, 2008 (73 FR 3901, Docket No. 2007-0048).² The agency determined that a dummy that is set up to have a more reclined torso is more likely to submerge under the vehicle belt than a dummy that is more upright and well restrained, resulting in higher rotational velocity in the dummy's head and a non-representative contact of the head with a relatively rigid portion of the dummy structure as compared to a test with the dummy in a more upright position. Thus, because dummy posture in booster seats was found to affect HIC measurements obtained by the dummy, the agency proposed a high degree of specificity in the dummy set-up procedure. Comments were requested on the proposed seating procedure for testing booster seats with the Hybrid III 6-year-old dummy and on the need for the procedure for testing child restraints other than booster seats. 73 FR at 3909. In addition, because the August 1, 2008 date that had been adopted by the interim final rule was approaching while issues related to the proposed seating procedure for the Hybrid III 6-year-old dummy were still under consideration, the SNPRM proposed to postpone the August 1, 2008 date for

mandatory use of the dummy until August 1, 2010.

In commenting on the issue of the proposed August 1, 2010 compliance date in the SNPRM, the Juvenile Products Manufacturers Association Inc. (JPMA) stated that its child restraint manufacturer members supported the proposed postponement of the August 1, 2008 date to August 1, 2010. JPMA believed that testing with the Hybrid III 6-year-old child test dummy "continue[s] to provide erroneous results" and that "changes to address the design and performance issues have not been implemented to date." (JPMA did not elaborate on its reference to "design and performance issues" of the dummy.) Dorel commented also, indicating concurrence with the JPMA comment and concerns about the "non-biofidelic behavior of the Hybrid 3 6yr dummy." No comment opposed the postponement of the August 1, 2008 date.

Decision

For the reasons stated in the SNPRM and after consideration of the comments on the proposed postponement of the August 1, 2008 date, NHTSA has decided to adopt the proposed amendment of S7.1.3 of FMVSS No. 213. The amendment allows, at the manufacturer's option, the use of either the Hybrid II or Hybrid III 6-year-old test dummy in compliance tests of child restraints manufactured before August 1, 2010. The extended time for optional use of the Hybrid III dummy provides NHTSA time to consider comments on the proposed seating procedure of the SNPRM for the dummy and provides the public more time to become experienced testing with the dummy.

The extended time period also provides the agency a window of opportunity to complete an evaluation of two minor changes to the Hybrid III dummy's design before the effective date for the mandatory use of the dummy in agency compliance tests. The first change relates to a petition for rulemaking submitted by test dummy manufacturers First Technology Safety Systems, Inc. and Denton ATD to correct an error in the drawing package incorporated by reference into 49 CFR part 572 for the abdominal insert for the dummy. These dummy manufacturers believe that the drawing for the abdominal insert does not match the mold used to manufacture the abdomen inserts in the dummies and should therefore be corrected.

The second change relates to the femur design of the Hybrid III 6-year-old child dummy. When using the dummy in FMVSS No. 213 tests and in vehicle

crash tests conducted under NHTSA's consumer information New Car Assessment Program, the agency observed failures of the femur involving complete separation of the dummy leg(s) from the pelvis. Failures occurred across a variety of test facilities and test conditions and also when testing a variety of child restraints, while the failure mode appeared the same for all cases. Failure appears to have occurred at a sharp corner between two sections of the machined femur: The larger section that clamps onto the upper leg and the smaller section that contains the femur shaft. Fracturing of this area has caused the complete separation of the machined femur. NHTSA is initiating rulemaking to propose a femur design for the dummy that would enable the femur to withstand the stresses of dynamic testing without failure. Postponement of NHTSA's mandatory use of the Hybrid III 6-year-old child dummy until August 1, 2010 will provide the agency time to address the dummy's abdomen drawing and femur design prior to use of the dummy in FMVSS No. 213 compliance tests.

The January 23, 2008 SNPRM and August 31, 2005 NPRM addressed many issues other than the August 1, 2010 date for testing with the Hybrid III 6-year-old dummy. NHTSA will address these other issues in a subsequent document.

Regulatory Analyses and Notices

Executive Order, 12866 Regulatory Planning and Review

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and only extends the compliance date for certification to testing with the Hybrid III 6-year-old test dummy. The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact

² The SNPRM supplemented an August 31, 2005 notice of proposed rulemaking (NPRM) that proposed to expand the applicability of FMVSS No. 213 to restraints recommended for children up to 80 lb and to require booster seats and other restraints to meet performance criteria when tested with the Hybrid III 10-year-old child test dummy (70 FR 51720; NHTSA Docket No. 21245).

upon a substantial number of small entities within the context of the Regulatory Flexibility Act. The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). This final rule affects child restraint manufacturers. According to the size standards of the Small Business Association (at 13 CFR Part 121.601), the small business size standard for manufacturers of "Motor Vehicle Seating and Interior Trim Manufacturing" (NAICS Code 336360) is 500 employees or fewer. Many child restraint manufacturers would be classified as small businesses under this standard. However, the final rule does not impose any new requirements on manufacturers that produce child restraint systems, but only extends a compliance date. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

Executive Order 13132, Federalism

E.O. 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." E.O. 13132 defines the term "Policies that have federalism implications" 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 E.O. 13132, NHTSA may not issue a regulation that has 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, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires 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 annually. This action will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), 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 final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Environmental Impacts

We have considered the impacts of this final rule under the National Environmental Policy Act. This

rulemaking action only extends the compliance date for certification of child restraint systems using the Hybrid III 6-year-old test dummy. This rulemaking does not require any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

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

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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

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

■ 2. Section 571.213 is amended by revising S7.1.3 to read as follows:

§ 571.213 Standard No. 213; Child restraint systems.

* * * * *

S7.1.3 Voluntary use of alternative dummies. At the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification of the restraint), with regard to testing a child restraint manufactured before August 1, 2010, when this section specifies use of the 49 CFR part 572, subpart N (Hybrid III 6-year-old dummy) test dummy, the test dummy specified in 49 CFR part 572, subpart I (Hybrid II 6-year-old dummy) may be used in place of the subpart N test dummy.

Issued: July 31, 2008.

Nicole R. Nason,
Administrator.

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