the rear unit of the EOT is attached, remains a part of the train after conducting these switching operations, the communication between the front unit and the rear unit should remain intact even after a cut of cars is added or removed from the train. Furthermore, many local trains currently operate with rear-end marking devices or one-way EOTs which would have to be reinstalled if the rear car were removed from the train. Additionally, if a train is not equipped with a one-way EOT then an inspection of the ''set and release'' of the rear car must performed when cars are added or removed from a train; thus, someone would have to be at the rear to conduct this inspection. *See* 49 CFR 232.13. Consequently, in FRA's view, the increased time burdens and the potential damage to the rear units are greatly overstated in the petition when compared with current practice. We believe these actual and potential costs can be greatly minimized and should be incurred in only a limited number of circumstances.

FRA further considers to be without merit the ASLRA's contention that the definition of local train should not have been decided in the context of the proceeding to issue the two-way EOT final rule. The final rule text explicitly states that the definition of local train is intended solely for the purpose of identifying operations subject to the requirements for the use of two-way EOTs. *See* 62 FR 294. FRA does not intend for the definitions used in this final rule to change or otherwise impinge on other possible definitions of the term local train when used in another context. Therefore, the definition used in this final rule should have no impact on future regulatory proceedings. Consequently, after careful consideration of the ASLRA's petition for reconsideration and for the reasons set forth above, FRA has decided to deny ASLRA's request to change the definitions of local and work trains contained in § 232.23(a)(3) and (a)(4) of the final rule on two-way EOTs.

Issued in Washington, DC, on May 29, 1997.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 97–14497 Filed 6–3–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 119]

RIN 2127–AG82

Federal Motor Vehicle Safety Standards; Occupant Crash Protection, Child Restraint Systems

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

ACTION: Interim final rule; request for comments.

SUMMARY: This document amends Standard No. 213, ''Child Restraint Systems,'' to modify the air bag warning label that child seats which can be used in a rear-facing position (''rear-facing child seats'') are now required to bear. The required label warns that the rear-facing child restraint must never be placed in the front seat with an air bag. On April 17, 1997, NHTSA issued an interim final rule which allowed the phrase ''unless air bag is off'' to be added to the end of the warning, if the child seat automatically deactivates the air bag and activates a specified telltale light in the vehicle. On further examining the issue in response to a request from Porsche Cars North America Inc. (Porsche), NHTSA has tentatively determined that the phrase ''unless air bag is off'' may be added to child seats regardless of the means by which they deactivate the air bag so long as deactivation can be achieved, and that specified telltale requirements are unnecessary so long as an audible or visual signal is provided to the driver that the air bag has been disabled. This document makes final on an interim basis the amendment requested by Porsche, and supplements the amendments made by the April 17, 1997 interim rule. The agency also solicits comments on today's amendment.

DATES: This rule is effective June 4, 1997. Comments must be received by July 21, 1997. Because this amendment will clarify the required warning label and will relieve a restriction currently imposed by the standard, NHTSA has determined that it is in the public interest to make the changes effective immediately on an interim basis. Assuming that a final rule is issued, the final rule would respond to any comments and would be effective upon publication in the **Federal Register**.

ADDRESSES: Comments should refer to the docket and notice numbers above and be submitted to: Docket Section, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

For nonlegal issues: Mary Versailles, Office of Safety Performance Standards, NPS–31, telephone (202) 366–2057.

For legal issues: Deirdre Fujita, Office of Chief Counsel, NCC–20, telephone (202) 366–2992.

Both can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

SUPPLEMENTARY INFORMATION: This document amends Standard No. 213, ''Child Restraint Systems,'' on an interim basis to modify the air bag warning label which rear-facing child seats must bear effective May 27, 1997. This document also solicits comments on this amendment. It is the second interim final rule modifying the warning label.

Original Final Rule

The requirement for the label was adopted by a November 27, 1996 final rule (61 FR 60206)[1], which also adopted new warning label requirements for vehicles with air bags. The requirement for the enhanced child seat label is set forth in S5.5.2(k) of Standard 213. The requirement specifies, among other things, the exact content of the message that must be provided by the label. The message of the label must be preceded by a heading (''WARNING''), with an alert symbol, and state the following:

DO NOT place rear-facing child seat on front seat with air bag.
DEATH OR SERIOUS INJURY can occur.

The back seat is the safest place for children 12 and under. Also required for the label is a pictogram showing a rear-facing child seat being impacted by an air bag, surrounded by a red circle with a slash across it. Flexibility as to the content of the label is not provided; thus, wording other than that specified in the standard is not permitted.

First Interim Final Rule

On April 17, 1997 (62 FR 18723), NHTSA amended S5.5.2(k) to permit, for some child restraints, the addition of the phrase ''unless air bag is off'' after the sentence stating ''DO NOT place rear-facing child seat on front seat with air bag.'' The amendment responded to

[1] Corrected December 4, 1996 (61 FR 64297), December 11, 1996 (61 FR 65187), and January 2, 1997 (62 FR 31).

a request from Mercedes-Benz concerning rear-facing child seats that have features enabling the seat to deactivate the passenger-side air bag.

Mercedes developed a rear-facing child seat with a device that automatically cuts off the passenger-side air bag in vehicles designed to respond to such a device. The cutoff feature makes it possible to use a child restraint system on the front seat of these vehicles without subjecting the child to risk of injury from an air bag deployment. Mercedes believed that the first statement (''DO NOT place rear-facing child seat on front seat with air bag'') was inappropriate for child restraints with a feature that turns off the air bag, and could be potentially confusing to owners of child restraints that are marketed as compatible with a complementary air bag system. Mercedes suggested that the amended label should be permitted on a child restraint that is equipped with a cutoff device, if the cutoff device automatically deactivates the passenger-side air bag and activates a telltale light in the vehicle that complies with S4.5.4.3 of Standard No. 208, ''Occupant Crash Protection'' (49 CFR § 571.208).

In the April 17, 1997 interim final rule, NHTSA agreed with Mercedes that adding the phrase ''unless air bag is off'' would clarify the message of the label and reduce the likelihood of confusing owners of child seats that are intended for use on and marketed as appropriate for front seat positions on vehicles equipped with complementary air bag cutoff devices. The agency tentatively agreed that the conditions for (a) automatic deactivation and (b) a telltale meeting S4.5.4.3 of Standard 208, ''reduce[d] the likelihood that a child restraint would be used with an active air bag.'' Because NHTSA saw no diminution of safety resulting from the change, the agency amended the standard to accommodate Mercedes' request.

Today's Interim Rule

After the April 17, 1997 interim final rule was issued, Porsche contacted the agency asking whether the conditions for automatic deactivation and a telltale meeting S4.5.4.3 were necessary requisites to allowing the phrase ''unless air bag is off'' to be added to the child seat warning label.

Porsche has also developed a rear-facing child seat with a device that cuts off the passenger-side air bag in vehicles designed to respond to such a device. However, unlike Mercedes, the device is not automatic. To cut off the passenger-side air bag, a specialized buckle tongue on the child seat must be inserted into a buckle receiver installed under the front passenger seat. The Porsche system does not include a telltale light complying with S4.5.4.3 of Standard No. 208. Instead, the air bag readiness indicator flashes for 10 seconds to inform the driver that the child seat has properly cut off the passenger-side air bag. If the vehicle is on when the special buckle is inserted in the receiver, the warning light flashes upon insertion of the buckle. If the vehicle is off when the special buckle is inserted, the warning light flashes each time the ignition is turned on. Porsche believes that its design, while different from the Mercedes design, also warrants the addition of the phrase ''unless air bag is off'' to the child seat warning label on Porsche's rear-facing child seats.

On reexamining the interim rule, NHTSA has tentatively determined that the phrase ''unless air bag is off'' may be added to a child seat that can deactivate an air bag, whether or not the deactivation is automatic. In addition, the agency has tentatively determined that specified telltale requirements are unnecessary so long as a signal is provided to the driver that the air bag has been disabled.

If an air bag is deactivated by a device incorporated into a child safety seat, the danger that the label on the seat warns against will not be present. This result can be achieved as effectively by non-automatic means as by automatic means. The question raised by a non-automatic device such as Porsche's is whether a person installing the seat in a vehicle will install it correctly. If the likelihood of correct installation is very high, allowing the addition of the phrase ''unless air bag is off'' to the label would help resolve any confusion on the part of the person installing the seat.

In the case of the device employed by Porsche, the child safety seat is equipped with a single buckle that fits into a buckle receiver under the vehicle's seat. The buckle fits no other part of the vehicle. The correctness of its installation is evident, both by the click of the buckle upon its insertion into the receiver and by the activation of a visual signal on the vehicle's dash. These features offer sufficient assurance of correct installation, in the agency's view, to warrant the modification of the label.

The nature of the visual signal is the second issue raised by the Porsche request. The agency considers it essential to have a means of notifying the driver that the air bag has been disabled. In the first interim rule, NHTSA said that the phrase may be added if the child seat has a device that activates a telltale complying with S4.5.4.3 of Standard 208. S4.5.4.3 states:

> A telltale light on the dashboard shall be clearly visible from all front seating positions and shall be illuminated whenever the passenger air bag is deactivated. The telltale:
> (a) Shall be yellow;
> (b) Shall have the identifying words ''AIR BAG OFF'' on the telltale or within 25 millimeters of the telltale;
> (c) Shall remain illuminated for the entire time that the passenger air bag is deactivated;
> (d) Shall not be illuminated at any time when the passenger air bag is not deactived; and,
> (e) Shall not be combined with the readiness indicator required by S4.5.2 of [Standard 208].

Upon reexamining the need for notifying the driver, the agency has tentatively determined that the telltale requirements of Standard 208 are not necessary, as stated in the first interim final rule, to ''reduce the likelihood that a child restraint would be used with an active air bag.'' 62 FR at 18724. The telltale requirements were originally specified for a cutoff device that operates in a way that could allow an adult to use the front passenger seating position with the air bag deactivated. The requirements ensure that there is a reminder that the cutoff device should be reset whenever the vehicle's front seat is no longer carrying an infant, so that the air bag would be ready when needed. The telltale requirements are intended to inform an adult passenger, to enable him or her to see the warning light and understand that the air bag is not activated.

In contrast, air bag deactivation systems of the types developed by Mercedes and Porsche deactivate the air bag when and only when a child restraint is present and reactivate the air bag when the child restraint is removed. Such systems render it highly unlikely that an unknowing adult could be seated in the front seating position with the air bag deactivated. Because of this difference, a telltale meeting S4.5.4.3 of Standard 208 does not appear needed.

NHTSA has tentatively decided, however, that the driver should be signaled as to whether the child seat has deactivated the air bag. The agency has tentatively concluded that the signal must continue for at least 10 seconds after deactivation of the air bag. A visual signal could include a dashboard light.

Because this rule does not require that a dashboard light must remain illuminated for the entire time that the passenger air bag is deactivated, the agency tentatively concludes that the light may be combined with the readiness indicator required by S4.5.2 of

Standard 208. However, such combination must not affect the compliance of the readiness indicator with S4.5.2.

This amendment clarifies a requirement and avoids possible confusion resulting from the required labeling. Accordingly, NHTSA finds for good cause that an immediate amendment of the requirement is in the public interest.

Submission of Comments

Interested persons are invited to submit comments on this rule. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length. (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for the interim rule will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the interim rule will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 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 amendments pertain to optional label changes that are minor in nature. The agency concludes that the impacts of the amendments are so minimal that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this document under the Regulatory Flexibility Act. I hereby certify that this rule does 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 permit a manufacturer to use an optional label on its child restraint if conditions on the use of the label are met. Further, since no price increases are associated with the rule, small organizations and small governmental units are not be affected in their capacity as purchasers of child restraints.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This rule has no 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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.

2. Section 571.213 is amended by revising S5.5.2(k)(5), to read as follows:

§ 571.213 Standard No. 213, Child Restraint Systems.

* * * * *

S5.5.2 * * *

(k) * * *

(5) 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 10 seconds after deactivation, that the air bag is deactivated, the label specified in Figure 10 may include the phrase ''unless air bag is off'' after ''on front seat with air bag.''

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Issued on May 30, 1997.

Philip Recht,

Deputy Administrator.

[FR Doc. 97–14607 Filed 5–30–97; 3:22 pm]

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