

Respondents: Business or other for profit and non-profit.

Number of Respondents: 807.

Estimated Time Per Response: 30 minutes.

Total Annual Cost Burden: 0.

Total Annual Burden: 403½ hours.

Needs and Uses: The proposed labeling requirements would serve to educate consumers as to the capabilities and limitations of their handsets thus avoiding confusion resulting in delay in responding to E911 calls.

Ordering Clauses

32. Pursuant to sections 1, 4(i), 4(j), 7, 10, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 157, 160, 201, 202, 208, 214, 301, 303, 308, 309(j), and 310, this Further Notice of Proposed Rulemaking is adopted.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2001-9816]

Federal Motor Vehicle Safety Standards; Child Restraint Anchorage Systems

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

ACTION: Denial of petition for reconsideration.

SUMMARY: The Federal motor vehicle safety standard on child restraint anchorage systems requires vehicle manufacturers to install child restraint anchorage systems in passenger motor vehicles. The standard specifies “marking and conspicuity” requirements for the lower bars of a child restraint anchorage system to help users locate and use the bars and to inform or remind them that the anchorage system is present. The standard was amended to permit manufacturers to meet these requirements, for a limited period, by installing at least one anchorage bar so that it is visible, or by installing a guidance fixture or one seat marking feature that is visible to a person installing a child restraint test fixture.

Volkswagen AG and Volkswagen of America, Inc. (Volkswagen) petitioned for reconsideration of the rule. Volkswagen had been providing guidance fixtures on an “as requested” basis, rather than providing them with each new vehicle. The petitioner requested NHTSA to defer the effective date of the requirement for a guidance fixture until the manufacturer could obtain a supply of guidance fixtures from its supplier. For the reasons provided in this document, we have denied the petition.

FOR FURTHER INFORMATION CONTACT: *For nonlegal issues:* Mike Huntley, Office of Crashworthiness Standards, Special Vehicle and Systems Division (telephone 202-366-0029).

For legal issues: Deirdre Fujita, Office of the Chief Counsel (202-366-2992).

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

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA’s March 1999 Final Rule

On March 5, 1999, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard No. 225, “Child Restraint Anchorage Systems” (49 CFR 571.225), to require motor vehicle manufacturers to install child restraint anchorage systems that are standardized and independent of the vehicle seat belts (64 FR 10786) (Docket No. 98-3390, notice 2). Each new system has two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be snapped. The bars are located at the intersection of the vehicle seat cushion and seat back. The upper anchorage is a fixture to which the tether of a child restraint system can be hooked.

The final rule required vehicle manufacturers to begin phasing-in the tether anchorage of the child restraint anchorage system in the production year beginning September 1, 1999, with full implementation beginning September 1, 2000. Manufacturers were required to begin phasing-in the lower anchorages in the production year beginning on September 1, 2000, with full implementation beginning September 1, 2002.

The final rule was based on technical specifications set forth in November 1996 and June 1998 drafts of a child restraint anchorage system standard being developed by a working group of the International Organization for Standardization (ISO). The technical specifications covered matters such as

the design and configuration of the anchorage system, and the strength of each component of the system. While many concepts and requirements of the draft ISO standard were incorporated into the final rule on Standard No. 225, the final rule highlighted differences between the rule and the draft ISO standard with regard to the strength required of the anchorages, and well as to the marking of the anchorages and other requirements.

NHTSA’s August 1999 Response to Petitions for Reconsideration

There were a number of petitions for reconsideration suggesting revisions to the March 1999 final rule. Most of the petitioners were vehicle manufacturers concerned about their ability to meet the strength requirements of the final rule, particularly within the given leadtime. The vehicle manufacturers stated that they had been designing child restraint anchorage systems to meet the strength requirements that were under consideration by the ISO for the lower anchorages and by Transport Canada for the tether anchorage, and were prepared to meet those requirements by the compliance date of the rule, but not the strength requirements that the rule had specified. In response to this concern, NHTSA published a final rule that permitted vehicle manufacturers to meet alternative requirements during an initial several-year period (64 FR 47566, August 31, 1999) (Docket No. 99-6160). We specified in that document that, from September 1, 2000 until August 31, 2002,¹ manufacturers installing the lower anchorage bars would have the option of meeting the requirements set forth in the March 1999 final rule, or requirements that were very similar, but not identical, to the June 1998 draft ISO standard.

The March 1999 final rule had required a permanent mark on the vehicle seat back at the location of each lower bar location to help knowledgeable motorists locate and use the bars, and to inform or remind other motorists that the bars are present (S9.5). The mark would not be required, the rule had specified, if the lower bars were visible (S9.5(b)). In a April 16, 1999 petition for reconsideration of the rule, Volkswagen stated that a “guide device installed onto the anchorage at the seat bight” should be considered “as a marking device or an anchorage locator.”² In the August 31, 1999

¹ The date was later extended to September 1, 2004. 65 FR 46628.

² Volkswagen also stated in its petition that it supported the petition for reconsideration of the final rule submitted by the Alliance of Automobile

response to the petitions for reconsideration, the agency adopted alternative visibility requirements for the lower bars. They required that "at least one anchorage bar (when deployed for use), one guidance fixture, or one seat marking feature shall be readily visible to the person installing the [child restraint fixture] * * *" (S15.4).

The Alliance's October 1999 Petition for Reconsideration

NHTSA received a number of petitions for reconsideration of various provisions of the August 1999 final rule. The Alliance submitted an October 15, 1999 petition requesting reconsideration of a number of provisions, including the marking alternative in S15.4. The Alliance asked NHTSA to add a parenthetical phrase, "(when installed)," after "guidance fixture." The petitioner said that the parenthetical should be added to S15.4 because "the intent of the S15 is to incorporate the provisions of the ISO Draft." The Alliance did not specify which version (i.e., what date) of the draft ISO standard it was referring to.

NHTSA's July 2000 Response to Petitions for Reconsideration

In a July 31, 2000 response to petitions for reconsideration (65 FR 46628; July 31, 2000) (Docket No. NHTSA-7648), NHTSA declined to add the parenthetical "(when installed)" sought by the Alliance. We reasoned that adding the parenthetical would suggest, contrary to our intent, that manufacturers could satisfy marking requirements if they provided the guidance fixtures with a new motor vehicle without actually installing them in the motor vehicle. The agency's intent was that the guidance fixtures be installed prior to delivery to consumers to ensure that the consumer could see the anchorage system, its location, and its appearance when the fixtures are properly installed. We concluded that requiring manufacturers to install the guidance fixtures would result in the vehicle owner either leaving them attached and thus ready to use or taking some affirmative action to determine how to remove them and then actually removing them. We believed that, in either event, the owners would be more likely to notice and remember the fixtures than if the fixtures were simply

provided with the vehicle, but not actually installed in it.

In addition, we explained in the July 2000 final rule that NHTSA had permitted manufacturers the option of meeting draft ISO requirements to facilitate and thus accelerate the installation of child restraint anchorage systems in vehicles. We stated that manufacturers could meet the draft ISO requirements for strength and location of anchorages more expeditiously than they could meet the March 1999 final rule's requirements for strength and location. However, we concluded that guidance fixtures could be easily snapped on to the lower bars when the vehicles were offered for sale. Having to install them would not delay or impede introduction of child restraint anchorage systems in vehicles. We noted further that, in the June 1998 draft version of the ISO standard that we used in developing the March 1999 final rule, the parenthetical was not present. For all these reasons, we denied the request to add the parenthetical. Instead, to clarify S15.4, we added a sentence stating that "If guidance fixtures are used to meet this [marking] requirement, the fixture(s) (although removable) must be installed."

Volkswagen August 2000 Petition for Reconsideration

On August 17, 2000, Volkswagen filed a petition for reconsideration concerning S15.4. Volkswagen indicated that it was surprised that NHTSA denied the Alliance's request to add the parenthetical. Volkswagen stated that it had been providing lower anchorages in some of its models beginning with the 1999 model year, but had not been providing the guidance fixtures. Volkswagen stated in its petition:

Those anchorages are not visible and no seat marking feature is provided but a guidance fixture has been developed and is available for user installation consistent with the 1999 ISO draft. Immediately upon becoming aware of NHTSA's July 31, 2000 Notice, Volkswagen requested its supplier of guidance fixtures to furnish sufficient quantities for installation in production on a best effort basis but in no event later than August 30, 2000. Based upon information furnished by the supplier, Volkswagen is not certain that it can comply with S15.4 by the end of August * * *. Volkswagen therefore petitions that the effective date of S15.4 be deferred for an additional 30 days at which time Volkswagen will be certain that all vehicles can be delivered to consumers in strict compliance with the new regulations. Volkswagen will also conduct a mailing campaign to the owners of all Jetta, Golf, Cabrio and New Beetle vehicles manufactured since September 1, 1999 or later * * *.

To justify the deferral, Volkswagen stated:

Because guidance fixtures serve to identify existing anchorages in the vehicle only and are not essential to the safe use of the vehicle, and because child restraint systems using rigid attachments which are suitable for use with the guidance fixtures are not available in the market at this time, Volkswagen believes there is no detriment to motor vehicle safety which would be caused by the deferral of the effective date.

II. Agency Decision

NHTSA is denying the petition for the reasons set forth below.³

As discussed above, installation of guidance fixtures is not the sole means by which a manufacturer may comply with the marking and conspicuity requirements specified in the standard. While Volkswagen's request for an extension of time to provide the guidance fixtures was based on its uncertainty regarding the ability of a supplier of these fixtures to provide sufficient quantities of the fixtures in a time period that would enable Volkswagen to meet the requirements of the standard, we note that Volkswagen could have alternatively taken steps to mark the location of the lower anchorages on the vehicle seat in accordance with S9.5(a).

The August 1999 response to petitions for reconsideration permitted manufacturers to use a guidance fixture to meet the marking and conspicuity requirements for a limited time. In interpreting the August 1999 rule, Volkswagen apparently concluded that a manufacturer relying on guidance features to comply with those requirements need not provide the guidance fixtures with each vehicle. Volkswagen apparently concluded that it was possible to comply with the requirements by offering the guidance fixtures to new vehicle purchasers on an "as requested" basis.

We believe Volkswagen's interpretation of S15.4 was unreasonable. The language of S15.4, "Marking and conspicuity of the lower anchorages," has stated since its adoption that "at least one anchorage bar (when deployed for use), one guidance fixture, or one seat marking feature" shall be readily visible. For each vehicle to meet the requirement that the bar, guidance fixture or seat marking feature be visible by means of guidance fixtures, the fixtures had to be provided with each vehicle. The agency notes that Volkswagen was the only

Manufacturers (the Alliance). The Alliance's April 17, 1999 petition for reconsideration asked NHTSA to amend S9.5 to require marking of one, not two, of the anchorage bars, and did not specifically request that guidance fixtures be allowed to satisfy marking requirements. The Alliance later submitted an October 15, 1999 petition for reconsideration that included the request to allow guidance fixtures as an option.

³ NHTSA informed Volkswagen by telephone on August 30, 2000, that the petition would be denied (see memorandum in docket 2000-7648-3 describing the conversation).

manufacturer that indicated that it believed that the guidance fixtures could be provided on an "as requested" basis.

It was also unreasonable of Volkswagen to conclude that the guidance fixtures need not be provided, given the reasons why the agency had required them. The preamble to the final rule establishing Standard No. 225 made clear that NHTSA considered the standard's marking and conspicuity requirements to be crucial elements contributing to the correct use of child restraint anchorage systems. Marking the lower anchorage bars and making them conspicuous helps knowledgeable motorists locate and use the bars and informs or reminds other motorists that the anchorage system is present.

Consumers may not otherwise learn of the existence of a child restraint anchorage system in a particular vehicle or at a particular seating position in a vehicle without some type of visual reminder that the anchorage system is present. Even when they know the bars are present, they may not know precisely where in the seat to look for the bars.

64 FR at 10802. It was unreasonable for Volkswagen to conclude that NHTSA would identify a need to make the anchorages conspicuous and would identify specific alternatives manufacturers may take to meet the

need (mark the seat back, provide a guidance fixture, or place an anchorage where it is visible), then allow manufacturers the option of selling vehicles that do not meet any of the alternatives.

Volkswagen believes there is no detriment to motor vehicle safety which would be caused by the deferral of the effective date because guidance fixtures serve to identify existing anchorages in the vehicle only and are not essential to the safe use of the vehicle, and because child restraint systems using rigid attachments which are suitable for use with the guidance fixtures are not available in the market at this time. To the contrary, we believe that anchorage bars that are not visible, marked with a circle or made conspicuous by a guidance fixture are not so likely to be noticed by consumers. This lower visibility would likely result in reduced overall use of the child restraint anchorage system. Installed guidance fixtures also clearly show the anchorage bars of a child restraint anchorage system to users, which can reduce the likelihood that users may mistakenly latch their child restraints on to an incorrect or unsuitable part of the vehicle structure. Because guidance fixtures increase the visibility and therefore likelihood of correct use of the anchorage bars, they are a benefit to all

child restraint users, not just to owners of child restraints with rigid attachments. Further, since child restraint systems using rigid attachments which are suitable for use with the guidance fixtures will be available in the market in the future, we believe that during the life span of a vehicle equipped with an anchorage system, there is a high likelihood that the vehicle will be owned by someone having a child restraint with rigid attachments. As discussed, the guidance fixtures would facilitate use of the child restraint anchorage system throughout the life of the vehicle.

For these reasons, NHTSA is denying Volkswagen's petition for reconsideration. The marking and conspicuity requirements of S15.4 apply to any child restraint anchorage system installed on a vehicle on or after September 1, 1999, including those voluntarily installed.

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

Issued on May 31, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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