

5 non-fatal injuries for children ages 0–1 annually. In addition, the proposal would save 1 fatality and mitigate 1 MAIS 2–5 injury in the 4- to 6-year-old age group annually. The agency did not believe that updating the seat assembly and revising the crash pulse would affect dummy performance to an extent that benefits would accrue from such changes.

NHTSA did not identify countermeasures to improve child restraint performance in frontal tests that would allow child restraint manufacturers to meet the proposed neck injury criterion. Consequently, the agency was unable to estimate the costs of such countermeasures. Comments were requested on possible countermeasures and their costs. The agency believed that the proposal to use new dummies in compliance tests, including testing with a weighted 6-year-old dummy, could result in increased testing costs for manufacturers that want to certify their restraints using the tests that NHTSA will use in compliance testing. NHTSA estimated that use of the new dummies and other changes to the test procedure would add testing costs of \$2.72 million. The agency believed that those changes would not result in redesign of child restraints.

#### *b. ANPRM On Side Impact Protection*

On May 1, 2002, concurrent with the publication of the NPRM and in further response to section 14(b) of the TREAD Act, NHTSA issued an advance notice of proposed rulemaking (ANPRM) seeking public comments on the agency's work on developing near-term a possible side impact protection standard for child restraint systems. 67 FR 21836, May 1, 2002; Docket No. 02–12151.

The ANPRM primarily addressed side impact protection for children in child restraints in the following areas: (a) Determination of child injury mechanisms in side impacts, and crash characteristics associated with serious and fatal injuries to children in child restraints; (b) development of test procedures, a suitable test dummy and appropriate injury criteria; and (c) identification of cost beneficial countermeasures. Uncertainties in these areas, together with the statutory schedule for this rulemaking, made it difficult for the agency to assess and make judgments on the benefits and costs of a rulemaking on side impact protection. The ANPRM also requested comments on the appropriateness of proposing to incorporate a rear impact test procedure into FMVSS No. 213 for rear-facing child restraint systems.

The agency received approximately 17 comments on the ANPRM. Commenters expressed qualified support for NHTSA's efforts to enhance child passenger protection in side impact crashes, but were concerned about the uncertainties with respect to the three areas highlighted above. A number of commenters believed that a dynamic test should account for some degree of vehicle intrusion into the occupant compartment, which overall the tests that the agency had been considering did not.

Following publication of the ANPRM, the agency began a program of child restraint systems side impact testing that continues today, for completion in fall 2003. Some of the side impact testing in which the agency is engaged is as follows:

- Initial evaluation of mitigation concepts, such as adding padding material to the child restraint system (CRS), modifying the size of the side wings of the CRS, effect of rigid lower anchorages and additional tethering of the CRS for rear-facing CRS in a side impact.
- Initial evaluation of mitigation concepts, such as adding padding material to the child restraint, modifying the size of the side wings of the CRS, rigid lower anchorages and additional tethering of the CRS for forward-facing CRS in a side impact.

If the results from the above two evaluations are successful in reducing injury levels, NHTSA will consider conducting a test series to determine if the stiffer shoulder/upper arm area of the HIII 3-year-old dummy influences head/neck performance, as compared to the TNO Q3 dummy developed by a European test dummy manufacturer.

Upon further consideration of the comments on the ANPRM and the agency's side impact test program, we have decided not to issue an NPRM and final rule on side and rear impact protection at this time and thus are withdrawing the action. A full explanation of the agency's reasons for this decision is set forth in a report to Congress that NHTSA has issued concurrently with today's final rule.<sup>3</sup> To summarize, the agency found that for side crashes: (a) Data are not widely available as to how children are being injured and killed in side impacts (*e.g.*, to what degree injuries are caused by intrusion of an impacting vehicle or

other object); (b) potential countermeasures for side impact intrusion have not been developed; and (c) there is not a consensus on an appropriate child test dummy and associated injury criteria for side impact testing. There was widespread support for NHTSA to monitor the progress of the International Standards Organization (ISO) to develop a harmonized side impact test procedure. A preliminary draft of an ISO side impact test procedure includes specifications for an intruding door member. However, no dummies are available at the present time whose construction is designed for side impact validation. Given the lack of an approved test device, and corresponding injury criteria, a final version of an ISO test procedure is not expected in the near future.

The level and amount of effort needed to further develop and validate the ISO side impact test procedure far exceeds what could be accomplished within the time constraints of the TREAD Act. While an NPRM is not feasible at this time, NHTSA's research into improved side impact protection requirements for child restraints will continue as an ongoing agency program.

#### *c. TREAD Programs on Labeling and Consumer Information*

Two other regulatory initiatives on child restraint systems were completed in response to Section 14 of the TREAD Act. Pursuant to § 14(b)(5) of the Act, the agency issued a final rule on October 1, 2002 (67 FR 61523, Docket 10916) on Standard No. 213's labeling and owner's manual requirements. The final rule amends the format, location, and content of some of Standard No. 213's labeling requirements to make the labels and instructions clearer and simpler.

In addition, pursuant to § 14(g) of the Act, NHTSA published a final rule establishing an ease-of-use child restraint ratings program on November 2, 2002 (*see* 67 FR 67491; November 5, 2002, Docket 01–10053). The ratings program constituted the first step toward enhancing the safety of children through a consumer information program. The program established no binding obligation on any manufacturer. Rather, it will inform consumers about the features of child restraints that make child restraints easier to use, and will evaluate each child restraint on those features.

NHTSA is also continuing an evaluation of whether to establish two complementary consumer information programs. The first would be based on child restraint dynamic performance.

<sup>3</sup> The report is issued in response to subsection 14(c) of the TREAD Act, which directs NHTSA to explain in a report to Congress why the agency did not incorporate any element described in subsection 14(b) in a final rule.