

The second would involve expanding the agency's New Car Assessment Program to include consumer information on how vehicles do in protecting child occupants. The agency will be conducting two pilot programs in these areas to assess how the agency should proceed. These programs are described in detail in a Response to Comments, Notice of Final Decision accompanying the November 5, 2002 final rule (67 FR 67448; Docket 01-10053-67).

VI. Post-NPRM Testing

The agency conducted several research projects since publication of the NPRM in an effort to assess whether the proposed changes would reduce the safety currently afforded by child restraints. NHTSA conducted three test projects, which are fully discussed in sections VIII.a.1, VIII.c.1, and VIII.e.1 of this preamble. The first test project related to the effect the revisions to the test seat assembly might have on the dynamic performance of child restraints. Dummies currently specified in FMVSS No. 213 were tested with child restraints on the revised seat assembly, and the performance of the dummies was compared to that observed in compliance tests. The second test project related to assessing any performance differences that may exist between the Hybrid II and the Hybrid III dummies. The third test project involved evaluating whether child restraints tested with the Hybrid III dummies could meet the proposed scaled HIC, chest injury limits, and Nij measures. Reports relating to these projects have been placed in the docket for this rulemaking.

VII. Summary of Comments on the NPRM

NHTSA received approximately 35 comments on the May 1, 2002 NPRM for this final rule. Commenters included child restraint manufacturers, motor vehicle manufacturers, motor vehicle dealers and other industry associations, child passenger safety consumer groups, the National Transportation Safety Board, child safety research and testing organizations, and private individuals. The Juvenile Products Manufacturers Association (JPMA) conducted a series of 80 sled tests of child restraints in response to the NPRM and included the results of the testing in its comment.

a. General Comments on the Proposals

The commenters generally expressed support for the regulatory goals of the NPRM to enhance child passenger

safety.⁴ However, many underscored concerns that the rulemaking undertaken by the agency in response to the TREAD Act could possibly indirectly cause a reduction in child passenger safety, particularly with respect to applying new (neck loading, chest deflection) and revised (scaled HIC and chest acceleration limits) injury criteria used to assess the dynamic performance of child restraints. Commenters expressing these concerns were diverse. The JPMA, representing child restraint manufacturers Britax, Cosco, Evenflo, Graco/Century, and Peg Perego, believed that NHTSA should be concerned about "unintended consequences of multiple, unevaluated changes to 213, as well as the adverse consequences of substantial cost increases." In a separate comment on the NPRM, Evenflo expressed opposition to "revisions that do not have proven likelihood of enhancing child passenger safety on an aggregate basis." Evenflo urged: "Our goal should be to adopt changes that will definitively enhance child passenger safety, not to undertake changes solely for the purpose of making changes." Graco was concerned that some portions of the proposed revisions may have little benefit to child passenger safety and may "negatively affect the past efforts of the agency." The commenter said it assumed that costs of child

restraints will increase "because of increased testing costs and most likely increased parts or the use of more advanced technology that will enable the restraints to meet new requirements." The commenter was concerned that, as the child restraint costs rise, the rates of child restraint use may fall.

This concern was echoed by other commenters. TraumaLink at the Children's Hospital of Philadelphia stated that data collected through its "Partners for Child Passenger Safety" study indicate that children in child restraints do extremely well in all types of crashes. "The extremely low injury rate in child restraints indicates that despite substantial misuse, these devices perform exceedingly well across the range of crash severities and directions of impact * * * It is important to consider the unintended consequences of these [proposed] changes, both in terms of inadvertent reduction in the current excellent performance of the CRS [child restraint system] or the resultant increase in cost." The National Safe Kids Campaign (Safe Kids) urged the agency "to be mindful of the practicalities and costs associated with changes that might overly burden child restraint and vehicle manufacturers, thereby requiring them to discontinue certain product models or pass on unreasonable costs to consumers. Child safety seats must remain both affordable and safe." The American Academy of Pediatrics stated, "While the Academy strongly supports the proposed measures to make child restraints even more protective than they are today, these improvements cannot come at the expense of fewer children using child restraints or more children using outdated car safety seats." The Association of International Automobile Manufacturers, Inc., expressed concern that "the lack of use or the misuse of child restraint systems presents a far greater opportunity to improve child passenger safety than seeking enhanced performance of child restraint systems, particularly if the consequence of the enhanced performance is decreased use and increased misuse."

Safe Kids also expressed concern that increased prices of child restraints could affect State child restraint use laws. Safe Kids stated that most parents and caregivers will be expected to purchase a minimum of two or three restraints for each child to comply with evolving State child restraint use laws that extend coverage to more and more children. "As those seats become more expensive, legislators may be reluctant to make important legislative

⁴ Several commenters believed that the NPRM did not "meet the spirit intended by Congress" in enacting Section 14 of the TREAD Act because the estimated benefits of the proposed changes were at most 6 fatalities and 6 serious injuries annually (quote from ARCCA's comment, page 2.) Stephen Syson (Syson-Hille & Associates), Martha Bidez (Bidez & Associates) and ARCCA suggested that the agency undertake rulemaking beyond the proposals of the NPRM. Among the suggested rulemaking were the following from these commenters: the prohibition of lap belts; require manufacturers to put child-safe restraints in cars; recall all low-shield booster seats; require that Standard No. 208 (49 CFR § 571.208) criteria for children be met in every passenger seating position; require manufacturers to label vehicle seats that do not meet Standard No. 213 requirements without a child restraint in place; require that "survival space" be maintained in the rear seat in rear impact crashes; and require all seats, seat belts and child restraints be designed to prevent submarining and to retain occupants under all collision circumstances; require vehicles to provide a minimum allowable clearance for all seating positions where a child restraint system can be installed; require child restraints to provide both upper and lower body restraint on the hard boney portions of the body; amend Standard No. 213 to limit protrusions and sharp corners contactable in any crash and to improve padding on back and side wings.

The rulemakings suggested by these commenters go beyond those included in the NPRM for consideration by the agency within the tight deadlines of the act. The suggestions will be considered suggestions for future rulemaking. Copies of the comments will be placed in Docket 7938 (NHTSA plan for future work on child passenger safety).