

For technical issues: Mr. Tewabe Asebe, Office of Crashworthiness Standards, NVS-113, telephone (202) 366-2365, facsimile (202) 493-2739.

For legal issues: Mr. Christopher Calamita, Office of Chief Counsel, NCC-112, telephone (202) 366-2992, facsimile (202) 366-3820.

SUPPLEMENTARY INFORMATION: Interim Final Rule

On October 22, 2002, NHTSA published an interim final rule to permit, temporarily, the manufacture and sale of harnesses designed to attach to school bus seats. (67 FR 64818; Docket No. NHTSA-2002-12065). The interim rule was adopted to facilitate the transportation of preschool and special needs children for the new school year, and to relieve a restriction imposed by FMVSS No. 213, *Child restraint systems*, on the manufacture and sale of the harnesses.

The interim rule responded to a petition for rulemaking from a harness manufacturer, E-Z-On Products, Inc. ("E-Z-On"), which requested that NHTSA amend a prohibition in S5.3.1 of FMVSS No. 213 against seat-mounted harnesses. The petitioner believed that the harnesses were especially needed to help transport preschool and special needs children in school buses, because the devices could restrain the children and provide upper body support without the use of seat belts.

In the interim rule, NHTSA determined that permitting the manufacture and sale of seat-mounted harnesses for use on school buses would enhance the safe transportation of preschool and special needs children, subject to a precautionary measure to avoid overloading the seat to which the harness is attached in a collision. The interim rule provided that, as of February 1, 2003, seat-mounted harnesses for school buses could be manufactured if they bore a permanent warning label that warned about overloading the seat. The agency decided that the likelihood of seat failure in a collision would be reduced if the entire seat directly rearward of a child restrained in a seat-mounted harness were vacant or occupied only by restrained passengers. NHTSA required the label to be placed on the part of the restraint that attaches the harness to the vehicle seat back, and it must be visible when the harness is installed. The label must bear a pictogram and the following statements: "WARNING! This restraint must only be used on school bus seats. Entire seat directly behind must be unoccupied or have restrained occupants."

The interim rule also added a definition of "harness"¹ to the standard. The definition of a harness is "a combination pelvic and upper torso child restraint system that consists primarily of flexible material, such as straps, webbing or similar material, and that does not include a rigid seating structure for the child."

The interim rule made several other amendments to FMVSS No. 213 relating to this issue. These other amendments specified the means of attachment by which a harness must be capable of meeting the requirements of FMVSS No. 213 and established the dynamic test procedures of the standard for testing seat-mounted harnesses.

NHTSA determined that it was in the public interest to make the changes effective immediately on an interim basis (until December 1, 2003) to enable the restraints to be manufactured and sold for immediate use during the school year. A one-year period was provided to enable us to decide whether to amend the standard permanently.

A large majority of the commenters supported adopting a permanent exclusion for harnesses manufactured and sold for use on school bus seats from the prohibition against such a design. Some commenters raised questions about the warning label text and placement. Comments were also received on the specific test conditions of the standard.

The agency is in the process of determining whether to amend the standard permanently in response to the comments received. We anticipate issuing a response to comments in early 2004. A nine-month extension of the temporary amendments, to September 1, 2004, preserves the status quo until then.

Effective Date of This Document

Because the December 1, 2003 date for the termination of the period during which seat-mounted harnesses can be manufactured is fast approaching, NHTSA finds for good cause that today's action extending the temporary amendments must take effect immediately. Today's final rule makes no substantive change to the standard as amended by the interim rule, but extends the temporary amendments for nine months while the agency complete its response to the comments. If the effective date were not delayed, manufacturers would be required to stop production and sales of harnesses

¹ We consider the term "harness" to be interchangeable with the term "vest", which is commonly used to describe seat-mounted restraints.

that attach to school bus seat backs prior to the agency's response to comments that requested the interim rule to be made permanent. Also, pupil transportation operators would find it increasingly difficult to purchase seat-mounted harnesses beginning December 1, 2003.

Rulemaking Analysis and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 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 agency concludes that the impacts of the amendments are so minimal that preparation of a full regulatory evaluation is not required. The rule will not impose any new requirements or costs on manufacturers, but instead will continue to allow manufacturers to produce a type of harness for nine months if the harness bears a label providing information regarding how the harness should be used.

B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will 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 extend the period in which manufacturers are permitted to produce seated-mounted harnesses, so long as the harnesses bear a label providing information regarding how the restraint should be used. We anticipate that the seat-mounted harnesses will be sold to school districts and to other pupil transportation providers. NHTSA has learned of the existence of two manufacturers, both of which are small businesses. The agency believes that this rule will not have a significant impact on these businesses since it only preserves the status quo for nine months.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, 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 document does not