

The granting of the petitions for reconsideration thus serves as final action on these requests.

One issue raised in Evenflo's rulemaking petition was not addressed by the petitions for reconsideration. Evenflo said that Cosco Inc., a child restraint manufacturer, "joins" in Evenflo's petition and has asked that NHTSA not require the air bag warning to be placed on a color contrasting background. According to Evenflo, Cosco believes that the requirement "gives the airbag language undue emphasis over the other labels required by FMVSS 213. Highlighting one warning de-emphasizes and somewhat negates other equally important warnings and labels." Since a Cosco representative did not sign the Evenflo petition, NHTSA considers the request to be Evenflo's.

The rulemaking request is denied. The purpose of the requirement that the air bag warning label be on a color contrasting background is to make the warning conspicuous. This is important because, as noted above, the agency is concerned that, in the words of Mr. Koziatek, consumers have been conditioned to expect an air bag to be life-saving and not life-threatening. Moreover, there is little information indicating consumers are aware of the potential safety problems between air bags and rear-facing child restraints. Air bags are typically and usually correctly associated with "safety." Accordingly, without a conspicuous warning to negate this association, consumers may seek to place an infant in an air bag equipped seating position, thinking that the air bag will protect the child in a crash. Since the association between air bags and safety is strong and may induce consumers to engage unwittingly in behavior that is contrary to safety, NHTSA concludes that this rule must require highlighting of the warning against use of a rear-facing child restraints in air bag equipped positions. Accordingly, since there is no reasonable possibility that the agency would issue the requested amendment at the conclusion of a rulemaking proceeding, the petition is denied.

Effective Date

This amendment is effective in 90 days. An effective date earlier than 180 days after the date of issuance of this rule is in the public interest for the following reasons. The effective date of the labeling requirement reconsidered in today's rule was August 15, 1994. Thus, rear-facing child restraints manufactured on or after that date must be labeled with the warning specified in the earlier rule. There is good cause for

having today's amendments of the earlier rule become effective as early as possible since NHTSA believes today's rule clarifies the required warning and increases its effectiveness. Yet, a 90-day effective date is distant enough to provide manufacturers sufficient leadtime to print revised warning labels. Also, a 90-day effective date will provide some time for manufacturers to use existing stocks of labels that met the previous rule's requirement.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not "significant" under them. NHTSA has further determined that the effects of this rulemaking are minimal and that preparation of a full final regulatory evaluation is not warranted. The effects of today's rule are minor because it only makes slight changes to the labeling required by the February 1994 final rule. The costs of that earlier final rule requiring a specific warning to be labeled on rear-facing child restraints was estimated to range from \$0.09 to \$0.17 per rear-facing restraint. (NHTSA's regulatory evaluation for that rule was placed in docket 74-09, notice 34.) Today's rule does not change those costs. The agency also anticipated that the earlier rule could save 2 to 4 lives and could reduce 445 injuries a year, assuming that the warning is effective at preventing any placing of rear-facing restraints in air bag positions. NHTSA believes today's rule could improve the potential effectiveness of the warning.

Regulatory Flexibility Act

NHTSA has considered the effects of this rulemaking action under the Regulatory Flexibility Act. I hereby certify that it will not have a significant economic impact on a substantial number of small entities. Of the 11 current child restraint manufacturers known to the agency (not counting vehicle manufacturers that produce and install built-in restraints), there are three that qualify as small businesses. This is not a substantial number of small entities.

Regardless of the number of small entities, NHTSA believes the economic impact on them is not significant since today's rule only makes minor changes

to the existing labeling requirements for rear-facing restraints. The agency believes this rule has no impact on the cost of child restraint systems, and that small organizations and governmental jurisdictions that purchase the systems will therefore not be significantly affected by the rule. In view of the above, the agency has not prepared a final regulatory flexibility analysis.

Executive Order 12612 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612. The agency has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 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—[AMENDED]

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.