

“225.7402” and adding in its place “225.7403–2”.

[FR Doc. 04–6236 Filed 3–22–04; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

48 CFR Part 224

[DFARS Case 2003–D038]

Defense Federal Acquisition Regulation Supplement; Protection of Privacy and Freedom of Information; Correction

AGENCY: Department of Defense (DoD).

ACTION: Correction.

SUMMARY: DoD is issuing a correction to the preamble to the proposed rule published at 69 FR 8152–8153, February 23, 2004, pertaining to protection of privacy and freedom of information.

FOR FURTHER INFORMATION CONTACT: Ms. Michele Peterson, Defense Acquisition Regulations Council, OUSD(AT&L)DPAP(DAR), IMD 3C132, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0311; facsimile (703) 602–0350.

Correction

In the issue of Monday, February 23, 2004, on page 8153, in the first column, the second paragraph of the BACKGROUND section is corrected by revising the second sentence to read as follows: “The rule deletes DFARS 224.102, which specifies that the Privacy Act (5 U.S.C. 552a) does not apply to certain contractor records.”

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 04–6240 Filed 3–22–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 575

[Docket No. NHTSA–99–5100]

RIN 2127–AG49

Consumer Information Regulations; Seat Belt Positioners

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

ACTION: Withdrawal of rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking

published in 1999 in response to a petition for rulemaking from the American Academy of Pediatrics. After considering the comments on the NPRM and the advancements that have been attained in the testing of child passenger protection devices, the agency has decided not to proceed with the NPRM’s proposed labeling requirement. Before taking further action in this area, the agency would like to expand its knowledge base with data from up-to-date tests of current belt positioners, using the advanced test protocols and child test dummies available today. Because NHTSA will not be able to conclude its analysis of the issues of this rulemaking in the near future, we have decided to withdraw the August 1999 NPRM.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mike Huntley, NHTSA Office of Rulemaking, at (202) 366–0029.

For legal issues, you may call Deirdre Fujita, Office of Chief Counsel, (202) 366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

This document withdraws a rulemaking that began in response to a January 31, 1996 petition from the American Academy of Pediatrics (AAP) that requested that the agency regulate aftermarket seat belt positioners under Federal Motor Vehicle Safety Standard (FMVSS) No. 213, “Child Restraint Systems” (49 CFR 571.213). AAP stated in its petition that, because seat belt positioners are generally marketed as child occupant protection devices, the products should be subject to the same scrutiny and testing that child restraint systems undergo. AAP was concerned that some seat belt positioners “appear to interfere with proper lap and shoulder harness fit by positioning the lap belt too high on the abdomen, the shoulder harness too low across the shoulder, and by allowing too much slack in the shoulder harness.” Accordingly, AAP believed that the devices should be subject to a safety standard so that they would be required to meet a minimum level of performance.

On August 13, 1999 (64 FR 44164, Docket No. 99–5100), NHTSA granted the petition and published a notice of proposed rulemaking (NPRM) that sought to regulate seat belt positioners by way of a consumer information regulation. The NPRM discussed the

results of a study¹ that the agency had conducted in 1994 on three seat belt positioners that were then on the market. In the study, the agency dynamically tested the belt positioning devices under the conditions then-specified for testing child restraints under FMVSS No. 213. A Hybrid II 3-year-old and 6-year-old dummy were used (which, in 1994, were the state-of-the-art dummies used to test child restraints), and a Hybrid III 5th percentile female adult dummy. NHTSA restrained the dummies in lap/shoulder belts with, and without, the devices, and compared the results. In many of the tests with the 3-year-old dummy, the positioners reduced belt performance and contributed toward excessive head injury criterion (HIC) measurements (HIC values were greater than 1000). In one case, the measured chest acceleration exceeded the FMVSS No. 213 limit of 60 g’s. The devices generally performed adequately with the 6-year-old dummy with respect to HIC, in that the performance criteria of FMVSS No. 213 were not exceeded. However, one positioner had chest g measurements exceeding the FMVSS No. 213 limit in both frontal and offset tests. In each case, there was some reduction in the performance of the vehicle belt system restraining the dummy.² After reviewing these results, the agency proposed to require seat belt positioners to be labeled as not suitable for children under age 6.

The NPRM requested comments on four issues. The first issue was whether there was a safety need for the rulemaking action. There were no real-world data indicating that positioners were causing or exacerbating injuries. The second issue pertained to whether the devices should be labeled with a warning against using them with children under age 6. Third was whether the devices should be regulated by FMVSS No. 213. Then-existing child test dummies were not instrumented to measure abdominal loads, and there was no injury criterion developed that delineated between acceptable and unacceptable abdominal loading. The fourth issue related to the feasibility of adopting a performance requirement for seat belt positioners and the performance criteria that would distinguish between acceptable and unacceptable performance.

NHTSA received approximately 14 comments to the NPRM. Commenters

¹ “Evaluation of Devices to Improve Shoulder Belt Fit,” DOT HS 808 383, Sullivan and Chambers, August 1994.

² HIC values greater than 1000 were observed with two of the devices during 5 of 6 tests with the 5th percentile female dummy.

believed that, even absent the ability to quantify a safety problem using existing crash data, seat belt positioning devices should be regulated by means of a labeling and/or performance standard. Several were concerned that consumers mistakenly think that the products are regulated in the same way as booster seats and provide comparable protection. Almost all of the commenters said that there should be a label regarding the proper use of the devices. In opposition, a manufacturer of a belt positioner questioned "the logic behind requiring a warning label without a testing standard." Almost all believed that belt positioners should be differentiated from booster seats, and that regulating the devices under FMVSS No. 213 could mislead consumers into thinking that the two devices were interchangeable. Most of the commenters supported having a performance requirement for seat belt positioners to assess how the devices would perform in a crash. However, some commenters stated that criteria needed to assess the suitability of a seat belt positioner in providing crash protection to a child (e.g., limits on abdominal and lumbar spinal forces) are largely undeveloped.

After the NPRM was published, the Transportation Recall Enhancement, Accountability and Documentation Act of 2000 (the TREAD Act) (November 1, 2000, Pub. L. 106-414, 114 Stat. 1800) was enacted, which among other things, directed NHTSA to initiate a rulemaking for the purpose of improving the safety of child restraints. The agency's initiation of rulemaking resulted in a final rule, issued in June 2003, that amended FMVSS No. 213 to incorporate advanced child test dummies in the testing of child restraints and to revise the test conditions of the standard to better represent current model passenger vehicles. 68 FR 37620; June 24, 2003; Docket No. NHTSA-03-15351. New state-of-the-art Hybrid III test dummies representing a 12-month-old, 3-year-old and 6-year-old child were incorporated into the standard, as well as a weighted 6-year-old dummy.

NHTSA's work developing a Hybrid III test dummy representing a 10-year-old child was underway at the time of the TREAD Act, but was not far enough along for the dummy to be included in that rulemaking. Now, however, developmental work on the dummy is nearly complete.

Agency Decision

After considering the comments on the August 13, 1999 NPRM and the advancements that have been attained in the testing of child passenger

protection devices, the agency has decided not to proceed with the labeling requirement proposed in the NPRM. Before taking further action in this area, the agency would like to augment the technical basis of this rulemaking by supplementing the data obtained from the 1994 study of three seat belt positioners with data from up-to-date tests of current belt positioners, using the advanced test protocols and child test dummies available today.

There still is no evidence of a real-world safety problem with seat belt positioners. However, NHTSA has been directed by "Anton's Law" (Pub. L. 107-318, 116 Stat. 2772, December 4, 2002) to initiate rulemaking to consider whether to establish injury performance criteria and seat belt fit performance requirements for belt guidance devices. Accordingly, rather than requiring labeling at this time, the agency has initiated a targeted test program with the advanced child test dummies, including the Hybrid III 10-year-old child test dummy, to assess the need for and feasibility of developing performance requirements for belt positioners.

We are especially interested in the potential use of the 10-year-old dummy in evaluating forces that a seat belt positioner could redirect to a child's abdominal and lumbar areas in a crash. That dummy has a molded seated pelvis with anterior superior iliac spine load cell attachment locations for measuring lap belt forces. The dummy's lumbar and pelvis can also be adjusted to slouched or upright postures, so the dummy can be used to assess performance of the belts and belt positioners with slouching children. Children whose legs are too short to allow them to bend their knees when sitting upright against the vehicle seat back will slouch down when seated directly on the cushion to bend their knees. "Study of Older Child Restraint/Booster Seat Fit and NASS Injury Analysis," Klinich *et al.*, DOT HS 808 248, November 1994. This phenomenon, to which Klinich *et al.* refer as the "slouch factor," will affect placement of the lap belt portion of the seat belt on the abdomen. (Discussion of the slouch factor's contribution to poor belt fit can also be found at 64 FR at 44169, columns 2 and 3.) We believe that the test program will provide useful data that will enhance our ability to determine what regulatory approach, if any, would be most appropriate to address belt fit on older children.

One anticipated use of the data will be to assess how labeling can be made most effective at inducing parents to restrain children in a way that is

appropriate for those children. After reviewing the comments on the NPRM, NHTSA became concerned that the labeling proposed in the NPRM could be misconstrued by some parents as an agency recommendation that it would be acceptable to restrain 6-year-old children in a vehicle belt system if a belt-positioner were used. Such a conclusion would be contrary to the recommendations of the agency that 6-year-olds are best restrained when in a belt-positioning booster.³ Any labeling that may eventually be required must be careful not to induce parents to forego restraining their child in the safest manner possible.

Given the complexity of the issues, the testing that will be conducted pursuant to Anton's Law, and the limited resources of the agency, NHTSA will not be able to conclude its analysis of the issues of this rulemaking in the near future. We have therefore decided to withdraw the August 1999 NPRM. Notwithstanding this withdrawal, it is noted that seat belt positioners are items of motor vehicle equipment and therefore their manufacturers are subject to the requirements in 49 U.S.C. 30119 and 30120 concerning the recall and remedy of products with safety-related defects.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166 and Pub. L. 106-414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

Issued on March 17, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04-6397 Filed 3-22-04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AJ26

Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the comment period on a proposed rule

³ NHTSA recommends that children who have outgrown child safety seats should be properly restrained in a booster seat until they are at least 8 years old, unless they are 4'9" tall.