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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-21244]  
RIN 2127-AJ59

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule; delay of compliance date.

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SUMMARY: Under the current version of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, vehicles that are manufactured on or after September 1, 2006, are certified to the suppression requirements and have a child restraint anchorage system, commonly referred to as a Lower Anchors and Tethers for Children or ``LATCH'' system, in the right front passenger seating position must suppress the air bag for that position when a child restraint is installed at that position with the LATCH system. However, the standard does not yet specify detailed procedures for installing that type of child restraint in order to conduct the suppression test. In a notice of proposed rulemaking (NPRM) published May 19, 2005, NHTSA proposed the needed installation procedures and proposed an effective date for the final rule following the NPRM. The agency anticipated in the NPRM that a final rule would be issued by September 1, 2006, that provided sufficient leadtime for vehicles to meet the suppression requirements with LATCH-equipped child restraints.

Because we have not completed our response to the comments to the NPRM, this final rule delays, for one year, the compliance date of the requirement for vehicles to meet the air bag suppression requirement with LATCH-equipped child restraints. This delay allows us additional time to publish our final action on the rulemaking.

DATES: The amendments made by this final rule are effective September 1, 2006. The compliance date for the requirement for vehicles to meet the air bag suppression requirements with LATCH-equipped child

restraints is delayed until September 1, 2007.

Petitions for reconsideration: Petitions for reconsideration of this final rule must be received not later than October 13, 2006.

ADDRESSES: Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, with a copy to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see

the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents, go to <http://dms.dot.gov>, or to Room PL-401 on the plaza level of the

Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carla Cuentas, Office of Crashworthiness Standards, Light Duty Vehicle Division (telephone 202-366-1740, fax 202-493-2739); or Deirdre Fujita, Office of Chief Counsel (telephone 202-366-2992, fax 202-366-3820). Both of these officials can be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

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## I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 208, ``Occupant crash protection'' (49 CFR 571.208), requires passenger vehicles to be equipped with safety belts and frontal air bags for the protection of vehicle occupants in crashes. On May 12, 2000, NHTSA published a final rule to require that air bags be designed to provide improved frontal crash protection for all occupants, by means that include advanced air bag technology (``Advanced Air Bag Rule,'' 65 FR 30680, Docket No. NHTSA 00-7013). Under the Advanced Air Bag Rule, manufacturers are provided several compliance options in order to minimize the risk to infants and small children from deploying air bags, including an option to suppress an air bag in the presence of a child restraint system (CRS).

Manufacturers choosing to rely on an air bag suppression system to minimize the risk to children in a CRS must ensure that the vehicle complies with the suppression requirements when tested with the CRSs specified in Appendix A of the standard (see S19, S21 and S23 of FMVSS No. 208). On November 19, 2003, NHTSA revised Appendix A by adding two CRSs that are equipped with components that attach to a vehicle's LATCH \1\ system (68 FR 65179, Docket No. NHTSA 03-16476). On August 20, 2004, the agency responded to a request for additional leadtime by

extending the compliance date (from September 1, 2004 to September 1, 2006). Thus, under that final rule, vehicles manufactured on or after September 1, 2006, and certified as meeting the suppression requirements must meet the requirements when tested with the LATCH-equipped CRSs installed on a LATCH system (69 FR 51598; Docket No. NHTSA 2004-18905).

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\1\ ``LATCH'' stands for ``Lower Anchors and Tethers for Children,' a term that was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system that vehicle manufacturers must install in vehicles pursuant to FMVSS No. 225 Child Restraint Anchorage Systems (49 CFR 571.225). The Latch system is comprised of two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be attached. FMVSS No. 225 does not permit vehicle manufacturers to install LATCH systems in front designated seating positions unless the vehicle has an air bag on-off switch meeting the requirements of S4.5.4 of FMVSS No. 208.

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The NPRM

FMVSS No. 208 currently does not provide a specific procedure for installing a LATCH-equipped CRS in a vehicle in order to conduct air bag suppression testing. To address this, NHTSA published an NPRM on May 19, 2005, proposing a specific procedure for installing LATCH-equipped CRSs (70 FR 28878, Docket 21244; extension of comment period, July 13, 2005, 70 FR 40280). The agency believed that the procedure, which was based on how CRSs are installed in the real world, would provide for repeatable and reproducible installation of the child restraints (70 FR 28878; Docket 21244).

## II. Extension of Compliance Date

The Alliance of Automobile Manufacturers (the Alliance) submitted several comments on the NPRM. General Motors, a member of the Alliance, also commented separately. These commenters expressed concerns that aspects of the proposed test procedure allowed for ``too much variability to be a suitable test procedure'' (Alliance comment, August 17, 2005), and recommended a number of modifications to improve the procedure.

Because we have not completed our response to the comments to the NPRM, and due to the closeness of the September 1, 2006 compliance date, this final rule delays, for one year, the effective date of the requirement that vehicles manufactured certify that their vehicles comply with the suppression requirements when tested with the LATCH-equipped CRSs. This delay allows us additional time to take final action on the proposal. As to whether additional lead time beyond that provided by the September 1, 2007 date is needed to allow for manufacturer implementation of the test procedures, that issue will be

addressed by the final rule completing this rulemaking action (RIN 2127-AJ59).

We find good cause for making this rule delaying the current September 1, 2006 compliance date effective in less than 30 days, i.e., September 1, 2006. For reasons discussed in our proposal, we tentatively concluded that certain amendments should be made that would provide needed guidance to manufacturers, and also that the compliance date of the relevant requirements should be delayed. If the September 1, 2006 compliance date were not changed, the absence of any established test procedures would affect the ability of manufacturers to certify compliance with those requirements.

### III. Rulemaking Analyses and Notices

#### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). This document delays the date on which a requirement that certain vehicles meet the air bag suppression requirements with LATCH-equipped CRSs is to become effective. Since the delay maintains the status quo, manufacturers will incur no costs as a result of this document. The impacts of today's amendment are so minimal so as not to warrant preparation of a regulatory evaluation.

#### B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., NHTSA has evaluated the effects of this action on small entities. I hereby certify that this final rule will not have a significant impact on a substantial number of small entities. The delay of the effective date preserves the status quo and will not affect the responsibilities of small entities.

#### C. Executive Order No. 13132

NHTSA has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism, and has determined that this rule does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The rule will not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. However, under 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.

#### D. National Environmental Policy Act

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

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#### E. Paperwork Reduction Act

Under the new procedures established by 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 final rule does not establish any new information collection requirements.

#### F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Public Law 104-113), ``all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' There are no voluntary consensus standards affecting this final rule.

#### G. Civil Justice Reform

This final rule will not have any retroactive effect. As noted above in the discussion of Executive Order No. 13132, 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.

#### H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This final rule will not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million

annually.

#### I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ``economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. This final rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

#### J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This final rule is not subject to E.O. 13211.

#### K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

#### L. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

#### List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

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In consideration of the foregoing, NHTSA amends chapter V of title 49 of the Code of Federal Regulations by amending 49 CFR part 571 as follows:

PART 571--[AMENDED]

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1. The authority citation for part 571 of Title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166;  
delegation of authority at 49 CFR 1.50.

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2. Section 571.208 is amended by revising section C of Appendix A, to read as follows:

Sec. 571.208 Standard No. 208; Occupant crash protection.

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Appendix A to Sec. 571.208--Selection of Child Restraint Systems

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C. Any of the following forward facing toddler and forward-facing convertible child restraint systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S19, or S21. (Note: Any child restraint listed in this subpart that is not recommended for use in a rear-facing position by its manufacturer is excluded from use in S20.2.1.4):

	Effective and termination dates	
	January 17, 2002	September 1, 2007
Britax Roundabout 161.....	Effective.....	Remains Effective.
Britax Expressway.....	.....	Effective.
Century Encore 4612.....	Effective.....	Remains Effective.
Century STE 1000 4416.....	Effective.....	Remains Effective.
Cosco Olympian 02803.....	Effective.....	Remains Effective.
Cosco Touriva 02519.....	Effective.....	Remains Effective.
Evenflo Horizon V 425.....	Effective.....	Remains Effective.
Evenflo Medallion 254.....	Effective.....	Remains Effective.
Safety 1st Comfort Ride 22-400...	.....	Effective.

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Issued: August 22, 2006.

Nicole R. Nason,  
Administrator.

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