

Greg Parks
Diono USA
14810 Puyallup Street, Suite 200
Sumner, WA 98390

July 22, 2022

VIA EMAIL

The Honorable Steven Cliff
Administrator
National Highway Traffic Safety Administration (NHTSA)
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

Subject: Petition for Exemption for Inconsequential Noncompliance with FMVSS 213 Section 5.5, “Labeling,” Concerning the statement: “This child restraint system conforms to all applicable Federal motor vehicle safety standards.”

Dear Administrator Cliff:

Diono LLC (“Diono”) submitted a Noncompliance Information Report, pursuant to 49 C.F.R. § 573.6, to NHTSA on June 22, 2022 relating to labels that were missing the following statement: “This child restraint system conforms to all applicable Federal motor vehicle safety standards.” We attach a copy of the Report as Exhibit A.

Diono now submits this Petition for Exemption for Inconsequential Noncompliance pursuant to 49 C.F.R. § 556.4 for this issue. Diono does not believe this noncompliance creates a risk to motor vehicle safety requiring a recall. Diono also believes that it fulfilled the purpose of the regulations implicated.

Diono has determined that the labels in question did not fully comply with FMVSS 213 S5.5.2. Specifically, the statement: “This child restraint system conforms to all applicable Federal motor vehicle safety standards.” was missing for 2,642 seats.

Diono provides the following information required under 49 C.F.R. § 556.4(b):

- 1. State the full name and address of the applicant, the nature of its organization (e.g., individual, partnership, or corporation) and the name of the State or country under the laws of which it is organized.**

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Diono LLC
14810 Puyallup Street East, Suite 200
Sumner, Washington 98390

Diono LLC is a limited liability company organized under the laws of the state of Washington.

2. Describe the motor vehicle or item of replacement equipment, including the number involved and the period of production, and the defect or noncompliance concerning which an exemption is sought.

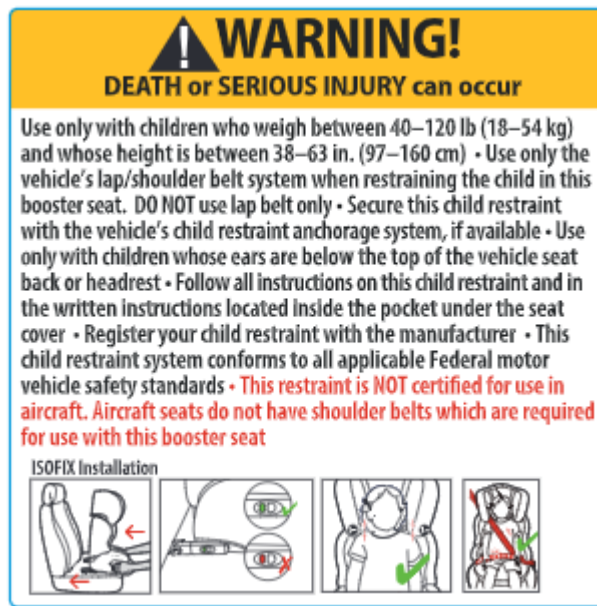
Diono has determined that labels on its child safety restraint systems do not fully comply with FMVSS 213 S.5.5 concerning labeling. The following statement required by FMVSS 213 S.5.5 is missing: “This child restraint system conforms to all applicable Federal motor vehicle safety standards.” Diono has identified noncompliance by the following product outlined in the following chart:

Model	Years	Number of Seats Potentially Involved
Everett NXT	2020-2021	2642

3. Set forth all data, views, and arguments of the petitioner supporting his petition.

As set forth more fully in this Petition, Diono believes that the missing statement issue does not affect motor vehicle safety. The labels missing the statement were never the subject of any inquiry from any customer who purchased the affected seats.

An example of a fully-compliant label (which is being used going forward) is here:



Furthermore, the required statement was included in the instruction manual for the products.

Accordingly, Diono believes that this is an inconsequential noncompliance.

4. Be accompanied by three copies of the report the manufacturer has submitted, or is submitting, to NHTSA in accordance with part 573 of this chapter, relating to its determination of the existence of safety related defect or noncompliance with an applicable safety standard that is the subject of the petition.

By electronic correspondence dated July 20, 2022, Diono’s counsel was advised that NHTSA has waived this requirement. A single copy of the Part 573 report is attached as Exhibit A.

FURTHER INFORMATION IN SUPPORT OF THE PETITION

NHTSA has previously stated the following:

In the noncompliance context, in some instances, NHTSA has determined that a manufacturer met its burden of demonstrating that a noncompliance was inconsequential to safety. For example, labels intended to provide safety advice to an occupant that may have a misspelled word, or that may be printed in the wrong format or the wrong type size, have been deemed inconsequential where they

should not cause any misunderstanding, especially where other sources of correct information are available.

Mazda North American Operations Ruling on Petition for Decision of Inconsequential Noncompliance, 86 Fed. Reg. 7170-01, 7171 & 7182 (Jan. 26, 2021) (denied on other grounds and noting “far too many shortcomings”).

The instruction manual on page 7 clearly advises consumers as follows:

CERTIFICATIONS

*This Child Restraint System conforms to all applicable
Federal Motor Vehicle Safety Standards (FMVSS 213).*

Thus, consumers have an adequate and alternative means of being informed of the compliance status of the subject seats, and Diono did still self-certify all affected seats before distributing them for sale in the United States. To use NHTSA’s own words, “other sources of correct information are available” with the required information.

Furthermore, it is highly unlikely that consumers would conclude the seat does not meet FMVSS 213, given that no child restraint can be legally sold in the United States without such compliance. Diono also expects that consumers assume that products on the market meet mandatory safety standards, whatever those standards might be. Otherwise, the product could not legally be sold in the first place, particularly through credible major retailers.

Diono has received no reports from consumers who were confused about the compliance of the subject seats with Federal Motor Vehicle Safety Standards. Diono also maintains a customer service department that answers any questions customers have about product safety, including queries that relate to compliance with safety standards.

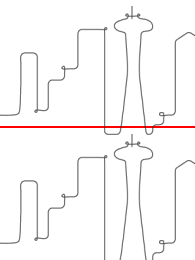
Accordingly, Diono requests that NHTSA grant Diono’s Petition for Exemption, and agree that Diono is exempt from the Safety Act’s notification and remedy requirements for this issue.

Respectfully submitted,

/s/ Greg Parks

Greg Parks

Director of Compliance





Diono

Child Restraint Report

NHTSA ID: 22C003 Transaction ID: 22-0011052-28042-10 (Original Report)

Required fields indicated with *

Manufacturer: Diono	
14810 Puyallup Street East Sumner WA 98390	Greg Parks Director of Compliance (253) 268-2546,

This is a Safety Defect Report. Filing a petition pursuant to [49 CFR 556](#)

Child Restraint Information	
Diono Everett NXT 11200-US-01	
<p>* Make Diono</p> <p>* Model Everett NXT</p> <p>Seat Type: BOOSTER SEAT</p> <p>* Model No.: 11200-US-01 NOTE: already required on the label by 49 CFR 571.213</p>	<p>Platform Name/No.:</p> <p>Brand Name:</p>
<p>Production Dates Begin: 10/01/2020 End: 03/31/2021</p>	<p>Descriptive Information: Affected Diono Everett NXT (11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01) child restraints can be determined by the manufacturing stickers applied on the base of the child restraint. On the sticker will be the model name of the product Everett NXT-Black, or Everett NXT-Blue, Everett NXT-Red, or Everett NXT-Plum with the model number 11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01, a ten digit serial number, and a date of manufacturer. The basis of determining the beginning and the final dates of manufacturing for these seats was determined based on the investigation of the inspection checklists performed for these lots. No other manufacturing dates of Everett NXT 11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01 are affected. The seats within the range noted above are missing the following required statement. The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards." 2642 Seats Affected</p>

Number potentially involved: 2642	Estimated percentage of involved with defect: 100%
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Defect / Noncompliance Description	
For this Defect/Noncompliance:	
<p>* Describe the defect or noncompliance: The seats within the range noted above are missing the following required statement. The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."</p> <p>If a noncompliance, provide the applicable FMVSS: 213 - Child restraint systems</p> <p>If applicable, provide any further FMVSS affected:</p> <p>Describe the cause:</p>	<p>* Describe the safety risk: Not Applicable</p> <p>Identify any warning which can precede or occur: Not Applicable</p>
This Recall affects all vehicles.	
If applicable, identify the manufacturer of the defective or noncompliant component. If the manufacturer of the component is unknown, provide the information for the company that supplied the subject component.	
Component manufacturer	
Company Information	Company Contact Information
Company Name: Diono	First Name: Greg
Country: United States	Last Name: Parks
Address 1: 14810 Puyallup St. E.	Position: Director of Compliance
Address 2: Suite 200	Email: Greg.Parks@Diono.com
City: Puyallup	Phone: 2532682546
State: WASHINGTON	
Zip/Postal Code: 98390	

Involved Components

If the defect or noncompliance involves a specific component(s), identify that component(s) below.

Component Name:

Component Description:

Component Part Number:

Purchaser Information

Chronology of Defect / Noncompliance Determination

Provide the chronology of events leading up to the defect decision or test data for the noncompliance decision.:

The possible non-compliance was first flagged by NHTSA when conducting safety compliance testing under Federal Motor Vehicle Safety Standards on the Diono Everett NXT car seat. Diono and NHTSA met virtually to discuss the non-compliance issue noted above in section 5 regarding the required statement, and discussed the appropriateness of filing a Part 573 report.

Identify the Remedy

Describe the defect/noncompliance remedy program, including the manufacturer's plan for reimbursement.

Diono will petition for the noncompliance to be deemed inconsequential.

Describe what distinguishes the remedy component from the recalled component.

Not Applicable

Identify and describe how and when the recall condition was corrected in production.

Everett NXT seats produced following the condition were corrected using the correct label after March 2021.

Identify the Recall Schedule

Describe the recall schedule for notifications.:

Not Applicable

Planned Dealer Notification Begin Date:

Planned Dealer Notification End Date:

Planned Owner Notification Begin Date:

Planned Owner Notification End Date:

Manufacturer's identification code for this recall (if applicable):

Please be reminded that owner notification letters must be mailed no more than 60 days from submission of this report.

Manufacturer Comments to NHTSA Staff

Document Upload

There are 0 documents associated with this report.

Part 573 Safety Recall Report

22C-003

Manufacturer Name : Diono

Submission Date : JUN 22, 2022

NHTSA Recall No. : 22C-003

Manufacturer Recall No. : NR



Manufacturer Information :

Manufacturer Name : Diono

Address : 14810 Puyallup Street East
Suite 200 Sumner WA 98390

Company phone : 855-463-4666

Population :

Number of potentially involved : 2,642

Estimated percentage with defect : 100 %

Child Restraint Information :

Make 1 : Diono

Model : Everett NXT

Seat Type : BOOSTER SEAT

Model No. : 11200-US-01

Platform Name / No. : NR

Brand Name : NR

Descriptive Information : Affected Diono Everett NXT (11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01) child restraints can be determined by the manufacturing stickers applied on the base of the child restraint. On the sticker will be the model name of the product Everett NXT-Black, or Everett NXT-Blue, Everett NXT-Red, or Everett NXT-Plum with the model number 11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01, a ten digit serial number, and a date of manufacturer. The basis of determining the beginning and the final dates of manufacturing for these seats was determined based on the investigation of the inspection checklists performed for these lots. No other manufacturing dates of Everett NXT 11200-US-01, 11201-US-01, 11202-US-01, 11203-US-01 are affected.

The seats within the range noted above are missing the following required statement. The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."

2642 Seats Affected

Production Dates : OCT 01, 2020 - MAR 31, 2021

Description of Defect :

Description of the Defect : The seats within the range noted above are missing the following required statement. The statement: "This child restraint system conforms to all applicable Federal motor vehicle safety standards."

FMVSS 1 : 213 - Child restraint systems

FMVSS 2 : NR

Description of the Safety Risk : Not Applicable

Description of the Cause : NR

Identification of Any Warning that can Occur : Not Applicable

Involved Components :

Component Name : NR

Component Description : NR

Component Part Number : NR

Supplier Identification :**Component Manufacturer**

Name : Diono

Address : 14810 Puyallup St. E.
Suite 200 Puyallup Washington 98390

Country : United States

Chronology :

The possible non-compliance was first flagged by NHTSA when conducting safety compliance testing under Federal Motor Vehicle Safety Standards on the Diono Everett NXT car seat.

Diono and NHTSA met virtually to discuss the non-compliance issue noted above in section 5 regarding the required statement, and discussed the appropriateness of filing a Part 573 report.

Description of Remedy :

Description of Remedy Program : Diono will petition for the noncompliance to be deemed inconsequential.

How Remedy Component Differs from Recalled Component : Not Applicable

Identify How/When Recall Condition was Corrected in Production : Everett NXT seats produced following the condition were corrected using the correct label after March 2021.

Recall Schedule :

Description of Recall Schedule : Not Applicable

Planned Dealer Notification Date : NR - NR

Planned Owner Notification Date : NR - NR

Purchaser Information :

The following manufacturers purchased this defective/noncompliant equipment for possible use or installation in new motor vehicles or new items of motor vehicle equipment:

Name : NR

Address : NR

NR

Country : NR

Company Phone : NR

* NR - Not Reported