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Evenflo Company, Inc.
120 Royall Street
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United States

January 17, 2024

Via Federal Express

National Highway Traffic Safety Administration
Attn: Administrator
1200 New Jersey Avenue, S.E.
Washington, DC 20590

RE: Petition for Reconsideration / Clarification
49 CFR Part 571
Docket No. NHTSA-2023-0040
RIN 2127-AL34
Federal Motor Vehicle Safety Standards; Child Restraint Systems

Dear Administrator:

Evenflo Company, Inc. (“Evenflo”) submits this Petition for Reconsideration (“Petition”) seeking correction and/or clarification regarding certain aspects of the Final Rule published December 5, 2023 detailing revisions to 49 CFR Part 571.213 and the addition of 49 CFR Part 571.213b in the docket referenced above.

Evenflo perceives the issues raised in this Petition to involve technical drafting imperfections presenting inconsistencies or ambiguities, rather than substantive disagreement with the agency’s proposed regulatory changes. We submit that correction will eliminate potential ambiguities regarding the requirements intended to be embodied in the regulations.

1. English/Metric Equivalency for Child Weight

The first issue concerns inconsistencies in calculating and stating equivalencies between English and metric measures in the context of requirements tied to child weights expressed in the English measure as 40 pounds.

In a variety of contexts, the regulation expresses various requirements in terms of either metric or English measures.¹ However, the aspect of the final rule which most significantly presents

¹ The use of both metric and English units of measure (and sometimes, but not always, both) throughout FMVSS

concern relates to child weight expressed alternatively in English and metric measure or, more specifically, in terms of 40 pounds and a metric equivalent.

The metric equivalent of 40 pounds, rounded to zero, one and two decimal places respectively, is 18 kilograms, 18.1 kilograms and 18.14 kilograms. As detailed in Exhibit A attached to this Petition, the regulatory text of the Final Rule states the equivalency inconsistently in various locations as 18, 18.2, and 18.4 kilograms. This inconsistency is mirrored throughout the Preamble to the Final Rule. Evenflo has not been able to discern any underlying technical reason or intent.

Evenflo suggests that it is appropriate to continue to use 18 kilograms as the equivalent to 40 pounds in the regulation. The regulation has long used that conversion and no intent to change was expressed in the preamble or administrative history. Further, the reality is that relatively few parents in the United States know the weight of their children measured in kilograms, and almost none know their child's weight in kilograms with the level of precision consistent with use of a decimal point. However, should the agency conclude that rounding to 18 kilograms is not the best approach, the correct figure (rounding to a single decimal place) would be 18.1. Under any circumstances, Evenflo submits that the equivalency should be stated consistently through the regulation.

2. Duplicative Language

In Section S5 of Regulation 213b, there is near duplicative language in different subparagraphs, which creates an ambiguity with respect to what is intended, and particularly as to whether there is any substantive difference in the two provisions.

Specifically, subsection S5(b)(2) reads as follows:

Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights up to 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights up to 1100 millimeters (mm) regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a)

This is nearly identical to subsection S5(g), which states that:

Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights less than 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights less than 1100 millimeters regardless of weight, shall meet the


213 is generally a source of potential ambiguity, and Evenflo suggests this is potentially an issue that should be addressed in the future. However, except as specifically set forth above, that is beyond the scope of this Petition,

requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).

Based on the discussion at Section XI(h) of the Preamble to the Final Rule, Evenflo understands “up to 18 kilograms (40 pounds)” to be substantively synonymous with “less than 18 kilograms (40 pounds).” If that is so, then these two provisions appear to be substantively identical. Further, Evenflo understands the Preamble discussion cited above to indicate an intent to discontinue the “up to” formulation for expressing the requirement. Accordingly, we request clarification as to the intent in the final regulation and suggest that subsection S5(b)(2) should be deleted.

We are, of course, available at your convenience should you find it appropriate to discuss any of these issues. Thank you for your consideration.

Best Regards,

A handwritten signature in black ink, appearing to read 'L. S. Buonomo', written in a cursive style.

Lawrence S. Buonomo
Vice President and General Counsel

Exhibit A
Excerpted English/Metric Conversions in CRS Regulations

Current FMVSS 213

S5(g)

Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights up to 18 kilograms (40 pounds), or for children in a height range that includes heights up to 1100 millimeters, shall meet the requirements in this standard and the additional side impact protection requirements in Standard No. 213a

S7.1.1

A child restraint that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 18 kg (40 lb.) but not greater than 22.7 (50 lb.), or by children in a specified height range that includes any children whose height is greater than 1100 mm but not greater than 1250 mm is tested with a 49 CFR part 572, subpart N dummy (Hybrid III 6-year-old dummy).

FMVSS 213a

S1

This standard specifies side impact protection requirements for child restraint systems recommended for children in a weight range that includes weights up to 18 kilograms (40 pounds) or by children in a height range that includes heights up to 1100 millimeters (43 inches).

S3

This standard applies to add-on child restraint systems that are either recommended for use by children in a weight range that includes weights up to 18 kilograms (40 pounds) regardless of height, or by children in a height range that includes heights up to 1100 millimeters regardless of weight, except for car beds and harnesses.

Revised FMVSS 213

S5.5.2(f)(2)

For child restraint systems manufactured on or after December 5, 2024: Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the mass and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward-facing, booster), except manufacturers shall not recommend forward-facing use for child restraint systems with internal harnesses for children of masses less than 12 kg (26.5 lb.), and shall not recommend booster seats for children

of masses less than 18.4 kg (40 lb.).

FMVSS 213b

S5(b)(2)

Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights up to 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights up to 1100 millimeters (mm) regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).

S5(g)

Each add-on child restraint system manufactured for use in motor vehicles, that is recommended for children in a weight range that includes weights less than 18 kilograms (40 pounds) regardless of height, or for children in a height range that includes heights less than 1100 millimeters regardless of weight, shall meet the requirements in this standard and the applicable side impact protection requirements in Standard No. 213a (§ 571.213a).

S5.5(f)

Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the weight and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward facing, booster), except manufacturers shall not recommend that child restraint systems with internal harnesses be used forward-facing with children of weights less than 12 kg (26.5 lb.), and shall not recommend that booster seats be used by children of weights less than 18.4 kg (40 lb.).

S5.5.5(f)

Statements or a combination of statements and pictograms specifying the manufacturer's recommendations for the weight and height ranges (in English and metric units) of children who can safely occupy the system in each applicable mode (rear-facing, forward facing, booster), except manufacturers shall not recommend forward-facing child restraint systems with internal harnesses for children of weights less than 12 kg (26.5 lb.), and shall not recommend booster seats for children of weights less than 18.4 kg (40 lb.).

S7.1.2(d)

A child restraint system that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified weight range that includes any children having a weight greater than 13.6 kg (30 lb.) but not greater than 18.2 kg (40 lb.) regardless of height, or by children in a specified height range that includes any children whose height is greater than 870 mm but not greater than 1100 mm regardless of weight, is tested with a 49 CFR part 572, subpart

P dummy (Hybrid III 3-year-old dummy).

S7.1.2(e)

A child restraint system that is recommended by its manufacturer in accordance with S5.5 for use either by children in a specified weight range that includes any children having a weight greater than 18.2 kg (40 lb.) but not greater than 22.7 kg (50 lb.) regardless of height, or by children in a specified height range that includes any children whose height is greater than 1100 mm but not greater than 1250 mm regardless of weight, is tested with a 49 CFR part 572, subpart N dummy (Hybrid III 6-year-old dummy).

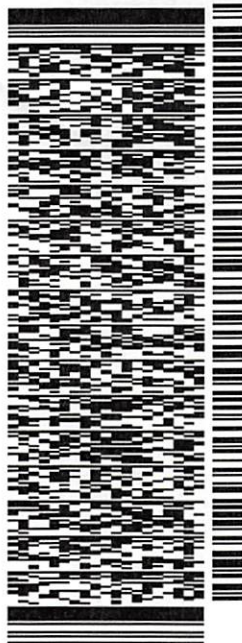
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