

Docket No. NHTSA-02-11707  
Docket Management  
U.S. Department of Transportation  
Room PL-401  
400 Seventh Street, SW  
Washington, DC 20590

**Comments of Public Citizen Regarding  
Federal Motor Vehicle Safety Standards; Child Restraint Systems;  
Proposed Rule**

Public Citizen submits these comments in response to the National Highway Traffic Safety Administration's (NHTSA) Notice of Proposed Rulemaking (NPRM) of May 1, 2002 listed in the Federal Register at 67 FR 21806 *et seq.* In addition to suggestions offered in our comments, Public Citizen fully endorses the comments submitted to this docket by Advocates for Highway and Auto Safety regarding the revision of Federal Motor Vehicle Safety Standard (FMVSS) No. 213.

NHTSA issued this rulemaking in response to the mandate of Section 14 of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act.

The NPRM proposes to update FMVSS No. 213 by adjusting five elements of the standard:

- 1) An updated bench seat for dynamic tests;
- 2) A sled pulse that provides a wider test corridor;
- 3) Improved child test dummies;
- 4) Expanded applicability of test to child restraint systems for children weighing up to 65 pounds;
- 5) New or revised injury criteria to assess the performance of child restraints.

NHTSA should, in all of its test procedures, protect the greatest number of children in crashes. It should therefore design a test mechanism that mimics the least protective designs in vehicles on the road, so as to require maximal performance from child safety restraints. Public Citizen therefore objects to NHTSA's plan to adjust the dynamic test mechanism to match the characteristics of the average new vehicle in the fleet. Instead, any adjustments should be directed toward altering the test mechanism so its characteristics match those of the vehicles least likely to support proper restraint performance.

**Will changes to the bench test compromise the effectiveness of new child restraints  
when installed in older vehicles?**

NHTSA has proposed altering the seat bottom and back cushion angles on the child restraint dynamic test assembly. It has also proposed adjusting the spacing between seat belt anchors in both the center and outboard seating positions. Finally, it plans to

require a fixed, rather than flexible, seat back on the assembly. NHTSA has based all of these changes on its analysis of cars currently entering the market. This proposal may have adverse effects on restraints that are purchased for use in older vehicles.

According to the Federal Highway Administration, the average American vehicle was 9 years old in 2000.<sup>1</sup> If NHTSA wishes to update the testing apparatus, it should act quickly so as to account for the lag in fleet penetration of new seat designs. However, the agency also should adjust its testing, or create another test, that will measure the effectiveness of child restraint systems used in older cars, to account for the fact that most vehicle owners are not driving new vehicles.

### **NHTSA has not explained the likely effect on restraint performance of changes to the test mechanism**

The agency has not offered any thoughts on how these changes are likely to affect restraint performance. Since the changes are rather substantial – the seat bottom angle would nearly be doubled, the back cushion angle increased by 33 percent, center position anchor spacing increased by over 75 percent – consumers would benefit from guidance from the agency as to how these changes (and the fact that the current standard does not mimic real world performance) should influence their purchasing decisions.

Public Citizen asks that for the final rule, the agency produce an analysis of the likely effects that these design changes will have on restraint performance so that manufacturers can have some guidance in adjusting their designs and consumers will be able to gauge the benefits of purchasing a restraint designed under the new guidelines.

### **NHTSA should retain the crash pulse for FMVSS 213**

The agency is correct to use the current FMVSS 213 crash pulse, as it mimics the pulse found on “family vehicles” such as pickups, SUVs, and minivans. These vehicles have severe crash pulses, and the agency should keep the philosophy of testing to the most strenuous conditions in mind when designing the test. The agency has not explained how widening the test corridor is likely to affect restraint performance.

### **Test dummy improvements are promising however there is no guarantee that future safeguards will cover the full range of child weights and sizes**

Public Citizen is pleased to see that NHTSA plans to eventually use the Hybrid III 10-year-old dummy design and upgrade its current dummies to the Child Restraint Air Bag Interaction (CRABI) and Hybrid III 3- and 6-year-old designs. We ask that the Hybrid III 10-year-old dummy be used as soon as possible, as the weighted 6-year-old dummy may or may not perform the same way in testing. The sooner manufacturers use the final design, the sooner permanent, needed safety improvements can be made.

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<sup>1</sup> <http://www.fhwa.dot.gov/ohim/onh00/onh2p3.htm>

Currently, children who weigh between 40 and 80 lbs are not accounted for in the crash tests performed by NHTSA. Public Citizen documented the problems with this gap in the standard in our report, "The Forgotten Child," also submitted to this docket. While NHTSA would close a portion of this gap with the use of dummies weighing 62 lbs, the gap must be closed entirely to protect the large cohort of children currently at risk of being placed in restraints that were not designed to offer them crash protection.

NHTSA appears to understand the reasons for expanding the standard to encompass children weighing up to 80 pounds. However, it declines to set a future date for which testing for the 65 to 80 pound weight class will be performed by the agency and required for manufacturers. While an 80 pound dummy may not currently be available, there is no reason that it will not be available in one or two years time. NHTSA should anticipate the future availability of the 80 pound dummy in this rulemaking by seizing the opportunity to protect all children in need of child restraints, not just those weighing up to 65 pounds

Public Citizen does not support increasing the weight limit in the definition of child restraint system to 80 lbs in the absence of an 80-lb dummy; we urge the agency to move expeditiously to introduce a dummy of this size that could be used for test purposes. Only then would increasing the weight limit in the definition be appropriate.

### **Conclusion**

NHTSA has an opportunity to protect our most vulnerable vehicle occupants with this rulemaking. Public Citizen asks that the agency take full advantage of the authority given to it by Congress and act aggressively to protect the greatest number of children possible.

Submitted by:

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