



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2025-0013; Notice 1]

Evenflo Company, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition

SUMMARY: Evenflo Company, Inc. (Evenflo) has determined that certain Evenflo All4One child restraint systems do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, *Child Restraint Systems*. Evenflo filed a noncompliance report dated January 27, 2025, and subsequently petitioned NHTSA (the “Agency”) on February 14, 2025, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Evenflo’s petition.

DATES: Send comments on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at https://www.regulations.gov by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Corey Barlet, General Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-1119.

SUPPLEMENTARY INFORMATION:

I. Overview: Evenflo determined that certain Evenflo All4One child restraint systems do not fully comply with paragraph S5.1.1(b)(1) of FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213).

Evenflo filed a noncompliance report dated January 27, 2025, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Evenflo petitioned NHTSA on February 14, 2025, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Evenflo's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or another exercise of judgment concerning the merits of the petition.

II. Child Restraint Systems Involved: Evenflo reported that approximately 67,416 Evenflo All4One, manufactured between December 1, 2021, and June 30, 2023, do not meet the requirements of FMVSS No. 213.

III. Relevant FMVSS Requirements: Paragraph S5.1.1(b)(1) of FMVSS No. 213 includes the requirements relevant to this petition. Paragraph S5.1.1(b)(1) requires that all adjustable child restraint systems must remain in the same position after testing (in accordance with paragraph S6.1 of FMVSS No. 213) that they were set before testing, unless the child restraint system meets conditions specified in S5.1.1(b)(2).

IV. Noncompliance: Evenflo explains that some Evenflo All4One child restraint systems undergoing testing have changed position during testing.

V. Summary of Evenflo's Petition: The following views and arguments presented in this section, "V. Summary of Evenflo's Petition," are the views and arguments provided by Evenflo. They have not been evaluated by the Agency and do not reflect the views of the Agency.

Evenflo describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

Evenflo prefaces its argument by citing previously granted petitions for inconsequential noncompliance that it believes are relevant to its own petition. Evenflo first quotes NHTSA's decision on a petition by Gillig, LLC, describing NHTSA's procedures when considering petitions: "(i)n determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which the recall would otherwise protect." (*see* Gillig, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 90 FR 735, January 6, 2025).

Evenflo then cites two granted petitions for inconsequential noncompliance to show that NHTSA grants petitions when the manufacturer can show that there are no additional risks of injury caused by the noncompliance (*see* General Motors, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 35355, June 12, 2013; *see also* Osram Sylvania, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 46000, July 30, 2013).

Evenflo believes that the precedent of these decisions supports Evenflo's petition for the subject noncompliance. Evenflo states that the subject noncompliant child restraint systems still meet the intended purpose of paragraph S5.1.1(b)(1) of FMVSS No. 213 as they do not expose occupants to a greater risk of injury than a compliant child restraint system. Evenflo cites a 1996 letter from the NHTSA Chief Council to C. Scott Talbot, Esq. of Howrey & Simon that stated that the purpose of paragraph S.5.1.1(b)(1) is to (1) "prevent a child's fingers or limbs from being caught in shifting parts of the restraint" and (2) prevent the occupant from sliding from under the lap belt during a crash (also known as "submarining").

Evenflo claims that the risk for children to have their fingers or limbs crushed is negated because all shifting parts of the child restraint systems are located outside and below the seat structure and are inaccessible to the child occupant. Evenflo states that the child has no risk of submarining because the change in recline adjustment only occurred during testing a rear facing

test, where submarining is impossible. Furthermore, Evenflo states that the seats come equipped with a 5-point harness, which functioned as intended during testing, preventing movement of the child relative to the seating surface.

Additionally, Evenflo recognizes that NHTSA does not consider the absence of complaints or injuries to be relevant when considering the inconsequentiality of a noncompliance, however, Evenflo notes that it has not found any reports or complaints of a child's fingers or limbs being caught in the shifting parts of the subject child restraint systems, nor have there been any reports of submarining caused by the child restraint system's noncompliance with paragraph S5.1.1(b)(1) of FMVSS No. 213.

Evenflo concludes by stating its belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety and its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject child restraint systems that Evenflo no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve child restraint system distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant child restraint systems under their control after Evenflo notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Eileen Sullivan,

Associate Administrator for Enforcement.

