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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2025-0013; Notice 2]

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

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

ACTION: Denial 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 the denial of Evenflo's petition.

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.*

Notice of receipt of Evenflo's petition was published with a 30-day public comment period, on April 14, 2025, in the **Federal Register** (90 FR 15610). One comment was received. To view the petition and all publicly available supporting documents log onto the Federal Docket Management System (FDMS) website at https://www.regulations.gov/. Then follow the online search instructions to locate docket number "NHTSA-2025-0013."

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) to which 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 do not reflect the views of NHTSA. Evenflo submits that, although the subject child restraints changed to a different adjustment position during rear-facing tests, the noncompliance is inconsequential as it relates to motor vehicle safety.

Evenflo begins its submission by citing previously granted petitions for inconsequential noncompliance that it submits 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 purportedly to show that, for FMVSS relating to occupant protection, NHTSA grants petitions when the manufacturer can show that the noncompliance does not subject the occupant to a greater risk of injury than the risk that would exist if the component or vehicle were compliant (*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 states that the precedent of these decisions supports Evenflo's petition for the subject noncompliance. Evenflo states that the subject noncompliant child restraint systems (CRSs) still meet the intended purpose of paragraph S5.1.1(b)(1) of FMVSS No. 213 as they do not expose occupants within the CRS to a greater risk of injury in a crash than occupants in a compliant CRS. Evenflo submits 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").[1]

Evenflo states that there is no risk of children's fingers or limbs being crushed by the moving parts 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 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.

[1] https://www.nhtsa.gov/interpretations/12118shdadj

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.

VI. Public Comment: NHTSA received one comment concerning Evenflo's petition, from Advocates for Highway & Auto Safety (AHAS). AHAS stated in their comment that the noncompliance of the subject child restraint system (CRS) does not appear to be equivalent to the other noncompliance issues cited in Evenflo's petition. AHAS also stated that Evenflo's petition fails to address that the changing recline of the subject CRS could lead to additional and injurious loading of the occupant from the belts and/or harness leading to injury. AHAS said that NHTSA should collect certain data from Evenflo and provide it to the public for review before determining whether the subject noncompliance is inconsequential to motor vehicle safety. Specifically, AHAS believes that NHTSA should collect the following information:

1. Visual evidence (videos and photos) of the testing and noncompliance
2. Instrumentation data, including any readings from anthropomorphic test devices (ATDs)
3. Evaluation of the injury risk to vulnerable occupants due to the modified orientation and movement during the testing.

VII. NHTSA's Analysis: The burden of establishing the inconsequentiality of a failure to comply with a performance requirement in an FMVSS is substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.[2]

In determining inconsequentiality of a noncompliance, NHTSA focuses on the safety risk to individuals who experience the type of event against which a recall would otherwise protect.[3] Petitioners are reminded that they have the burden of persuading NHTSA that the noncompliance is inconsequential to safety. Granting a petition does not permit the manufacturer to continue to produce products that have the noncompliance.

NHTSA has evaluated the merits of Evenflo's petition and determined Evenflo has not met its burden of persuasion that the subject noncompliance is inconsequential to motor vehicle safety.

Paragraph S5.1.1(b)(1) of FMVSS No. 213 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) to which they were set before testing, unless the child restraint system meets conditions specified in S5.1.1(b)(2). Evenflo's petition states the subject child restraints changed to a different adjustment position during rear-facing tests. Throughout the petition, Evenflo argues that the noncompliance is inconsequential to safety because the component that is changing position does not pose a risk of injury to the child occupant's fingers or limbs.

Evenflo relies on a 1996 NHTSA interpretation whereby NHTSA found a change in position of booster CRS shoulder belt adjustment guide during a crash test was permitted under S5.1.1(b)(1).[4] This interpretation is not applicable to Evenflo's noncompliance. The 1996

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[2] *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

[3] *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

[4] https://www.nhtsa.gov/interpretations/12118shdadj

interpretation concerns a belt-positioning seat that had adjustable devices for positioning the vehicle belt onto the child's lap and shoulder. The interpretation states that movement of the belt adjuster device during a crash is permitted because, in part, it is not a structural element, such as the seating surface. In contrast, the interpretation specifically identifies movement of structural elements, such as repositioning of the reclining feature, as the type of movement the standard was aimed at preventing. This is the precise movement at issue in the current petition: a support structure failure that causes the reclining feature to change position during the test.[5]

This change in position of the subject child restraint poses a risk to other nearby occupants whose fingers may be pinched, even if it does not pose a risk to pinching fingers of the occupant of the child restraint itself. NHTSA has closely examined the CRS in question and has concluded that vehicle occupants seated alongside the CRS are at a risk of having their limbs pinched in the opening or gap located above the recline indicator on the bottom of the CRS when the CRS changes position.

NHTSA observed that the All4One changed recline position in NHTSA compliance testing.[6] Evenflo's customer complaints and NHTSA's Vehicle Owner's Questionnaires (VOQs) demonstrate that the All4One has changed recline position during routine use when parents were securing their children into the child restraint and driving under normal conditions. NHTSA has sixteen (16) consumer complaints (VOQs) specifically relating to the change in recline position, as of August 20, 2025. Evenflo submits in its petition that it has received no reports of injury related to catching of the CRS child occupant's fingers or limbs in the shifting parts. However, Evenflo reported four-hundred and one (401) consumer complaints which they characterized as "recline slips position," with an additional twenty-five (25) complaints related to the All4One's recline mechanism. Two of the consumer complaints produced by Evenflo concern finger

[5] It is also noteworthy that the 1996 interpretation cited the 1979 final rule highlighted that the intent of paragraph S5.1.1(b)(1) is to prevent child occupants' fingers or limbs from being caught between the shifting parts of the child restraint. This safety intent related to change of position remains relevant today; however, it is worth highlighting that preambles and interpretations do not necessarily list all safety purposes of a given requirement.
[6] See Test Report 213-2460906-TEST (https://static.nhtsa.gov/odi/ctr/2024/213-2460906-TEST.pdf)

entrapment in the All4One's recline mechanism, demonstrating Evenflo knew of injuries associated with the seat changing position. These consumer complaints indicate that the Evenflo All4One is subject to change position simply when placing the child in the CRS as well as under normal driving conditions. Therefore, the noncompliance not only creates a safety concern during a crash, but the noncompliance also poses safety issues during other common use scenarios.

In addition, the change in position presents safety concerns related to the positioning of the child occupant's head and neck in the CRS. As the printed instructions provided with the CRS state: "Failure to properly recline the child restraint could increase the child's risk of serious injury or death." The All4One user manual instructs the user to recline the seat in a position that ensures it is in the "blue" zone on the CRS's level indicator. Consumer complaints indicate that the change of recline position during routine use causes the CRS's level indicator to move from the safe "blue" zone into a "red" zone. When the CRS is in a reclined position that is outside of the proper recline zone for the weight of the child, per the manufacturer's instructions, the CRS is at an increased risk of exceeding the 70-degree back angle requirement, set by FMVSS No. 213.[7] The risks associated with exceeding the 70-degree back angle limit include increased crash forces to the child's head and neck and the child slipping out of the restraint's internal harness.

Evenflo has not met its burden of persuasion and for the reasons described herein NHTSA does not find the subject noncompliance is inconsequential to motor vehicle safety. In reaching this decision, NHTSA considered the comment received from AHAS and will consider whether providing additional information as part of the petition process would be beneficial for future petitions. NHTSA also examined information Evenflo submitted in its response to our December 18, 2024, Information Request related to this noncompliance exhibited in our compliance testing.

[7] 44 FR 72131, December 13, 1979.

VIII. NHTSA's Decision: In consideration of the foregoing, NHTSA has decided that Evenflo has not met its burden of persuasion that the subject FMVSS No. 213 noncompliance is inconsequential to motor vehicle safety. Accordingly, Evenflo's petition is hereby denied and Evenflo is consequently obligated to provide notification of and a free remedy for that noncompliance under 49 U.S.C. §§ 30118 and 30120.

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

Eileen Sullivan,

Associate Administrator for Enforcement.

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