believed that, even absent the ability to quantify a safety problem using existing crash data, seat belt positioning devices should be regulated by means of a labeling and/or performance standard. Several were concerned that consumers mistakenly think that the products are regulated in the same way as booster seats and provide comparable protection. Almost all of the commenters said that there should be a label regarding the proper use of the devices. In opposition, a manufacturer of a belt positioner questioned ''the logic behind requiring a warning label without a testing standard.'' Almost all believed that belt positioners should be differentiated from booster seats, and that regulating the devices under FMVSS No. 213 could mislead consumers into thinking that the two devices were interchangeable. Most of the commenters supported having a performance requirement for seat belt positioners to assess how the devices would perform in a crash. However, some commenters stated that criteria needed to assess the suitability of a seat belt positioner in providing crash protection to a child (*e.g.*, limits on abdominal and lumbar spinal forces) are largely undeveloped.

After the NPRM was published, the Transportation Recall Enhancement, Accountability and Documentation Act of 2000 (the TREAD Act) (November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) was enacted, which among other things, directed NHTSA to initiate a rulemaking for the purpose of improving the safety of child restraints. The agency's initiation of rulemaking resulted in a final rule, issued in June 2003, that amended FMVSS No. 213 to incorporate advanced child test dummies in the testing of child restraints and to revise the test conditions of the standard to better represent current model passenger vehicles. 68 FR 37620; June 24, 2003; Docket No. NHTSA–03–15351. New state-of-the-art Hybrid III test dummies representing a 12-month-old, 3-year-old and 6-year-old child were incorporated into the standard, as well as a weighted 6-year-old dummy.

NHTSA's work developing a Hybrid III test dummy representing a 10-year-old child was underway at the time of the TREAD Act, but was not far enough along for the dummy to be included in that rulemaking. Now, however, developmental work on the dummy is nearly complete.

Agency Decision

After considering the comments on the August 13, 1999 NPRM and the advancements that have been attained in the testing of child passenger protection devices, the agency has decided not to proceed with the labeling requirement proposed in the NPRM. Before taking further action in this area, the agency would like to augment the technical basis of this rulemaking by supplementing the data obtained from the 1994 study of three seat belt positioners with data from up-to-date tests of current belt positioners, using the advanced test protocols and child test dummies available today.

There still is no evidence of a real-world safety problem with seat belt positioners. However, NHTSA has been directed by ''Anton's Law'' (Pub. L. 107–318, 116 Stat. 2772, December 4, 2002) to initiate rulemaking to consider whether to establish injury performance criteria and seat belt fit performance requirements for belt guidance devices. Accordingly, rather than requiring labeling at this time, the agency has initiated a targeted test program with the advanced child test dummies, including the Hybrid III 10-year-old child test dummy, to assess the need for and feasibility of developing performance requirements for belt positioners.

We are especially interested in the potential use of the 10-year-old dummy in evaluating forces that a seat belt positioner could redirect to a child's abdominal and lumbar areas in a crash. That dummy has a molded seated pelvis with anterior superior iliac spine load cell attachment locations for measuring lap belt forces. The dummy's lumbar and pelvis can also be adjusted to slouched or upright postures, so the dummy can be used to assess performance of the belts and belt positioners with slouching children. Children whose legs are too short to allow them to bend their knees when sitting upright against the vehicle seat back will slouch down when seated directly on the cushion to bend their knees. ''Study of Older Child Restraint/Booster Seat Fit and NASS Injury Analysis,'' Klinich *et al.*, DOT HS 808 248, November 1994. This phenomenon, to which Klinich *et al.* refer as the ''slouch factor,'' will affect placement of the lap belt portion of the seat belt on the abdomen. (Discussion of the slouch factor's contribution to poor belt fit can also be found at 64 FR at 44169, columns 2 and 3.) We believe that the test program will provide useful data that will enhance our ability to determine what regulatory approach, if any, would be most appropriate to address belt fit on older children.

One anticipated use of the data will be to assess how labeling can be made most effective at inducing parents to restrain children in a way that is appropriate for those children. After reviewing the comments on the NPRM, NHTSA became concerned that the labeling proposed in the NPRM could be misconstrued by some parents as an agency recommendation that it would be acceptable to restrain 6-year-old children in a vehicle belt system if a belt-positioner were used. Such a conclusion would be contrary to the recommendations of the agency that 6-year-olds are best restrained when in a belt-positioning booster.[3] Any labeling that may eventually be required must be careful not to induce parents to forego restraining their child in the safest manner possible.

Given the complexity of the issues, the testing that will be conducted pursuant to Anton's Law, and the limited resources of the agency, NHTSA will not be able to conclude its analysis of the issues of this rulemaking in the near future. We have therefore decided to withdraw the August 1999 NPRM. Notwithstanding this withdrawal, it is noted that seat belt positioners are items of motor vehicle equipment and therefore their manufacturers are subject to the requirements in 49 U.S.C. 30119 and 30120 concerning the recall and remedy of products with safety-related defects.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, 30166 and Pub. L. 106–414, 114 Stat. 1800; delegation of authority at 49 CFR 1.50.

Issued on March 17, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04–6397 Filed 3–22–04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AJ26

Endangered and Threatened Wildlife and Plants; Extension of Amended Special Regulations for the Preble's Meadow Jumping Mouse

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearing.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are extending the comment period on a proposed rule

[3] NHTSA recommends that children who have outgrown child safety seats should be properly restrained in a booster seat until they are at least 8 years old, unless they are 4′9″ tall.

that would permanently extend the amended special regulations governing take of the threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*). Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this extended comment period, and will be fully considered in the final rule. We also are holding a public hearing to receive oral comments on this proposed rule.

DATES: Comments must be received on or before April 12, 2004, to receive consideration. (*see* ''Public Hearings and Meetings'' section for time and location of the public hearing).

ADDRESSES: Submit written comments to the Colorado Ecological Services Field Office, U.S. Fish and Wildlife Service, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, or by facsimile to 303–275–2371. You may hand deliver written comments to our Colorado Ecological Services Field Office at the address given above. The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service's Colorado Ecological Services Field Office at the address given above.

FOR FURTHER INFORMATION CONTACT: In Colorado, contact Susan Linner, Field Supervisor, at the above address or telephone (303) 275–2370. In Wyoming, contact Brian Kelly, Field Supervisor, 4000 Airport Parkway, Cheyenne, Wyoming, at telephone (307) 772–2374.

SUPPLEMENTARY INFORMATION:

Background

On May 22, 2001, the Service adopted special regulations governing take of the threatened Preble's meadow jumping mouse (*Zapus hudsonius preblei*), which provide exemption from take provisions under section 9 of the Endangered Species Act for certain activities related to rodent control, ongoing agricultural activities, landscape maintenance, and existing uses of water. On October 1, 2002, the Service amended those regulations to provide exemptions for certain activities related to noxious weed control and ongoing ditch maintenance activities. On February 24, 2004, we published a proposed rule in the **Federal Register** (69 FR 8359) to permanently extend these special regulations, as amended, and solicited public comments. Please refer to the proposed rule for background information, a summary of previous Federal actions, and provisions of the special regulations. We are now extending the public comment period and holding a public hearing on this proposed rule.

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we solicit comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the proposed rule. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. In some circumstances, we will withhold a respondent's identity from the rulemaking record, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comments. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses available for public inspection in their entirety (*see* **ADDRESSES** section).

Public Hearing and Meetings

On March 9, 2004, we received a request for a public hearing on the proposed extension of the amended special rule. In response to this request, we will hold a public hearing on Thursday, April 1, 2004, from 6 p.m. until 8 p.m. at the Platte County Public Library, 904 9th Street, Wheatland, Wyoming.

Anyone wishing to make an oral comment or statement for the record at the public hearing listed above is encouraged (but not required) to also provide a written copy of the statement and present it to us at the hearing. Oral and written statements receive equal consideration. In the event there is a large attendance, the time allotted for oral statements may be limited.

Author

The primary author of this notice is Mary Jennings, Wyoming Field Office, telephone 307–772–2374.

Authority: Authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: March 17, 2004.

Mary G. Henry,

Acting Regional Director, Denver, Colorado.

[FR Doc. 04–6416 Filed 3–22–04; 8:45 am]

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