

performance during the past year and the information provided by the RCAC in their annual report and recertification package the Coast Guard finds the PWS RCAC meets the criteria established under the Oil Pollution Act, and that recertification in accordance with the Act is appropriate.

#### Recertification

By letter dated April 4, 2000, the Commander, Seventeenth Coast Guard certified that the PWSRCAC qualifies as an alternative voluntary advisory group under 33 U.S.C. 2732(o). This recertification terminates on January 31, 2001.

Dated: April 4, 2000.

**T.J. Barrett,**

*Admiral, U.S. Coast Guard, Commander, Seventeenth Coast Guard District.*

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

[USCG 2000-7288]

#### Guidelines for Assessing Merchant Mariners' Proficiency Through Demonstrations of Survival-Craft Skills

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of Availability and Request for comments.

**SUMMARY:** The Coast Guard announces the availability of, and seeks public comments on, the national performance measures proposed here for use as guidelines when mariners demonstrate their proficiency in survival-craft skills. A working group of the Merchant Marine Personnel Advisory Committee (MERPAC) developed and recommended national performance measures for this proficiency. The Coast Guard has adapted the measures recommended by MERPAC.

**DATES:** Comments and related material must reach the Docket Management Facility on or before July 3, 2000.

**ADDRESSES:** Please identify your comments and related material by the docket number of this rulemaking [USCG 2000-7288]. Then, to make sure they enter the docket just once, submit them by just one of the following means:

(1) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL-401, 400 Seventh Street SW., Washington DC 20590-0001.

(2) By delivery to room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC,

between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

(3) By fax to the Docket Management Facility at 202-493-2251.

(4) Electronically through the Web Site for the Docket Management System at <http://dms.dot.gov>.

The Docket Management Facility maintains the public docket for this Notice. Comments and related material received from the public, as well as documents mentioned in this Notice, will become part of this docket and will be available for inspection or copying at room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at <http://dms.dot.gov>.

The measures proposed here are also available from Mr. Mark Gould, Maritime Personnel Qualifications Division, Office of Operating and Environmental Standards, Commandant (G-MSO-1), U.S. Coast Guard Headquarters, telephone 202-267-0229.

**FOR FURTHER INFORMATION CONTACT:** For questions on this Notice or on the national performance measures proposed here, write or call Mr. Mark Gould where indicated under **ADDRESSES**. For questions on viewing or submitting material to the docket, call Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202-366-9329.

#### SUPPLEMENTARY INFORMATION:

#### What Action Is the Coast Guard Taking?

Table A-VI/2-1 of the Code accompanying the treaty on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended in 1995, articulates qualifications for merchant mariners' attaining the minimum standard of competence in survival craft and in rescue boats other than fast rescue boats. The Coast Guard tasked MERPAC with referring to the Table, modifying and specifying it as it deemed necessary, and recommending national performance measures. The Coast Guard has adapted the measures recommended by MERPAC and is proposing them here for use as guidelines when assessing mariners' proficiency in survival-craft skills. Next we set forth the eight skills that a mariner must demonstrate respecting survival craft, and give an example of a Performance Condition, a Performance Behavior, and three Performance Standards for one of the skills.

**Eight Skills:** Give correct commands for launching and boarding a survival craft; Prepare and safely launch a survival craft; Safely recover a survival craft; Start and operate a survival-craft engine; Steer (command) a survival craft under oars; Row a survival craft; Use survival-craft equipment; and Rig devices to aid location.

The Performance Condition for the skill entitled, "Give correct commands for launching and boarding a survival craft" is: Using a lifeboat properly stowed on gravity davits.

The Performance Behavior for the same skill is: When hearing an abandon-ship signal or the order in English to lower the lifeboat, the mariner will command launching the boat.

The Performance Standards for the same skill are: Commands are issued in proper sequence; All tasks to launch the lifeboat are verified; and The boat is launched in ten minutes.

If the mariner properly meets all of the Performance Standards, he or she passes the practical demonstration. If he or she fails to properly carry out any of the Performance Standards, he or she fails it.

#### Why Is the Coast Guard Taking This Action?

The Coast Guard is taking this action to comply with STCW, as amended in 1995 and incorporated into domestic law at 46 CFR Parts 10, 12, and 15 in 1997. Guidance from the International Maritime Organization on shipboard assessments of proficiency suggests that Parties develop standards and measures of performance for practical tests as part of their programs for training and assessing seafarers.

#### How May I Participate in This Action?

You may participate in this action by submitting comments and related material on the national performance measures proposed here. (Although the Coast Guard does not seek public comment on the measures recommended by MERPAC, as distinct from the measures proposed here, those measures are available on the Internet at the Homepage of MERPAC, <http://www.uscg.mil/hq/g-m/advisory/merpac/merpac.htm>.) These measures are available on the Internet at <http://dms.dot.gov>. They are also available from Mr. Mark Gould where indicated under **ADDRESSES**. If you submit written comments please include—

- Your name and address;
- The docket number for this Notice [USCG 2000-7288];
- The specific section of the performance measures to which each comment applies; and

- The reason for each comment.

You may mail, deliver, fax, or electronically submit your comments and related material to the Docket Management Facility, using an address or fax number listed in **ADDRESSES**. Please do not submit the same comment or material more than once. If you mail or deliver your comments and material, they must be on 8½-by-11-inch paper, and the quality of the copy should be clear enough for copying and scanning. If you mail your comments and material and would like to know whether the Docket Management Facility received them, please enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments and material received during the 60-day comment period.

Once we have considered all comments and related material, we will publish a final version of the national performance measures for use as guidelines by the general public. Individuals and institutions assessing the competence of mariners may refine the final version of these measures and develop innovative alternatives. If you vary from the final version of these measures, however, you must submit your alternative to the National Maritime Center for approval by the Coast Guard under 46 CFR 10.303(e) before you use it as part of an approved course or training program.

Dated: April 26, 2000.

**J.P. High,**

*Acting Assistant Commandant for Marine Safety and Environmental Protection.*

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## Department of Transportation

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2000-7163; Notice 1]

#### Evenflo Company, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

Evenflo Company, Inc. of Vandalia, Ohio, has determined that 678,404 child restraint systems fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 213, "Child Restraint Systems," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Evenflo has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgement concerning the merits of the application.

FMVSS No. 213, S5.5.2(j), requires each child restraint system equipped with an anchorage strap to include the following statement on a permanent label:

Secure the top anchorage strap provided with this child restraint as specified in the manufacturer's instructions.

Evenflo has determined that certain child restraints it manufactured have been shipped without the label required by S5.5.2(j). The child restraints containing the noncompliance are Ultara (model numbers 234, 235, 236, 237, 238, and 239), Champion (model numbers 247 and 249), Medallion (model numbers 254 and 259), Horizon (model numbers 420, 425, and 426), and Conquest (model numbers 428 and 429) child restraints equipped with tether straps that were manufactured between 1998 and 2000, and shipped before February 14, 2000. A total of 648,739 units are in noncompliance.

Evenflo supports its application for inconsequential noncompliance with the following:

On February 11, 2000, Evenflo personnel were reviewing the **Federal Register** and came upon Kolcraft Enterprises, Inc.'s Receipt of Application for Decision of Inconsequential Noncompliance, Docket No. NHTSA-2000-6729; Notice 1. Upon reading the request, we initiated a review of our tethered child restraint systems for the NHTSA requirement and discovered the noncompliance.

Similar to Kolcraft, Evenflo inadvertently overlooked this provision when redesigning our restraints to include tether anchorage straps. Evenflo relied on the changes in the March 5, 1999 final rule to identify the changed performance requirements. Because S5.5.2(j) was already in the standard, and not changed by the March 5, 1999 final rule, the labeling requirement was overlooked by Evenflo.

Evenflo initiated the necessary changes, and all units produced on and after February 15, 2000 are conforming to the standard. Existing stock is being reworked to include the label. As previously stated the restraints do comply with all performance requirements of FMVSS 213.

In the instruction book attached to each restraint system are clear instructions on how to properly install the top anchorage strap, tether, with

warning about improper installation. There already is one warning label stating "Warning! Failure to follow each of the instructions can result in your child striking the vehicle's interior during a sudden stop or crash..." on the units that refer the consumer to the instruction booklet and instructions for proper use along with the tether instructions.

Under Section 30118(d) of the Safety Act, the Secretary may exempt manufacturers from the Act's notification and remedy requirements when the Secretary determines that the noncompliance is inconsequential as it relates to motor vehicle safety. Evenflo believes that the noncompliance here should be found to be inconsequential because the product meets and exceeds FMVSS 213 performance regulations, there is a label on the unit referring consumers to the instructions for proper use, and the instructions provide a clear process for proper installation of the tether and warnings about improper installation.

Evenflo does not question the value of notifying consumers to check the instruction manual. Given the circumstances: a label exists referring the consumer to the instruction where the substance of the notification has been achieved, the label is located on the product where a consumer is likely to see it, a complete set of installation instructions with appropriate warnings accompanies each child restraint, and the product meets or exceeds all performance requirements, the noncompliance does not present a consequential risk to motor vehicle safety. Evenflo respectfully requests that NHTSA grant its petition for exemption.

Evenflo subsequently filed a supplement to its original petition for inconsequential noncompliance, identifying an additional 29,665 convertible child restraints with tethers it manufactured this year which do not comply with the labeling requirement of FMVSS No. 213, S5.5.3. FMVSS No. 213, S5.5.3, requires that "the information specified in S5.5.2(g) through (k) shall be located on the add-on child restraint system so that it is visible when the system is installed as specified in S5.6.1." Evenflo notes that the affected child restraint systems do contain the necessary labeling specified in S5.5.2(j), however, the labeling may not be in a location which is visible after installation of the child restraint systems into the vehicle. The child restraints containing the noncompliance are Ultara (model numbers 235, 236, and 238), Champion (model numbers 247 and 249), Horizon (model numbers