

was not simulated by the J2189 procedure, or that the child would be protected if the restraint were misused.⁵ Nor did Xportation provide data showing that the test dummies could satisfactorily evaluate the harm resulting from a deploying air bag. In the absence of such data, we conclude that the suggested amendment would subject rear-facing infants to too high a risk of injury from an air bag.

As a practical matter, NHTSA cannot test products in every configuration or circumstance they could be used. However, this limitation is generally acceptable since test procedures simulating a relatively narrow set of real world circumstances generally have a positive impact on individuals in a broader range of circumstances. However, in this particular case, testing to a test procedure of one sort could have severe consequences to a child in a broad range of circumstances. Thus, we deem the requirements and test procedures to be too narrow and not adequately representative of types of air bag systems not simulated by the J2189 procedure.

The agency will not attempt to develop a suitable test procedure in response to the petition. Developing a suitable test procedure (assuming that it would be practicable to do so) would use agency resources that are better spent on areas that would result in definite safety benefits. Moreover, for the reasons stated above, we believe that

no procedure could adequately assure the overall safety of children. There is a risk of injury associated with the forces imposed by the air bag on a rear-facing infant.⁶ There are no such risks when the child is in the back seat. Even in vehicles without air bags, infants, as well as other occupants, are 26 percent safer against fatality when seated in the rear seat than in the front seat. Thus, even if air bag risks could be completely controlled, overall safety would be diminished if some infants were restrained in the front seat instead of in the rear seat, which would occur if petitioner's suggested amendment was adopted. Keeping infants restrained in the rear seat instead of in the front seat assures that a more injurious event would not be substituted for a less injurious one.⁷

Xportation has argued that placing children in the back increases the risk for crashes because of the possibility of distraction due to parents' having to turn to attend to them. Based on a review of 2000 Fatal Analysis Reporting System (FARS) data⁸, a total of 3,946 drivers (or 6.9 percent of all drivers involved in fatal crashes) were

⁶ Limits on the force levels imposed on the dummy indicate an injury risk assessment above which the risk of injury is unacceptably high. The risk of injury of force levels below the threshold, while lower, still exists.

⁷ For vehicles with either (a) no rear seats, or (b) rear seats that are too small to accommodate rear-facing child restraints in accordance with the provision of S4.5.4.1(b) of FMVSS No. 208, vehicle manufacturers may install a device (an on/off switch) that deactivates the air bag at the front passenger position. In addition, under appropriate circumstances, owners of all vehicles may obtain an on/off switch (see 49 CFR part 595).

⁸ "Traffic Safety Facts 2000: A Compilation of Motor Vehicle Crash Data From the Fatal Analysis Reporting System and the General Estimates System," National Highway Traffic Safety Administration, National Center for Statistical Analysis, December 2001.

determined to be inattentive. However, the 2000 FARS database does not distinguish between various causes of inattentiveness, such as talking, eating, cell phone use, or attending to a child in either the front or rear seat. As such, the agency is unable to definitively ascertain from this data whether children are more or less of a distraction in the front seat as compared to the rear seat. However, placing children in rear seats does significantly increase the chances that the child will survive a crash should one occur as noted in the preceding paragraph.

In conclusion, NHTSA has evaluated the test procedure suggested by the petitioner for incorporation into the Federal standard. We conclude that the procedure does not go far enough in assessing the injury risk posed by air bags to infants in rear-facing restraints. Further, we affirm the continuing merit of urging parents to place infants in rear-facing restraints in a rear seating position, since the infants are safer there than in a front passenger seating position. This message saves lives.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded that there is no reasonable possibility that the amendment requested by the petitioner would be issued at the conclusion of the rulemaking proceeding. Accordingly, the petition is denied.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.50.

Issued on January 9, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03-821 Filed 1-14-03; 8:45 am]

BILLING CODE 4910-59-P

⁵ The SAE explains in J2189 that the information report "addresses only the effects of the interactions between deploying airbags and child restraint systems that would have been considered properly installed and used in the right and center front passenger positions before the advent of passenger airbags and may be properly installed there in the future. Child restraint misuse is not otherwise addressed in this document."