

comment on the rulemaking from the American Academy of Pediatrics (AAP).

AAP suggested that the warning should be clearer that an infant restraint must be used rear-facing, regardless of the presence of an air bag. To accomplish this, AAP suggested that the warning include the statement, "When your baby's size requires that this restraint be used in a rear-facing position * * *" as a condition for the instruction not to use the restraint in an air-bag equipped seating position. NHTSA agreed the wording should refer to the baby's size and adopted a requirement that the warning use that specific language.

Kolcraft petitioned for reconsideration of the requirement to label convertible restraints with the phrase "When your baby's size requires that this restraint be used in a rear-facing position * * *." The petitioner concurred that the warning label should not inadvertently encourage parents to turn convertible restraints to the forward-facing position when used for infants. However, Kolcraft believed that the new language may exacerbate the risk that parents will mistakenly reverse the orientation of a convertible restraint, because "the language seems to focus on whether the baby's size 'requires' the baby to be rearward facing." "[T]his will confuse parents, and appear to introduce a new criterion for deciding whether to orient a convertible seat front-facing or rear-facing." Kolcraft petitioned NHTSA to delete the reference to a baby's size, or replace it with "When using this restraint with an infant, the restraint must be rear facing * * *."

Mr. Koziatek petitioned for reconsideration of three aspects of the warning. First, similar to Kolcraft, Mr. Koziatek believed that NHTSA should reconsider the rule's reference to "baby's size" as a condition for positioning a convertible restraint to face the rear of the vehicle. The petitioner faulted the rule for giving no information as to when the child restraint system should be used rear-facing, and suggested remedying that shortcoming by beginning the warning with "This restraint must face the rear for infants less than 20 pounds." Second, Mr. Koziatek believed that the warning is too limited in that it implies that the front center seating position in a vehicle equipped with a passenger-side air bag is suitable for a rear-facing child restraint. The petitioner was concerned that future air bag designs may encompass the widespread use of an air bag system that deploys from the passenger side position, yet inflates widely enough to protect an occupant in the front center seating position. (The

petitioner apparently was alluding to an air bag system like General Motor's advertised "air bank" system for the Cadillac line.) Mr. Koziatek suggested broadening the language of the warning to warn against using a rear-facing child restraint "in the front seat with a passenger side air bag." Third, Mr. Koziatek said that the agency should reconsider its decision not to require the label to specify the consequences of not following the warning against using the child restraint with an air bag. The petitioner believed that the consequences have to be spelled out for the public because "The general public has been conditioned to expect an air bag to be life-saving and not life-threatening."

Agency Decision

NHTSA has decided to grant the petitions for reconsideration of Kolcraft and Mr. Koziatek, and is amending the labeling requirement of S5.5.2(k) of Standard 213 in accordance with the petitioners' suggestions. With regard to the suggestion that the warning label should provide better information to the consumer about when an infant should face rearward, the agency agrees that such information is desirable. The information would reduce the likelihood that consumers would misinterpret the warning as instructing them to face an infant (weighing less than 20 pounds) forward rather than rearward in an air bag equipped seating position. Accordingly, this rule requires the warning for convertible restraints to include the statement, "PLACE THIS CHILD RESTRAINT IN A REAR-FACING POSITION WHEN USING IT WITH AN INFANT WEIGHING LESS THAN (insert a recommended weight that is not less than 20 pounds)." As noted in the highlighted text, manufacturers would insert a recommended weight that is not less than 20 pounds.

The 20 pound minimum criterion is in accordance with established practice and advice in the child passenger safety community that infants weighing less than 20 pounds must face rearward. The American Academy of Pediatrics recommends that parents "[u]se the infant car seat until your child reaches 17-20 pounds or until your child's head reaches the top of the car seat. If your baby outgrows it before 20 pounds, use a rear-facing convertible car seat until your child weighs 20 pounds." As noted above in this preamble, infants weighing less than 20 pounds lack the skeletal and muscular structure to withstand crash forces in a forward-facing position. All rear-facing child restraint manufacturers currently specify that

their child restraints must be used rear-facing until the child is at least 20 pounds.

With regard to the concern that the warning should not imply that the front center seating position in a vehicle equipped with a passenger-side air bag is suitable for a rear-facing child restraint, NHTSA concurs that the implication should be avoided. Not enough is known about the interaction of "air bank" type systems with rear-facing child restraints to warrant discounting the possibility that an air bank system might be incompatible with a rear-facing restraint. Accordingly, the agency has amended the warning to state, "WHEN THIS RESTRAINT IS USED REAR-FACING, DO NOT PLACE IT IN THE FRONT SEAT OF A VEHICLE THAT HAS A PASSENGER SIDE AIR BAG."

Finally, NHTSA agrees with Mr. Koziatek that the warning label should specify the consequences of using the child restraint with an air bag. NHTSA decided against such a requirement in the final rule, since the rule requires the use instructions accompanying the child restraint to contain this information. 59 FR at 7645. On reconsideration, NHTSA concludes that placing a description of the consequences next to the warning would help alert consumers to the importance of the warning. The agency concurs with the petitioner that the fact that an air bag can cause injury is counter-intuitive to the public generally. Information about the consequences of placing a rear-facing restraint near an air bag could more convincingly communicate the important safety need for placing the child in the rear seat. Accordingly, this rule amends the warning statement for convertible and infant-only restraints to require manufacturers to insert a statement that describes the consequences of not following the warning. NHTSA has not prescribed the exact language that must be used and instead is providing manufacturers the flexibility to describe the consequences in their own words. The agency anticipates that the description will accurately describe the potentially grave consequences of not following the warning, yet will avoid frightening consumers into not using a rear-facing restraint with an infant.

The three changes adopted today were also sought by the parties who, because their petitions for reconsideration were untimely, were deemed under the agency's rulemaking procedures to have submitted petitions for rulemaking. The requests in the petitions for rulemaking are, with one exception, substantially the same as the requests made by the reconsideration petitions granted today.