

final rule amended FMVSS No. 208 such that the maximum unbelted barrier crash test speed is lower and the range is more narrowly defined as 32–40 km/h. Second, vehicle structures and their air bag systems have changed considerably since 1995. The petitioner provided no data to support a re-examination of how FMVSS No. 204 relates to vehicles certified to the advanced air bag requirements. Thus, the agency is not persuaded that protection provided by FMVSS No. 204 is unnecessary or redundant for vehicles equipped with advanced air bags solely based on the past proposal. Furthermore, the petitioner provided no data to support its assertion that FMVSS No. 208 injury criteria could be used as a measure for excessive contact or movement of the steering controls during frontal barrier crash tests.

In the absence of the standard, we do not know what would happen to frontal crash protection. We are also not sure if minimizing the steering column rearward displacement would remain an industry practice. The agency continues to believe that a stable steering column for air bag deployment is a fundamental building block for frontal occupant protection while the decoupling of the steering wheel also minimizes the possible risk of intrusion in real world crashes beyond those representing a rigid barrier. Therefore, we believe that FMVSS No. 204 has contributed to air bags that perform well in the field. We are also unaware that the current standard is prohibiting the implementation of new technologies that may improve frontal occupant protection. We do plan to conduct a regulatory review of FMVSS No. 204, to determine if emerging technologies or injury patterns warrant a closer look at the need for revisions to the standard.

For these reasons discussed above, we are denying Honda's petition for rulemaking. In accordance with 49 CFR part 552, this completes the agency's review of the petition for rulemaking.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117 and 30162; delegation of authority at 49 CFR 1.50.

Issued on: March 20, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA–2006–23996]

#### Federal Motor Vehicle Safety Standards; Occupant Crash Protection

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This document denies a petition for rulemaking submitted by Mr. James E. Hofferberth, to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 208, “Occupant crash protection,” to require automobile manufacturers to place an advisory placard in all passenger automobiles manufactured with both inflatable restraints and seat belts, advising that the seat belts should not be used by pregnant women. We are denying the petition because the requested placard would provide advice that is contrary to the safety of both the mother and the unborn baby.

#### FOR FURTHER INFORMATION CONTACT:

*For Non-Legal Issues:* Ms. Carla Cuentas, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–4583, Facsimile: (202) 366–1740.

*For Legal Issues:* Mr. Chris Calamita, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366–2992, Facsimile: (202) 366–3820.

#### SUPPLEMENTARY INFORMATION:

##### I. Agency Advice: Pregnant Women Should Wear Their Seat Belt

NHTSA recommends that pregnant women wear their seat belts. The American College of Obstetricians and Gynecologists (ACOG)<sup>1</sup> and the Centers for Disease Control and Prevention<sup>2</sup> also recommend that pregnant women wear seat belts. NHTSA publishes a brochure,<sup>3</sup> developed in conjunction

<sup>1</sup> American College of Obstetricians and Gynecologists. Car safety for you and your baby. May 1999. Patient Education: AP018.

<sup>2</sup> Centers for Disease Control and Prevention. Pregnancy Risk Assessment Monitoring System 1999 Report. Issued in 2003.

<sup>3</sup> NHTSA publication entitled “Should pregnant women wear seat belts?” dated September 2002. [http://www.nhtsa.dot.gov/people/injury/airbags/buckleplan/Internet\\_Services\\_Group/ISG-Restricted/Buckle-Up%20America/](http://www.nhtsa.dot.gov/people/injury/airbags/buckleplan/Internet_Services_Group/ISG-Restricted/Buckle-Up%20America/)

with ACOG and the National Healthy Mothers, Healthy Babies Coalition, that addresses this issue. The brochure explains that doctors recommend that pregnant women wear their seat belt and that, in a crash, seat belts are the best protection for both the pregnant woman and her unborn child. The brochure explains that even if a vehicle has air bags, a pregnant woman still needs to buckle up. Air bags are designed to work with seat belts, not replace them. Moreover, seat belts provide protection in types of crashes, including rollovers, in which air bags provide little or no protection. This is why, even though there have been many advancements in air bags, it is vital that occupants continue to use their seat belts.

##### II. Petition

On June 1, 2005, Mr. James E. Hofferberth petitioned NHTSA to amend FMVSS No. 208, “Occupant crash protection,” to require automobile manufacturers to place an advisory placard in all passenger automobiles manufactured with both inflatable restraints and seat belts, that the seat belts should not be used by pregnant women. He has also requested that NHTSA establish an official position and associated press release on this matter so as to preempt and negate any state or local requirements that require seat belt usage by pregnant women.

Mr. Hofferberth stated his beliefs that seat belts can cause serious injury or death to a pregnant woman and/or her unborn fetus in both crash impact and non-impact situations. He stated that in the presence of inflatable restraint systems, seat belts provide very limited additional injury prevention capacity to a pregnant woman. He did not submit any data in support of his petition.

##### III. Analysis of Petition

In his petition, Mr. Hofferberth expressed his concern that seat belts can cause serious injury to a pregnant woman in both crash impact and non-impact situations. While pregnant women, like other occupants, can sustain belt injuries in certain crash impact situations, the 1999–2004 National Accident Sampling System (NASS) Crashworthiness Data System (CDS) data show the reduction in serious injury associated with belt use is approximately 76 percent for pregnant women.<sup>4</sup> In addition to this finding, the

*pregnancybrochure/BUA\_PregnancyNHTSAchange.pdf.*

<sup>4</sup> “Supplemental Analyses of Crash Investigation Data”, Docket No. NHTSA–2006–23996. We note that the agency's regulatory impact analysis

data also show that the reduction in fatalities associated with belt use is approximately 90 percent for pregnant women. Therefore NHTSA considers this concern unwarranted by the facts. We are also not aware of any serious injuries to pregnant women caused by seat belts in non-impact situations.

Mr. Hofferberth also stated that in the presence of inflatable restraint systems, seat belts provide very limited additional injury prevention capacity to a pregnant woman. NHTSA does not concur with this statement. Seat belts alone are very effective in preventing fatalities in rollover crashes (74 percent fatality reduction in passenger cars and 80 percent for light trucks).<sup>5</sup> Approximately 10,000 people per year are killed in rollover crashes. Inflatable restraints that are designed for frontal impacts provide little injury prevention in side or rollover crash impacts. Thus, we do not agree that inflatable restraints alone would provide optimal protection to pregnant occupants under all crash circumstances, particularly rollover events.

Mr. Hofferberth also stated that seat belts are a known hazard to a fetus and that they are likely to cause serious injury or death in crash impact situations. The 1999–2004 NASS CDS data actually suggest that seat belt usage is advantageous for a fetus, because the estimated reduction in fatalities associated with belt use is approximately 89 percent for fetuses. We also examined the 30 sampled cases involving fetal death in the 1999–2004 data. (We note that this number includes some for whom the crash report explicitly reported fetal death plus nine other fetuses for whom we inferred death based on the pregnancy

conducted in 1984 entitled, "Final Regulatory Impact Analysis Amendment to FMVSS No. 208. Passenger Car Front Seat Occupant Protection", estimated that manual 3-point safety belts, when used by drivers or right-front passengers of cars, reduce fatality risk by 40 to 50 percent relative to the unrestrained occupant. The percent reductions calculated above are higher than agency's overall safety belt effectiveness estimates because they do not account for confounding factors. Confounding factors include age, gender, speed limit, and occupant misinterpretation of belt use. Self-selection is another confounding factor, which suggests that a driver who is wearing a seat belt or who is pregnant will have a tendency to practice safer driving habits than an unbelted or non-pregnant driver.

<sup>5</sup> Based on NHTSA study of 1986–99 FARS data, "Initiatives to Address the Mitigation of Vehicle Rollover," June 2003.

term and the death of the mother.) National estimates based on these cases suggest that an average of 180 fetal deaths in crashes per year involved unbelted women, 73 involved belted women, and seven involved women for whom belt use could not be determined. Thus, an estimated 71 percent of the identified fetal deaths were associated with pregnant women who were not using their seat belts at the time of the crash.

Other evidence also supports the use of a properly positioned seat belt during pregnancy. Several research studies support our analyses that seat belts reduce the risk of fetal injury and have shown that pregnant women in crashes in which the mother wore her seat belt were not significantly more at risk for adverse fetal outcomes. The University of Utah undertook a study in 2003 on the effects of crashes on fetal outcomes and reported that pregnant women who did not wear seat belts during a crash were twice as likely to experience maternal bleeding and 2.8 times more likely to experience a fetal death than belted pregnant women in crashes.<sup>6</sup> Pearlman *et al.* reported that in 42 investigations involving pregnant occupants, an improperly restrained or unrestrained mother suffered an adverse fetal outcome 62 percent of the time, whereas a properly restrained mother only suffered an adverse fetal outcome 27 percent of the time.<sup>7</sup> This suggested that unrestrained pregnant women were at a higher risk of suffering an adverse fetal outcome than restrained mothers for the same crash severity. An additional paper by Pearlman, M., and Viano, D. found that when seat belts were placed in the position recommended by NHTSA on the pregnant crash test dummy, the outcome resulted in the lowest recorded readings of the force transmission to the uterus and fetal head acceleration.<sup>8</sup> It

<sup>6</sup> Hyde, Lisa K. et al., entitled "Effect of Motor Vehicle Crashes on Adverse Fetal Outcomes," dated 2003. This research was partially supported by the Health Resources and Services Administration, Maternal and Child Health Bureau, NHTSA, and the Centers for Disease Control and Prevention.

<sup>7</sup> Pearlman, M. et al., entitled "A comprehensive program to improve safety for pregnant women and fetuses in motor vehicle crashes: A Preliminary Report," dated October 1999. This work was supported by General Motors Corporation, pursuant to an agreement with the U.S. Department of Transportation.

<sup>8</sup> Pearlman, M., and Viano, D., "Automobile crash simulation with the first pregnant crash test

further found that the abdominal force and fetal head acceleration were highest for the unrestrained pregnant occupant.

#### IV. Conclusion

Based on our analysis of the aforementioned information, NHTSA finds no basis to amend FMVSS No. 208 to require automobile manufacturers to place an advisory placard in all passenger automobiles manufactured with both inflatable restraints and seat belts advising pregnant women not to use their seat belt. The available information shows that seat belts are beneficial to both the mother and her unborn baby. Therefore, the requested placard would provide advice that is contrary to the safety of both the mother and the unborn baby.

Subsequent to his initial petition, an additional letter from Mr. Hofferberth was received on September 8, 2005, requesting that NHTSA recall our publication that advocates belt usage by all pregnant women, because he believes it displays improper belt placement. Specifically, he believes the illustration could be interpreted as depicting improper positioning of the lap belt. His request to modify the illustration is denied. The illustration shows the lap belt positioned below the pregnant woman's belly and specifically states that the pregnant woman must "adjust the lap belt across your hips/pelvis, and below your belly." NHTSA may consider whether the illustration or other aspects of the brochure can be improved in future revisions, but the agency is not making any changes at this time.

Based on the foregoing, the agency is denying Mr. Hofferberth's petition to amend FMVSS No. 208, "Occupant crash protection," in accordance with 49 CFR part 552. This completes the agency's review of the petition.

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

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**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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dummy," dated October 1996. This work was funded in part through the U.S. Department of Transportation, NHTSA grant DTNH22–95H–07157.