strikes the seat back of a rear-facing infant restraint.

Despite the concerted efforts detailed above, we have confirmed that between 1995 and 1998, 15 children have been fatally injured in crashes where their rear-facing child restraints were installed in a seating position that was equipped with an air bag that had deployed. We are aware of another nine children who have sustained serious, but nonfatal, injuries. These numbers might have been even higher had a warning label not been provided. We cannot excuse Cosco's acknowledged noncompliance of using seat pads without the required air bag warning label in production runs, given the grave potential consequences should a parent mistakenly place a child in a rear-facing child restraint in a seating position equipped with an air bag that subsequently deploys in a crash.

Cosco did not provide information suggesting that it was not a serious safety risk to place a rear-facing child restraint at a seating position equipped with an air bag, nor did Cosco suggest that the warning labels were not an important part of the effort to educate the public about those risks. Instead Cosco outlined its views about how a notice and remedy campaign, which it must conduct if this petition is denied, would negatively affect consumers. While we agree that consumers may react adversely to a proliferation of recalls, that potential consequence should be addressed by reducing the number of noncompliances, not by allowing them to go unremedied. Similarly, Cosco argued that ''the low number of units involved'' in the noncompliance argues in favor of granting its inconsequentiality petition. However, in ruling on inconsequentiality petitions, we consider the consequences of the noncompliance, rather than the number of vehicles or items of equipment that are affected. In the case of this noncompliance, the consequence of a parent not knowing of the dangers of placing a rear-facing child restraint at a seating position equipped with an air bag are potentially fatal. Given these potential consequences, we cannot find the noncompliance to be inconsequential for safety, regardless of the relatively small number of units with the noncompliance.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is hereby denied.

Authority: 49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 1, 1999.

Stephen R. Kratzke,

Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99–31617 Filed 12–6–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143; Notice No. 99–14]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that high-pressure, compressed gas cylinders were marked but may not have been tested by Moore Fire Extinguishers and Fire Protection Company, Inc. (MFE), 462 Orange St., Albany, NY, during the period from1994 through March of 1999. Those cylinders may pose a safety risk to the public.

A hydrostatic retest and visual inspection, conducted as prescribed in the Hazardous Materials Regulations (HMR), are used to verify the structural integrity of a cylinder. If the hydrostatic retest and visual inspection are not performed in accordance with the HMR, a cylinder with compromised structural integrity may be returned to service when it should be condemned. Serious personal injury, death, and property damage could result from rupture of a cylinder. Cylinders that have not been requalified in accordance with the HMR may not be charged or filled with compressed gas or other hazardous material.

FOR FURTHER INFORMATION CONTACT: Chris Michalski, Hazardous Materials Enforcement Specialist, Eastern Region, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, U.S. Department of Transportation, 820 Bear Tavern Rd., Suite 306, West Trenton, NJ 08628. Telephone: (609) 989–2256; Fax: (609) 989–2277.

SUPPLEMENTARY INFORMATION: Based on inspections conducted by RSPA it has been determined that MFE has no test records for many cylinders that it stamped as having been tested, and that many cylinders bearing MFE's Retester Identification Number (RIN) may not have been tested by MFE and may pose a safety risk to the public.

C 0
M Y
7 8

C087 is MFE's RIN, M is the month of the retest (*e.g.,* 11) and Y is the year of the retest (*e.g.,* 98).

Anyone who has a cylinder that is marked with RIN number C087 and stamped with a retest date between 1994 and March 1999 should consider the retest marking invalid and should not refill and offer the cylinder for transportation until it has been successfully retested.

Issued in Washington, DC on December 1, 1999.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 99–31615 Filed 12–6–99; 8:45 am]

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