

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and record keeping requirements, Small Businesses.

For the reasons set forth in the preamble, 37 CFR Part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

2. Section 1.491 is revised to read as follows:

§ 1.491. National stage commencement and entry.

(a) Subject to 35 U.S.C. 371(f), the national stage shall commence with the expiration of the applicable time limit under PCT Article 22(1) or (2), or under PCT Article 39(1)(a).

(b) An international application enters the national stage when the applicant has filed the documents and fees required by 35 U.S.C. 371(c) within the period set in § 1.494 or § 1.495.

Dated: August 24, 2001.

Nicholas P. Godici,

Acting Under Secretary of Commerce for Intellectual Property and Acting Director of the United States Patent and Trademark Office.

[FR Doc. 01-21879 Filed 8-29-01; 8:45 am]

BILLING CODE 3510-16-P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 86**

[FRL-7046-8]

Notice of Availability: Response Document Denying the Ethyl Corporation Petitions To Reconsider Three EPA Regulations: CAP 2000, Heavy Duty Gasoline, and OBD/IM

AGENCY: Environmental Protection Agency (EPA).

ACTION: Availability of EPA decision denying the Ethyl Corporation petitions to reconsider CAP 2000 regulation, heavy-duty gasoline regulation, and OBD/IM regulation.

SUMMARY: The Ethyl Corporation has submitted three petitions to the EPA Administrator to reconsider three separate Agency rulemakings. The first petition is regarding the compliance procedures for new motor vehicles known as "CAP 2000". 64 FR 23,906.

The second petition pertains to emission standards and compliance procedures for new heavy-duty gasoline engines. 65 FR 59896. The third petition pertains to the use of on-board diagnostics for vehicle inspection and maintenance programs. 66 FR 18156.

The Petitioner's issues with the heavy-duty rule are identical to those of the CAP 2000 rule, and EPA agreed that its response would cover both regulations. Although the issue for the OBD/IM rule is different, EPA's response is included in accordance with a commitment to do so made in that rulemaking.

This Notice serves to announce the availability of EPA's decision to deny Ethyl's petition to reconsider all three petitions.

ADDRESSES: Copies of EPA's decision document are available from the EPA Air Docket under the following three Docket numbers: A-96-50 (CAP 2000), A-2000-16 (OBD/IM) and A-98-32 (Heavy-Duty Highway). The address for the EPA Air Docket is: U.S. Environmental Protection Agency (EPA), Air Docket (6102), Room M-1500, 401 M Street, S.W., Washington, D.C. 20460. EPA's Air Docket makes materials related to the three regulations involved in the Ethyl Corporation petitions available for review at the above address (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. You can reach the Air Docket by telephone at (202) 260-7548 and by facsimile at (202) 260-4400. We may charge a reasonable fee for copying docket materials, as provided in 40 CFR part 2. You can also view or download a copy of the decision document via EPA's web site at the following address: <http://www.epa.gov/otaq/ld-hwy.htm#regs>.

FOR FURTHER INFORMATION CONTACT:

Linda Hormes, Office of Mobile Sources, Vehicle Programs and Compliance Division, 2000 Traverwood, Ann Arbor, MI 48105. Phone: (734) 214-4502. Email: lhormes@epa.gov.

Dated: August 23, 2001.

Christine Todd Whitman,
Administrator.

[FR Doc. 01-21932 Filed 8-29-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 572**

[Docket No. NHTSA-00-7052]

RIN 2127-AI37

Anthropomorphic Test Devices; 12-Month-Old Child Dummy; Final Rule; Response to Petitions for Reconsideration

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. Four organizations filed petitions for reconsideration of this rule. In response to these petitions, this document makes several minor changes to the final rule, including: adding a channel frequency class specification if a rotary potentiometer is used for measuring head rotation; revising the impact probe specifications to include provisions for mounting suspension hardware if a cable system is used for impacts, adopt a lower minimum mass moment of inertia, and clarify the specification for free air resonant frequency; revising the material specifications in several drawings; and correcting several minor errors in these drawings, and in the Procedures for Assembly, Disassembly and Inspection (PADI) Document. This document also denies a request to add a provision for post-test calibration of the dummy.

DATES: The amendments made in this final rule are effective October 29, 2001. If you wish to submit a petition for reconsideration for this rule, your petition must be received by October 15, 2001.

ADDRESSES: Petitions for reconsideration should refer to the docket number and be submitted to: Administrator, Rm. 5220, National Highway Traffic Safety Administration, 400 Seventh St., S.W., Washington, DC 20590. The drawings and PADI will be available in the NHTSA Docket.

FOR FURTHER INFORMATION CONTACT: For nonlegal issues, Stan Backaitis, Office of Crashworthiness Standards at 202-366-4912. For legal issues, Dion Casey, Office of the Chief Counsel, at 202-366-2992. Both can be reached by mail at the National Highway Traffic Safety

Administration, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 2000, NHTSA published a final rule adopting design and performance specifications for a new 12-month-old infant dummy. (65 FR 17180). The specifications were added to 49 CFR part 572 as Subpart R.

The 12-month-old dummy was developed as a child restraint/air bag interaction dummy (hereinafter referred to as the CRABI 12-month dummy). It is needed to evaluate the effects of air bag deployment on children who are in rear-facing child restraints installed in the front passenger seat of vehicles. It also will provide useful information in a variety of crash environments to evaluate child safety.

Adopting the dummy is a step toward using it in the tests the agency conducts to determine compliance with NHTSA safety standards. The use of the CRABI 12-month dummy in NHTSA compliance tests is being addressed in separate rulemaking proceedings.

The CRABI 12-month dummy's specifications adopted in the final rule consist of a drawing package that shows the component parts, the subassemblies, and the assembly of the complete dummy. They also specify materials and material treatment processes for all the dummy's component parts, and specify the dummy's instrumentation and instrument installation methods. In addition, the specifications contain a manual specifying disassembly, inspection, and assembly procedures, and a dummy drawings list. These drawings and specifications ensure that the dummies will vary little from each other in their construction and are capable of consistent and repeatable responses in the impact environment.

The final rule also established impact performance criteria for the CRABI 12-month dummy. These criteria address head, neck, and thorax impact responses. The criteria serve as calibration checks and further assure the kinematic uniformity of the dummy and the absence of structural damage and functional deficiency from previous use.

Petitions

The agency received petitions for reconsideration of the final rule from Toyota Motor Corporation; the Alliance of Automobile Manufacturers (whose members are BMW Group, DaimlerChrysler, Fiat, Ford Motor Company, General Motors, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo); First Technology Safety Systems

(FTSS—a manufacturer of crash test dummies); and Robert A. Denton, Inc. (a manufacturer of load cells used in crash test dummies).

Toyota and the Alliance requested that a post-test calibration of the dummy be included in the performance specifications. A post-test calibration is an assessment of whether the dummy conforms to NHTSA specifications after it has been used in a crash test. Toyota and the Alliance asserted that a post-test calibration is necessary to provide an objective check of the validity of the test dummy data acquired during the test, particularly if the crash test results in an apparent non-compliance. Toyota and the Alliance argued that without a post-test calibration, "neither a vehicle manufacturer nor a NHTSA test contractor can determine whether an apparent vehicle non-compliance is due to a test dummy anomaly during a test."

The remainder of the issues raised in the petitions are relatively minor. All of the issues are addressed in the Discussion and Analysis section below.

Discussion and Analysis

1. Post-Test Calibration

Toyota and the Alliance previously raised the issue of post-test calibration of dummies in their comments on NHTSA proposals to establish Hybrid III dummies for fifth percentile females (H-III5F), six-year-old children (H-III6C), and three-year-old children (H-III3C). Historically, NHTSA has required that the structural properties of a dummy satisfy the specifications set out in the applicable regulation in every respect both before and after its use in any test in a Federal motor vehicle safety standard. However, in the Notice of Proposed Rulemaking (NPRM) for the H-III5F dummy, the agency rejected a post-test dummy calibration provision for the following reasons:

NHTSA is concerned that the post-test calibration requirement could handicap and delay its ability to resolve a potential vehicle or motor vehicle equipment test failure solely because the post-test dummy might have experienced a component failure and might no longer conform to all of the specifications. On several occasions during the past few years, a dummy has been damaged during a compliance test such that it could not satisfy all of the post-test calibration requirements. Yet the damage to the dummy did not affect its ability to accurately measure the performance requirements of the standard. The agency is also concerned that the interaction between the vehicle or equipment and the dummy could be directly responsible for the dummy's inability to meet calibration requirements. In such an instance, the failure of the test dummy should not preclude the agency from seeking compliance action. Thus, NHTSA has tentatively concluded that

removal of the post-calibration requirement would be in the public interest, since it would permit the agency to proceed with a compliance investigation in those cases where the test data indicate that the dummy measurements were not markedly affected by the dummy damage or that some aspect of vehicle or equipment design was responsible for the dummy failure.

(63 FR 46981, 46983, September 3, 1998).

The agency believes this reasoning remains valid. Further, in their comments on this rulemaking, the Alliance and Toyota have not produced any new information that would support the reversal of the decision not to include a post-test calibration provision. Thus, the agency is denying this part of the Alliance and Toyota petitions.

2. Instrumentation; Filter Classes; Neck Flexion/Extension Test Instrumentation

In the Part 572 language describing the CRABI 12-month dummy, NHTSA did not specify use of mechanical test fixtures, including potentiometers, to measure head rotation in the specified head-neck tests. The agency believes there are several methods of measuring this, and there is no reason why a specific method should limit the user's choice. The Alliance and FTSS recommended that the agency revise section 572.155(i)(2) to specify a channel class to provide guidance for those instances in which a rotary potentiometer is used to measure the amount of head rotation: (iv) Rotation potentiometer—Class 60.

In its petitions concerning the H-III5F and H-III6C final rules, the Alliance noted that industry users appear to have reached a consensus that the Society of Automotive Engineers (SAE) recommended practice J211 Channel Frequency Class (CFC) 60 specification is appropriate if a potentiometer is used to measure head rotation. In addition, the NHTSA Vehicle Research and Test Center (VRTC) used the CFC 60 to filter head rotation data measured by rotary potentiometers to establish the certification requirements for the dummies. VRTC review of raw data showed absence of high frequency signals which would obviate the need for a specification greater than CFC 60.

Consequently, the agency has no objections to specifying Channel Frequency Class 60 for this application if a rotary potentiometer is used for measuring head rotation. The agency is revising § 572.155(i)(2) to add the following: (iv) Rotary potentiometer response (if used)—CFC 60.

3. Impact Pendulum Characteristics

3.1 Probe Specification

The test probe specification in § 572.155(a) reads:

The test probe for thoracic impacts shall be of rigid metallic construction, concentric in shape, and symmetric about its longitudinal axis. It shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 622 kg-cm^2 ($0.55 \text{ lbs-in-sec}^2$) in yaw and pitch about the CG [center of gravity]. Up to $\frac{1}{3}$ of the weight of the suspension cables and their attachments to the impact probe may be included in the calculation of mass, but such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis, must be at least 12.7 mm (0.5 in) thick, and have a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 12.7 ± 0.25 mm ($0.5 \text{ in} \pm 0.01$ in). The probe's end opposite to the impact face must have provisions for mounting of an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. No concentric portions of the impact probe may exceed the diameter of the impact face. The impact probe shall have a free air resonant frequency of not less than 1000 Hz.

The Alliance asserted that the provisions for concentricity and symmetry about the longitudinal axis are unrealistic since the pendulum is often fitted with velocity vanes or other hardware, causing asymmetry. As a result, the Alliance recommended revision of the probe specification to read, "The primary test probe, less any additional hardware, for [body region] impacts shall be of rigid metallic construction."

FTSS argued that the test probe specification is vague and overly restrictive. FTSS claimed that the test probe can be adequately specified by (1) the geometry of the contact area with the dummy, (2) the probe's mass, (3) the location of the center of gravity, and (4) the mass moment of inertia (MMI). FTSS also said that the addition of velocity vanes, cable attachment points, or other hardware will result in asymmetry and cause the center of gravity (CG) to be slightly offset from the geometrical center of the probe. FTSS concluded the maximum offset will not exceed 3.5 mm.

Accordingly, FTSS recommended that the first sentence of the test probe specification be replaced with: "The test probe should be of rigid metallic construction with the geometrical and inertial properties specified below. The probe center of gravity shall lie within 3.5 mm of the longitudinal axis passing through the center of the impacting face." FTSS also recommended that the sentence beginning "No concentric

portions of the impact probe * * *" should be deleted.

NHTSA agrees with the Alliance that the test probe specification should include provisions for mounting suspension hardware if a cable system is used for impacts. However, the agency does not agree with FTSS that the possible CG offset from the longitudinal axis is either needed or should be specified. NHTSA believes the specifications in the final rule for MMI in pitch and yaw provide sufficient controls to assure stable kinematics during the probe's free flight and impact with the dummy.

Accordingly, the agency is revising § 572.155(a) and § 572.154(c) as specified in section 3.4 below.

3.2 Thoracic Impactor—Mass Moment of Inertia

Section 572.155(a) specifies that the thoracic impactor shall have "a minimum mass moment of inertia [MMI] of 622 kg-cm^2 ($0.55 \text{ lbs-in-sec}^2$) in yaw and pitch about the CG."

The Alliance stated that the MMI values for thorax impact probes used at a number of test laboratories fall below the minimum final rule requirement of 622 kg-cm^2 . The Alliance claimed that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm^2 (measured) and 58.85 to 1017 kg-cm^2 (calculated). The Alliance also quoted NHTSA from the final rule establishing the Hybrid III fifth percentile female (H-III5F) dummy: "* * * the agency believes that, for the sake of consistency and simplicity, it would be best if all impact probes for dummy testing were of cylindrical design * * *" (65 FR 10965, March 1, 2000). According to the Alliance, this ideal cylindrical probe produces a MMI of 58.85 kg-cm^2 , far below the minimum MMI specified in the final rule. The Alliance recommended that if this cylindrical probe represents the ideal impactor to NHTSA, and the agency insists on retaining the MMI specification, the agency should use the 58.85 kg-cm^2 value as the minimum MMI.

FTSS stated that in setting the minimum MMI, "it appears that NHTSA has used the measured values of the physical probes at its [sic] own test laboratories without a tolerance and without an analysis of a minimum MMI that will ensure satisfactory performance." FTSS stated that "these numbers are arbitrary and have not been justified." The FTSS thorax probe has a yaw MMI of 199 kg-cm^2 and a pitch MMI of 201 kg-cm^2 , both of which fall well below the minimum MMI specified in the final rule. FTSS stated that

NHTSA has not presented any data to suggest that these probes do not provide satisfactory performance. FTSS claimed that the minimum MMI specification, as currently written, will force a re-design of the probe and obsolescence of existing probes without evidence that the design is inadequate. FTSS recommended that the MMI specification be held in abeyance for six months to allow time to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

NHTSA specified the impactor in generic terms in response to industry comments on the NPRMs for both the H-III6C and H-III5F dummies stating that the impactor needs to be generic in specification and that the users desire to make them from building blocks, essentially, an assembly of multiple pieces. The commentors also requested that NHTSA not specify the impactor by design. Any impactor that cannot be specified by design must be specified by engineering parameters, which are mass, stiffness, CG location, and MMI. As a result, the agency accepted the commentors' desire for a generic impactor and specified the impactor in engineering terms.

However, assembling impactors from multiple pieces may result in compositions with many forms and wide variations in the location of the CG, and the yaw and pitch MMI. These wide variations are evident in the Alliance's petition, in which it noted that its member companies have used different impactors with MMIs ranging from 164 to 1160 kg-cm^2 (measured) and 58.85 to 1017 kg-cm^2 (calculated).

To determine the effects on kinematics of low and high inertia impactors, the agency studied the kinematics of the impactor cited by the Alliance as having the lowest MMI and compared that with the kinematics of the NHTSA impactor having a much higher MMI. The evaluation revealed that the low inertia impactor experienced considerable motion instability. In contrast, the agency impactor with the MMI specified in the final rule exhibited very stable free flight kinematics. This experiment shows that the use of impactors with low MMIs could lead to unstable kinematics. Inasmuch as the response of the dummy in calibration tests is used as a measure of the dummy's repeatability and objectivity, it is important that the impact probe kinematics at and during the impact with the dummy not be a source of variability.

The Alliance petition contains a table with measured and calculated MMI

values of impactors used by Alliance members. As noted above, the measured values range from 164 to 1160 kg-cm² while calculated values range from 58.85 to 1017 kg-cm². The agency believes that the measured MMI values reflect current industry practice, and, therefore, these are reasonably good grounds for their acceptance, particularly since the provisions in § 572.154(c) (5) and (6) deal with alignment and stability of the probe at the time of impact. In contrast, the agency believes that the calculated MMI values, which are considerably below the values currently used by the industry, have never been evaluated for stability.

Accordingly, the agency is accepting as the minimum MMI the low measured MMI of 164 kg-cm² cited by the Alliance, but not the low calculated MMI of 58.85 kg-cm². The agency is revising the MMI specification in § 572.155(a) to 164 kg-cm² (0.145 lb-in-sec²) in yaw and pitch about the CG of the probe. Since the FTSS thorax probe, with a yaw MMI value of 199 kg-cm² and a pitch MMI value of 201 kg-cm², would meet this specification, the agency is denying its request to hold the minimum MMI specification in abeyance for six months.

3.3 Free Air Resonant Frequency

Section 572.155(a) specifies that the thorax impact probe have a free air resonant frequency of not less than 1000 Hz.

The Alliance said that there are insufficient data to support the need for such a specification. Thus, the Alliance recommended that this specification be deleted until substantial data is available to justify the need for it.

FTSS disagreed with the free air resonant frequency specification. FTSS claimed that NHTSA established it without specifying the methods to measure the frequency or providing a rationale for the need of it. FTSS stated that it has analyzed the probe used in its calibration laboratories, and the results showed the first resonant modes of the probe are bending modes, which causes a lateral translation at the accelerometer location. FTSS noted that typical accelerometers have less than three percent cross-axis sensitivity, so if the probe's natural resonance were excited during a dummy test, the effect on the acceleration signal would be minimal. FTSS asserted that it may be more appropriate to specify a 1000 Hz resonant frequency limit in the sensitive axis of the accelerometer. FTSS recommended that the free air resonant frequency specification be held in abeyance for six months to allow time

to develop criteria for the probes and to develop and manufacture re-designed probes as necessary.

Commentors on the H-III6C and H-III5F dummies expressed a desire for generic impactor specifications to allow users the freedom to design impactors in a variety of ways, including constructing them from building blocks. As a result, the agency developed a generic engineering specification and inserted it in the final rules for the H-III6C, H-III5F, and H-III3C dummies. The agency carried over this specification into the final rule for the CRABI 12-month dummy.

The resonant frequency specification is necessary for three reasons: (1) Because the intent of users is to build a non-defined shape and multiple piece impactor of unknown material, the natural resonance of the impactor is the only reliable indicator to assure that the impactor will be of sufficient structural rigidity and capable of repeatable response; (2) the specification will assure that a multiple piece impactor will not produce separate interactions between its constituent parts; and (3) the specification will assure that the mounting structure for the accelerometer is sufficiently rigid and will not affect the accelerometer readings.

Nevertheless, NHTSA agrees with the FTSS comment in principle that it would be more appropriate to clarify the current specification by adding a note indicating that the 1000 Hz minimum resonant frequency is limited to the direction of the sensitive axis of the accelerometer, rather than in any direction. The agency also agrees that the first mode of resonance is the bending mode of the probe about its longitudinal axis, and, therefore, the signal of an accelerometer with a low cross-axis sensitivity that is oriented in the longitudinal axis will be minimally affected.

NHTSA does not agree with the Alliance comment that the resonance specification is unnecessary. A multiple piece impact probe, if improperly constructed, may contain a series of resonances along its longitudinal axis. The 1000 Hz minimum specification would preclude a user from using such a probe.

Accordingly, the agency is denying the Alliance request to delete the free air resonant frequency specification, but is revising the last sentence in § 572.155(a) to read: "The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly

and Inspection (PADI) document referenced in § 572.151." The agency is also adding to the Appendix of the PADI document a new section E that provides details on the procedure the agency uses for determining the free air resonant frequency of impact probes used for dummy calibration tests.

3.4 Conclusion

In view of the discussion above, the agency is revising § 572.155(a) to read as follows:

The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm² (0.145 lb-in-sec²) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of 7.6/12.7 mm (0.3/0.5 in). The impactor shall have a 101–103 mm (4–4.1 in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

The agency also is adding a paragraph (7) to § 572.154(c), to read as follows:

No suspension hardware, suspension cables, or any other attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. Load Cells—Materials

Load cell drawings SA572-S23, SA572-S24, and SA572-S25 specify that the load cells be made of "STEEL OR SIMILAR MATERIAL." Denton, seconded by the Alliance, noted that most of the existing load cells used for CRABI 12-month dummy applications are made primarily from aluminum. Denton recommended that this specification be removed from all load cell drawings.

FTSS stated that load cells are predominantly made of an aluminum alloy, and recommended that the

material specification be changed to "ALUMINUM OR SIMILAR."

NHTSA does not agree with Denton's recommendation to remove the material specifications. The agency believes that it is necessary to consider and address the structural functions that the load cell must be capable of performing, such as sound interconnection between major body elements. Thus, the agency is denying Denton's request to remove the material specifications from the load cell drawings.

However, NHTSA does believe that specifying a particular load cell material may be too restrictive. The agency is aware that existing load cell constructions are based on metals with a high modulus of elasticity, such as aluminum and steel. As a result, instead of specifying one type of metal for a load cell, we are revising the load cell drawings to specify that the body of the load cell structure and provisions for its mounting, except for wires and their attachments, be made of metal or metal alloys. A general specification of "METAL CONSTRUCTION" will allow users to continue using existing load cells and permit load cell manufacturers to continue building load cells for the CRABI 12-month and other dummies. The agency believes that this general specification will provide for maximum latitude in load cell manufacturing.

Accordingly, the agency is revising the material specifications in load cell drawings SA572-S23, SA572-S24, and SA572-S25 to read:

The load bearing structure of the load cell, including provisions for the load cell mounting, are of metal or metal alloys. Non-load bearing parts of the load cell, internally and/or externally, including wires and their attachments, may be made of any material providing they do not interfere with the performance of the load cell or the transmission of the load cell signals.

5. Drawings

Denton found several errors in load cell drawings SA572-S23, SA572-S24, and SA572-S25. FTSS found an additional error in load cell drawing SA572-S25.

5.1 Drawing SA572-S23

This drawing specifies 0.34 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to 0.34 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its NPRM comments that two notes were needed, one reading "weight includes portion of cable exiting load cell which is covered with shrink wrap," and another reading "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such notes in the drawing. Denton asserted that the additional eight inches of cable specified in the final rule weigh approximately 0.04 lb. Thus, Denton recommended that NHTSA either: (1) Change the drawing notes to indicate that cable is not included in the weight, or (2) change the weight specification to a maximum of 0.38 lb to account for the weight of the cable.

Denton also noted that the drawing has a dimension of 2.500/63.5 DIA for the main body of the load cell, and that this three decimal place dimension has a standard tolerance of ± 0.005 inch. Denton claimed that existing load cells have not been made to comply with such a tight tolerance. Denton uses a two decimal place dimension with a standard tolerance of ± 0.01 inch. Denton asserted that there are no clearance issues that require such a tight tolerance and requested that this dimension be changed to 2.50 with a standard tolerance of ± 0.01 inch so that existing load cells are not rendered obsolete.

Finally, Denton stated that the dimension from the center of the body of the load cell to the front of the flange is listed as 1.625/41.148 R. Denton noted that the 41.148 figure is incorrect because the metric equivalent of 1.625 inches is 41.275 millimeters.

NHTSA agrees with all three of Denton's recommendations. Accordingly, the agency is revising Drawing SA572-S23 to: (1) Change the weight specification from a maximum of 0.34 lb to 0.38 lb; (2) change the dimension for the main body of the load cell from 2.500 ± 0.005 inches to 2.50 ± 0.01 inches; and (3) correct the metric equivalent for 1.63 inches to 41.40 millimeters.¹

5.2 Drawing SA572-S24

This drawing specifies 0.58 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawing SA572-S23, NHTSA established this weight specification in response to Denton's comments on the

NPRM, in which Denton requested that the weight of the load cell be raised to a maximum of 0.58 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments on the NPRM that a note was needed stating "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable specified by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) Include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.60 lb to account for the weight of the cable.

Denton also stated that the Fx capacity is listed as 1000 lbs/448 N. Denton noted that the 448 N figure is incorrect because 1000 lbs converts to 4448 N.

NHTSA agrees with both of Denton's recommendations. Accordingly, the agency is revising Drawing SA572-S24 to: (1) change the weight specification from a maximum of 0.58 lb to 0.60 lb, and (2) correct the conversion of 1000 lbs from 448 N to 4448 N.

5.3 Drawing SA572-S25

This drawing specifies 0.14 lb as the maximum weight of the load cell. The drawing also specifies that this maximum weight includes approximately eight inches of cable. As with Drawings SA572-S23 and SA572-S24, NHTSA established this weight specification in response to Denton's comments on the NPRM, in which Denton requested that the weight of the load cell be lowered to a maximum of 0.14 lb to be consistent with the load cells and structural replacements.

However, Denton noted that it also stated in its comments that a note was needed stating "specified weight does not include any cable or mounting hardware, except as noted." NHTSA did not include such a note in the drawing. Denton asserted that the additional eight inches of cable required by the drawing weigh approximately 0.02 lb. Thus, Denton recommended that NHTSA either: (1) include a note with the drawing indicating that the cable is not included in the weight specification, or (2) change the weight specification to a maximum of 0.16 lb to account for the weight of the cable.

Denton and FTSS also stated that the top dimension of the load cell is listed as D0.90/45.72. The commentators note that this is an error: the dimension

¹ Since the agency is changing the dimensions to two decimal places instead of three, the dimension from the center of the body of the load cell to the front of the flange is changing from 1.625 inches to 1.63 inches. The metric equivalent for 1.63 inches is 41.40 millimeters.

should be listed as either R0.90/22.86 or D1.80/45.72.

Finally, FTSS noted that the drawing has an incorrect drawing number. It is listed as Drawing S572–S25. It should be Drawing SA572–S25.

NHTSA agrees with all of these recommendations. Accordingly, the agency is revising Drawing SA572–S25 to: (1) Change the weight specification from a maximum of 0.14 lb to 0.16 lb, (2) change the top dimension of the load cell from D0.90/45.72 to R0.90/22.86, and (3) correct the drawing number to SA572–S25.

6. Procedures for Assembly, Disassembly, and Inspection (PADI) Document

FTSS found several minor errors in the PADI document related to external dimensions and flesh repair procedures on Page 53, Table 4, External Dimensions: (1) the Dimension A Metric Specification should read 463.6 millimeters; (2) the Dimension S English Tolerance should read 0.20 inches; and (3) the Dimension S Metric Tolerance should read 5.1 millimeters.

FTSS also noted that the instructions in Appendix A, Flesh Repair, reference repair for vinyl materials. FTSS asserted that since the CRABI 12-month dummy is made primarily of urethane, the agency should insert the following paragraph after Paragraph 1:

This dummy is made from urethane which is not easily repairable. Small cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts will require replacement or remolding.

NHTSA agrees with all of the FTSS recommendations. Accordingly, the agency is revising the text on Page 53, Table 4, External Dimensions, as follows: (1) Change the metric specification in Dimension A to read 463.6 millimeters; (2) change the English tolerance in Dimension S to read 0.20 inches; and (3) change the metric tolerance in Dimension S to read 5.1 millimeters. The agency also is inserting the following paragraph to Appendix A, Flesh Repair, after Paragraph 1:

This dummy's urethane skin is not easily repairable. Small, superficial cuts may be glued with contact cement and covered by smoothing with a soldering iron. Major cuts require replacement of the part.

7. Drawing 921022–008, Head Accelerometer Mount

The agency is revising Drawing 921022–008 to specify the need for a notch 0.25 inches (6.35 mm) wide by 0.50 inches (12.7 mm) long at the rear of the accelerometer mount. No petitioners requested that NHTSA make

this change. However, the agency discovered the need for a notch in the rear of the accelerometer mount during testing at the Vehicle Research and Test Center (VRTC). The notch is needed to provide clearance for the accelerometer leads coming out of the dummy's head. Without a notch, it is easy to cut the wires from the accelerometers when assembling the head. Several wires were damaged during testing at the VRTC, even with careful placement and knowledge that such damage can take place. The agency has discussed this change with the dummy manufacturers. They did not object to it.

Accordingly, the agency is revising Drawing 921022–008, Head Accelerometer Mount, to provide for a clearance notch 0.50 × 0.250 inch at the left rear corner of the base of the mount.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, "Regulatory Planning and Review" (58 FR 51735, October 4, 1993), provides for making determinations whether a regulatory action is "significant" and therefore subject to Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Order defines a "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. This rule also is not considered to be significant under the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

This document amends 49 CFR Part 572 by adding design and performance specifications for a new 12-month-old child dummy that the agency may later incorporate into Federal motor vehicle

safety standards. This rule does not impose requirements on anyone. It simply establishes criteria for the 12-month-old CRABI dummy. The agency will use for compliance testing only those dummies that meet all of the criteria specified in this final rule. Vehicle and air bag manufacturers may be affected if the dummy is incorporated by reference into the advanced air bag rulemaking. Similarly, child restraint manufacturers may be affected if the dummy is incorporated into the child restraint system standard.

The cost of an uninstrumented 12-month-old dummy is approximately \$19,000. Instrumentation would add from \$15,000 to \$43,000 to the cost, depending on the amount of instrumentation the user chooses to employ. Because the economic impacts of this rule are minimal, no further regulatory evaluation is necessary.

NHTSA also has determined that this rule will not alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. This rule has no such effects. In addition, the agency has concluded that this rule will not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

I have considered the effects of this rule under the Regulatory Flexibility Act and certify that this rule will not have a significant economic impact on

a substantial number of small entities. The rule does not impose or rescind any requirements. Further, its cost impacts on test devices (i.e., dummies) is minimal. The Regulatory Flexibility Act does not, therefore, require a regulatory flexibility analysis.

C. National Environmental Policy Act

We have analyzed this rule for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

Executive Order 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with Federalism implications and that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

We have analyzed this rule in accordance with the principles and criteria set forth in Executive Order 13132. This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have determined that this rule does not have sufficient federalism implications to warrant consultation and the preparation of a Federalism Assessment.

E. Civil Justice Reform

This rule will not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard

is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

F. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

G. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs us to use voluntary consensus standards in our regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The CRABI 12-month test dummy that is the subject of this document was developed under the auspices of the SAE. All relevant SAE standards were reviewed as part of the development process. The following voluntary consensus standards have been used in developing the dummy: SAE Recommended Practice J211, Rev. Mar 95 "Instrumentation for Impact Tests"; and SAE J1733 of 1994-12 "Sign Convention for Vehicle Crash Testing."

H. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104-4, Federal requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires us to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule.

This rule does not impose any unfunded mandates under the UMRA. This rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. Further, it will not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector. Thus, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

I. Children

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be "economically significant" as defined by E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental, health, or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This rule is not subject to E.O. 13045 because it is not economically significant as defined by E.O. 12866.

J. Plain Language

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings,

- paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this final rule.

K. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

In consideration of the foregoing, 49 CFR Part 572 is amended as follows:

PART 572—ANTHROPOMORPHIC TEST DUMMIES

1. The authority citation for part 572 continues to read as follows:

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

2. In § 572.150, paragraphs (a)(1) introductory text and (a)(2) are revised to read as follows:

§ 572.150 Incorporation by reference.

(a) * * *

(1) A drawings and specifications package entitled “Parts List and Drawings, Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI-12, Alpha version) August 2001” and consisting of:

* * * * *

(2) A procedures manual entitled “Procedures for Assembly, Disassembly and Inspection (PADI) Subpart R, CRABI 12-Month-Old Infant Crash Test Dummy (CRABI-12, Alpha version) August 2001” incorporated by reference in § 572.155;

* * * * *

3. In § 572.154, paragraph (c)(7) is added to read as follows:

§ 572.154 Thorax assembly and test procedure.

* * * * *

(c) * * *

(7) No suspension hardware, suspension cables, or any other

attachments to the probe, including the velocity vane, shall make contact with the dummy during the test.

4. In § 572.155, paragraph (a) is revised and paragraph (i)(2)(iv) is added to read as follows:

§ 572.155 Test conditions and instrumentation.

(a) The test probe for thoracic impacts, except for attachments, shall be of rigid metallic construction and concentric about its longitudinal axis. Any attachments to the impactor, such as suspension hardware, impact vanes, etc., must meet the requirements of § 572.154(c)(7). The impactor shall have a mass of 2.86 ± 0.02 kg (6.3 ± 0.05 lbs) and a minimum mass moment of inertia of 164 kg-cm^2 ($0.145 \text{ lb-in-sec}^2$) in yaw and pitch about the CG of the probe. One-third of the weight of suspension cables and any attachments to the impact probe must be included in the calculation of mass, and such components may not exceed five percent of the total weight of the test probe. The impacting end of the probe, perpendicular to and concentric with the longitudinal axis of the probe, has a flat, continuous, and non-deformable 101.6 ± 0.25 mm (4.00 ± 0.01 in) diameter face with an edge radius of $7.6/12.7$ mm ($0.3/0.5$ in). The impactor shall have a $101\text{--}103$ mm ($4\text{--}4.1$ in) diameter cylindrical surface extending for a minimum of 12.5 mm (0.5 in) to the rear from the impact face. The probe's end opposite to the impact face has provisions for mounting an accelerometer with its sensitive axis collinear with the longitudinal axis of the probe. The impact probe shall have a free air resonant frequency of not less than 1000 Hz measured in line with the longitudinal axis of the impactor, using the test method shown in the Procedures for Assembly, Disassembly and Inspection (PADI) document referenced in § 572.151.

* * * * *

(i) * * *

(2) * * *

(iv) Rotation potentiometer response (if used)—CFC 60.

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Issued: August 7, 2001.

L. Robert Shelton,

Executive Director.

[FR Doc. 01-21545 Filed 8-29-01; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010410087-1087-01; I.D. 031401B]

RIN 0648-AO07

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 14; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: On May 11, 2001, NMFS published final regulations implementing Framework 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). One of the measures implemented in the final rule was the continuation of the Hudson Canyon South and Virginia Beach Area closures originally implemented in 1998 and extended through August 8, 2001, through an interim final rule published on February 9, 2001. In the final rule implementing Framework 14, NMFS intended to extend the Mid-Atlantic closures through February 28, 2003, to scallop fishing with the exception of those vessels participating in the Sea Scallop Area Access Program. However, NMFS inadvertently only amended the regulatory text, which then expired on August 8, 2001. This document corrects those errors.

DATES: Effective May 1, 2001.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978-281-9280; fax 978-281-9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

On March 31, 1998, NMFS published an interim final rule (63 FR 15324) closing two Mid-Atlantic areas, the Hudson Canyon South and Virginia Beach Sea Scallop Closed Area, to scallop fishing to protect concentrations of juvenile scallops, to reduce fishing mortality, and to increase yield per recruit. The interim rule became effective from April 3, 1998, and was extended through March 26, 1999 (63 FR 51862, September 29, 1998). On March 29, 1999, NMFS published a final rule implementing Amendment 7 to the Atlantic Sea Scallop FMP. Under Amendment 7 and its implementing regulations, the two Mid-Atlantic area