

#### H. Where Are the Revised State Rules Different From the Federal Rules?

There are no State requirements that are more stringent or broader in scope than the Federal requirements.

#### I. Who Handles Permits After the Authorization Takes Effect?

South Carolina will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which South Carolina is not yet authorized.

#### J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in South Carolina?

South Carolina is not authorized to carry out its hazardous waste program in Indian country within the State, which includes the Catawba Indian Nation. Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

#### K. What Is Codification and Is EPA Codifying South Carolina's Hazardous Waste Program as Authorized in This Rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart PP for this authorization of South Carolina's program changes until a later date.

#### L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA section 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements

under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA section 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272) do not apply. As required by Section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the

executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective May 27, 2005.

#### List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous material transportation, Hazardous waste, Indians-lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 17, 2005.

**A. Stanley Meiburg,**

*Deputy Regional Administrator, Region 4.*

[FR Doc. 05-6040 Filed 3-25-05; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-03-15351]

**RIN 2127-AJ40**

### Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

**ACTION:** Final rule, response to petitions for reconsideration.

**SUMMARY:** This document responds to petitions for reconsideration of a June 24, 2003 final rule that incorporated

improved test dummies and updated procedures into Federal Motor Vehicle Safety Standard No. 213 and extended the standard to child restraints recommended for use by children weighing up to 30 kilograms (65 pounds). That final rule responded to Section 14 of the Transportation Recall Enhancement, Accountability and Documentation Act of 2000. NHTSA received petitions for reconsideration of different aspects of the final rule from Ford and from Denton ATD. This document denies Ford's petition and grants Denton's.

**DATES:** The amendments made in this rule are effective April 27, 2005. If you wish to petition for reconsideration of this rule, your petition must be received by May 12, 2005.

**ADDRESSES:** If you wish to petition for reconsideration of this rule, you should refer in your petition to the docket number of this document and submit your petition to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

The petition will be placed in the docket. Anyone is able to search the electronic form of all documents received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78), or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mike Huntley of the NHTSA Office of Crashworthiness Standards, at 202–366–0029.

For legal issues, you may call Deirdre Fujita of the NHTSA Office of Chief Counsel, at 202–366–2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On June 24, 2003 (68 FR 37620; Docket NHTSA–15351), NHTSA published a final rule that made a number of revisions to Federal Motor Vehicle Safety Standard (FMVSS) No. 213, “Child Restraint Systems,” including amendments that incorporated improved child restraint test dummies and updated procedures used to test child restraints, and that extended the application of the standard to restraints recommended for use by

children weighing up to 30 kilograms (kg) (65 pounds (lb)).<sup>1</sup> The final rule fulfilled a mandate in Section 14 of the Transportation Recall Enhancement, Accountability and Documentation Act (the TREAD Act) (November 1, 2000, Pub. L. 106–414, 114 Stat. 1800) that NHTSA initiate a rulemaking for the purpose of improving the safety of child restraints.

As part of its response to the TREAD Act, NHTSA revised FMVSS No. 213 to update the test devices and procedures used in dynamically evaluating child restraints for compliance with the standard. The final rule updated the seat assembly on which child restraints are tested to make the seat assembly more representative of those in today's vehicles. The final rule changed the seat bottom and the seat back cushion angles, the spacing between the anchors of the lap belt, and, to replicate a rear seating position, changed the seat back from a flexible seat back to a fixed one. The agency also assessed and validated the reasonableness of the sled pulse.

**Sled pulse.** In Standard No. 213's dynamic sled test, a child restraint is tested with a crash test dummy on a representative vehicle bench seat (seat assembly). The seat assembly, child restraint and test dummy are accelerated in a manner simulating a vehicle crash. The child restraint must manage the force from the simulated crash so that the forces imparted to the dummy are kept within tolerable limits. The severity of the crash pulse is a function of its onset rate, peak acceleration, time of peak g occurrence, and its duration.

FMVSS No. 213 has a relatively severe crash pulse, in that the sled is accelerated relatively quickly to an acceleration of approximately 24 g's (24 times the force of gravity) and maintains the 24 g level for a relatively long time period (37 to 42 milliseconds) before returning to zero acceleration. A dynamic test condition of FMVSS No. 213's 48 kilometers per hour (kph) (30 miles per hour) sled test is that the acceleration of the test platform must be within a curve<sup>2</sup> depicted in the standard (S6.1.1(b)(1)). The sled acceleration can not exceed the upper limit of the curve. The laboratory test procedure (TP) for FMVSS No. 213 also

provided a lower limit for the curve, and thus gave a tolerance band, or corridor, for the acceleration of the sled (TP–213–04, September 1, 1997; Section D.3.3). Prior to the TREAD Act rulemaking, the corridor was about 3 to 4 g's wide. To ensure that the acceleration of the sled was within the relatively narrow 3 to 4 g wide corridor, compliance tests were typically conducted at a  $\Delta V$  of approximately 28.5 mph.

**Changes to the Pulse.** The TREAD Act directed NHTSA to initiate a rulemaking to consider, among other matters, whether FMVSS No. 213's dynamic test reflects the designs of modern-day passenger motor vehicles. As part of its response to the Act, NHTSA analyzed the crash pulses of over 150 vehicles tested under FMVSS No. 208 and the agency's frontal New Car Assessment Program (NCAP). Average crash pulses from tests of cars, sport utility vehicles (SUVs), trucks, and vans were obtained and then filtered. The peak velocity, peak g, and duration of the crash pulse were recorded. NHTSA determined in that rulemaking that the crash pulse used in FMVSS No. 213 was very similar to the pulse of light trucks, SUVs and small school buses in acceleration onset rate and peak magnitude. Because these vehicles were regularly used to transport children in child restraints, the agency decided that a crash pulse that was not less than the severity of the pulses generated by those vehicles was reasonable for FMVSS No. 213. Such a pulse would better ensure (in contrast to a less stringent pulse) that child restraints will not structurally degrade in a crash, will adequately restrain child occupants and will limit to tolerable levels the forces to a child's head and torso, regardless of the vehicle in which the restraint is used.

Accordingly, the agency did not significantly revise the existing pulse but instead adjusted it. The final rule adopted a trapezoidal-shaped corridor to define the upper and lower limits of the pulse. The corridor was about 6 g's wide, which is 2 to 3 g's wider than the pulse formerly specified in FMVSS No. 213. Those changes achieved several goals. Use of a trapezoidal shape to define the maximum and minimum corridors of the sled pulse made the pulse similar in shape to those used in FMVSS No. 208, “Occupant crash protection,” and in ECE Regulation 44. The wider corridor enabled NHTSA to test child restraints closer to 48 kph (30 mph) while maintaining the peak g acceleration of the standard's pulse. The wider corridor also made it easier for testing facilities to produce pulses that were within the limits of the corridor,

<sup>1</sup> NHTSA published a technical amendment to the rule at 69 FR 42595, July 16, 2004 (Docket No. 18075) which added cross-references to 49 CFR part 572 subpart S, “Hybrid III Six-Year-Old Weighted Child Test Dummy.”

<sup>2</sup> The curve depicted in Figure 2, S6.1.1(b)(1), applies to child restraints manufactured before August 1, 2005. Figure 2A, S6.1.1(b)(1), applies to child restraints manufactured on or after August 1, 2005. Figure 2A and related amendments were adopted into FMVSS No. 213 by the TREAD Act final rule.

which meant that more facilities could participate in FMVSS No. 213 testing. The existing pulse was also extended from 80 ms to about 90 ms in duration. This change made the pulse more representative of the crash pulses of today's vehicles (including light trucks, SUVs and small school buses), which are longer in duration than the existing FMVSS No. 213 pulse.

*Ford Petition.* Ford petitioned for reconsideration of the changes to the sled test pulse specification. [http://dmses.dot.gov/docimages/pdf87/251702\\_web.pdf](http://dmses.dot.gov/docimages/pdf87/251702_web.pdf) Ford stated that the new pulse corridor would allow increased average acceleration of the pulse, which Ford thought was contrary to the agency's intent. Ford stated that broadening the pulse corridors from 3 g to 6 g allows a 30 mph  $\Delta V$  by increasing average acceleration instead of increasing pulse duration. Ford also stated that the difference between the most and least severe 30 mph  $\Delta V$  pulses allowed by the corridor is about 25%. The petitioner stated that a pulse corridor that allows a potential 25% variation in pulse severity is not sufficiently objective. Ford believed that the agency intended to change the corridor to test restraints at a higher velocity, *i.e.*, closer to 30 mph, and that NHTSA did not intend to specify a pulse with a higher average deceleration. Ford suggested a pulse corridor that the petitioner believed would increase the velocity change of the pulse without allowing a higher acceleration.

*Response:* The broadening of the FMVSS No. 213 pulse corridor does not necessarily increase the average acceleration of a particular pulse meeting the corridor. The agency does not consider average acceleration over the duration of a pulse as a single indicator of the severity of that pulse. We consider the severity of a crash pulse to depend on the entire acceleration-time profile, including onset rate, peak g, peak g time of occurrence, and pulse duration. The pulse formerly specified in the standard fits entirely within the trapezoidal corridor. Thus, for that pulse, the broadening of the corridor resulted in no increase in average acceleration.

It is true that, with a broadened corridor, there is more flexibility given for the different elements of the acceleration-time profile (onset rate, peak g, peak g time of occurrence, and pulse duration) to be individually increased or decreased to fine-tune the fitting of the pulse within the constraints of the corridor. That was one of the goals of the broadening of the corridor: to allow greater flexibility to

test laboratories to reproduce the sled pulse, and achieve a  $V$  closer to 30 mph than previously achievable. Some elements of the acceleration-time profile could be increased within the new corridor and to that extent, pulses of increased average acceleration could fit the corridor. Nonetheless, regardless of the values of the individual components of the acceleration-time profile, the values must be such that the pulses produced fit within the constraints of the corridor. The corridor thus defines and limits the severity of the pulse.

Yet, Ford is concerned that the new corridor allows test facilities to use pulses that vary more in severity (based on average acceleration over the duration of the pulse) than before. Ford states that pulses that have a  $\Delta V$  of 30 mph can potentially vary 25% in pulse severity, and that a corridor that allows a potential 25% variation in pulse severity is not sufficiently objective. The petitioner suggests two approaches that the agency could take to increase "the velocity change of the pulse without allowing a higher acceleration."

The most and least severe pulses that the petitioner uses to illustrate the 25% variation in average acceleration cannot be achieved by existing test sleds. That is, present day test equipment cannot produce a pulse that is so severe as the theoretical pulse produced by Ford for illustration, nor as benign. As such, the theoretical extreme severity difference that Ford identifies does not exist in the real world.

To the extent that some difference in severity exists, we do not agree that the test is not objective. FMVSS No. 213 (S6.1.1(b)(1)) specifies that the tests for testing add-on child restraints "are at a velocity change of 48 km/h with the acceleration of the test platform entirely within the curve shown in Figure 2 (for child restraints manufactured before August 1, 2005) or in Figure 2A (for child restraints manufactured on or after August 1, 2005). \* \* \*" The standard clearly defines the trapezoidal-shaped corridor that delineates the upper and lower boundaries of the pulse. Anyone conducting the test is able to determine whether the pulse used fell within the corridor. Use of identical pulses will result in similar test results. The compliance of a child restraint will continue to be based on objective testing.

Objectivity in testing and evaluating child restraints was not only achieved by the final rule, it was also balanced with the need to increase flexibility and practicability in conducting the test. Fewer pulses would fit a narrower corridor, but fewer test laboratories would be able to conduct compliance

tests if a narrower corridor were specified. The new pulse corridor adopted by the final rule enables more laboratories to participate in objective compliance testing of child restraints than before.

Ford believes that the new corridor allows a pulse that has an average deceleration about 10% higher than the current pulse, and that this outcome is contrary to the agency's intent not to increase the severity of the current pulse used to test child restraints. The petitioner states that the agency said in the preamble to the final rule that "the pulse should not be made more severe at this time." 68 FR at 37640. The issue under consideration in the TREAD Act final rule was whether the already demanding FMVSS No. 213 24 g pulse should be made more severe than the pulses of today's light trucks, SUVs and small school buses. The agency decided against such an increase because "[i]ncreasing the severity could necessitate the redesign of many child restraints and could increase costs of the restraints to manufacturers, without a proportionate safety benefit." *Id.* The agency recognized in the TREAD Act final rule that the new pulse corridor will improve the effectiveness of the standard's sled test by enabling NHTSA to test child restraints closer to 30 mph than under the former pulse. The agency acknowledged that child restraint tests run closer to 30 mph are more stringent than tests conducted under the former pulse, and that that was an intended outcome of the rule.

It is true that child restraints must meet the performance requirements of FMVSS No. 213 when tested to a pulse contained anywhere within the corridor. However, the increase in the width of the pulse corridor is not likely to affect the ability of child restraints to pass performance criteria. Agency tests have shown that child restraints are currently manufactured with a wide compliance margin when tested to the FMVSS No. 213 pulse. *See* 68 FR at 37634, Figures 1, 2 and 3. Thus, as a practical matter the new corridor is unlikely to necessitate redesign of the restraints.

Ford suggested two preferred pulse corridors that petitioner believed would allow most sled tests to achieve a full 30 mph  $\Delta V$ , but would limit pulse severity to about the same average acceleration level specified by the former pulse corridor. The first widens the existing FMVSS No. 213 pulse corridor after 65 ms. The second pulse corridor uses the trapezoidal pulse of the final rule, but has a peak acceleration at 22 g, instead of 25 g (between 9 and 56 ms).

NHTSA believes that neither of the suggested corridors satisfies the goals of

the rulemaking. The first suggestion does not generally change the 2–3 g width of the pulse formerly specified in FMVSS No. 213 which many test laboratories found difficult or impossible to work with.<sup>3</sup> The second pulse also maintains a 3 g width between its upper and lower boundaries for most of the pulse and thus would create the same type of practical difficulties that test labs had in meeting the former FMVSS No. 213 pulse. In addition, the second suggested pulse is unacceptable because it does not fit the previous FMVSS No. 213 pulse. It has a peak acceleration that is lower than the FMVSS No. 213 pulse (at 14, 20, and 28 ms) and thus would reduce the severity of the existing FMVSS No. 213 crash pulse. Reducing the severity of the pulse is contrary to the agency's intent in amending the standard in this TREAD Act rulemaking.

For the reasons explained above, Ford's request for reconsideration of the sled pulse is denied.

**Ford on Braking:** A second issue raised by Ford related to testing built-in child restraint systems on a sled. (Built-in child restraints are tested either on a sled or by crash testing the specific vehicle in which the built-in restraint is installed.) Ford stated that the test pulse specification is not objectively stated for sled tests of built-in seats because the agency has not specified the period of time during which the velocity change should occur. The petitioner stated: We believe that NHTSA intended that the  $\Delta V$  specified in S6.1.1.1(b)(1) is the velocity change prior to the sled acceleration dropping to zero, rather than the  $\Delta V$  during the 90 ms maximum pulse duration or the  $\Delta V$  during the 200

to 300 ms effective duration of the test." Ford stated that head injury criterion (HIC) and neck readings can be driven upwards during the rebound phase of a HYGE sled test in tests of built-in seats. Ford states that freestanding seat backs will bend forward during sled acceleration then rebound, pulling the dummy rearward, and may spring forward again after rebounding due to the braking of the sled. Ford maintains that the rebounding dummy in the built-in child restraint can hit the seat back as it moves forward because of the sled braking, and can drive the HIC reading higher. Thus, Ford believes that the resulting dummy readings can be highly dependent on sled braking after the initial acceleration pulse.

**Response:** NHTSA does not agree that there is a need to specify expressly the time during which the velocity change should occur to account for the braking characteristics of the sled. We believe that by specifying that there be a velocity change of 48 km/h and that the velocity change be achieved with the acceleration of the test platform entirely within the curve shown in the standard, the test pulse is objectively stated. Testing laboratories can alter the various components of the sled pulse, including braking characteristics, as long as the pulse has a velocity change of 48 km/h and the acceleration is entirely within the corridor. Further, the agency is not aware of instances where a specific braking profile between 90–300 ms influences dummy readings in FMVSS No. 213 sled tests. NHTSA maintains that if the acceleration pulse remains within the corridor, at  $\Delta V = 30$  mph, the specification of a braking profile is unnecessary because the effect of braking is minimal with respect to dummy readings—regardless of the type of dynamic test. For the aforementioned reasons, the petition for reconsideration is denied.

#### Denton Petition

Denton ATD (Denton) petitioned NHTSA to reconsider (correct) the specification of the mass of the clothing worn by the Hybrid III 3-year-old dummy incorporated into FMVSS No. 213 by the TREAD Act final rule, and the specification for the shoes of the Hybrid III 3- and 6-year-old dummies. The specifications are set forth by the final rule in S9.1(e) and (f) of FMVSS No. 213 for the Hybrid III 3- and Hybrid III 6-year-old dummies, respectively.

**Clothing:** The petitioner stated that both the agency's regulation (49 CFR Subpart P) specifying the Hybrid III 3-year-old dummy and the Procedure for Assembly, Disassembly and Inspection (PADI) manual, incorporated by

reference into that regulation, specify that the combined weight of the dummy's shirt and pants be no more than .25 kg (.55 lb) (49 CFR 572.144(c)). However, Denton stated, S9.1(e) of FMVSS No. 213 erroneously specifies that the 3-year-old dummy's shirt and pants each have a mass of .090 kg. The petitioner also believed that the specification of the mass of the 6-year-old dummy's clothing is confusing (as specified in both S9.1(e) and (f)) and should be clarified.

The petition as to the clothing is granted. This document amends S9.1(e) to make it consistent with the dummy regulation and PADI. This final rule is also clarifying the clothing specifications for the Hybrid III 6-year-old dummy (correcting S9.1(e) to remove reference to that dummy and revising S9.1(f)). The agency does not believe that these corrections will affect the performance of the dummy or child restraint in any way.

**Shoes:** Denton stated that there is an inconsistency between the specifications in 49 CFR part 572 and FMVSS No. 213 regarding the size and weight of the shoes worn by the Hybrid III 3- and Hybrid III 6-year-old dummies.

The PADI for the 3-year-old dummy (which is incorporated by reference into part 572) specifies a size 8 shoe, and further specifies that each shoe must weigh .21 +/- 0.05 kg (.47 +/- .10 lb). In contrast, FMVSS No. 213 specifies a size 7M shoe size, and a total mass of .453 kg for the shoes for this dummy.

Denton stated that the drawings and the PADI for the Hybrid III 6-year-old dummy (which are incorporated by reference into 49 CFR part 572, Subpart N) specify canvas oxford, size 13M shoes and that each shoe weighs .38 +/- .05 kg (.83 +/- .10 lb). The petitioner stated that in contrast, FMVSS No. 213 (S9.1(f)) specifies a size 12½M canvas oxford with a total mass of .453 kg (1.00 lb). Denton stated that it can not find shoes that meet the FMVSS No. 213 weight specification in the specified style. Denton suggested that the agency reconsider FMVSS No. 213's specification of shoe size and weight.

Denton's petition as to the shoes is also granted. The agency is amending S9.1(e) of the standard to specify that the shoes for the Hybrid III 3-year-old dummy are size 8 canvas oxford style sneakers weighing not more than 0.26 kg each. The agency is amending S9.1(f) to specify that the shoes for the Hybrid III 6-year-old dummy are children's size 13M canvas oxford style sneakers weighing not more than 0.43 kg each.

<sup>3</sup> The suggested pulse also does not allow a small deviance at time zero, which some sleds need to generate a pulse that fits within the corridor of the standard. See 67 FR at 21812–21813, NPRM for the TREAD Act discussing grant of petition for rulemaking from Transportation Research Center, Inc.

Ford believes that test labs are able to meet a narrow corridor because they can meet the corridor of FMVSS No. 208, which specifies a sled pulse that has a peak g variation of only 2.2 g. NHTSA notes that the 2.2 g spread between the upper and lower bounds of the FMVSS No. 208 corridor is only maintained for a relatively short period of time, between 55 and 70 ms, while the FMVSS No. 213 pulse specifies that the peak acceleration must be maintained from about 13 to 47 ms. That is, it is easier to control the pulse for a shorter period (as in the FMVSS No. 208 pulse) than for a longer period (as in the FMVSS No. 213 pulse). Further, the acceleration onset rate specified in FMVSS No. 208 is much broader (longer in duration and "wider") than that specified in FMVSS No. 213, which allows test labs much greater flexibility in developing an acceleration curve that fits entirely within the curve. Therefore, the practicability of test labs of meeting the FMVSS No. 208 pulse does not show practicability of meeting the FMVSS No. 213 pulse.

The agency does not believe that these changes will affect the performance measured under FMVSS No. 213.

#### Effective Date

The amendments on the dummies' clothing and shoes are effective in 30 days. An effective date less than 180 days after date of publication of this rule is in the public interest because these amendments correct and clarify the specifications for the clothing and shoes. Further, there is good cause for the effective date because FMVSS No. 213 specifies that the agency will use the Hybrid III dummies in the standard's compliance tests of child restraints manufactured on or after August 1, 2005.

#### Rulemaking Analyses and Notices

##### *Executive Order 12866 (Federal Regulation) and DOT Regulatory Policies and Procedures*

This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." The agency has considered the impact of this rulemaking action under the Department of Transportation's regulatory policies and procedures, and has determined that it is not "significant" under them. This document amends FMVSS No. 213 to correct the specification for the clothing and shoes worn by the new 3- and 6-year old child test dummies. The correction does not affect the performance of the dummies or the performance of child restraints. There are no cost or benefit changes associated with this final rule.

##### *Regulatory Flexibility Act*

The Regulatory Flexibility Act of 1980 (Public Law 96-354), as amended, requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This final rule simply corrects an inconsistency in the specification of clothing and shoes worn by the test dummies. It does not reduce or impose any new obligations or requirements.

##### *Executive Order 13132 (Federalism)*

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 13132, and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement.

The rule will not have any substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

##### *National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

##### *Executive Order 12988 (Civil Justice Reform)*

This rule will not have any retroactive effect. A petition for reconsideration or other administrative proceeding will not be a prerequisite to an action seeking judicial review of this rule. This rule will not preempt the states from adopting laws or regulations on the same subject, except that it will preempt a state regulation that is in actual conflict with the Federal regulation or makes compliance with the Federal regulation impossible or interferes with the implementation of the Federal statute.

##### **List of Subjects in 49 CFR Part 571**

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

#### **PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS**

- 1. The authority citation for part 571 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

- 2. S9.1(e) and (f) of § 571.213 are revised as set forth below.

##### **§ 571.213 Standard No. 213, Child restraint systems.**

\* \* \* \* \*

S9.1 *Type of clothing.*

\* \* \* \* \*

(e) *Hybrid III 3-year-old dummy (49 CFR Part 572, Subpart P).* When used in testing under this standard, the dummy specified in 49 CFR Part 572, Subpart P, is clothed as specified in that subpart, except that the shoes are children's size 8 canvas oxford style sneakers weighing not more than 0.26 kg each.

(f) *Hybrid III 6-year-old dummy (49 CFR Part 572, Subpart N) and Hybrid III 6-year-old weighted dummy (49 CFR Part 572, Subpart S).* When used in testing under this standard, the dummies specified in 49 CFR Part 572, Subpart N and Subpart S, are clothed as

specified in those subparts, except that the shoes are children's size 13 M canvas oxford style sneakers weighing not more than 0.43 kg each.

\* \* \* \* \*

Issued on March 22, 2005.

**Jeffrey W. Runge,**  
*Administrator.*

[FR Doc. 05-5962 Filed 3-25-05; 8:45 am]

**BILLING CODE 4910-59-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 679**

[Docket No. 041126333-5040-02; I.D. 032205C]

#### **Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska**

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 23, 2005, through 1200 hrs, A.l.t., April 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The first seasonal apportionment of the 2005 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 100 metric tons as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005), for the period 1200