

sewage waste treatment plant, feedlot, or other place where decaying organic material is found.

(ii) The term "renewable fuel" includes cellulosic biomass ethanol, waste derived ethanol, biodiesel, and any blending components derived from renewable fuel.

(2) *Cellulosic biomass ethanol* means ethanol derived from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis, including dedicated energy crops and trees, wood and wood residues, plants, grasses, agricultural residues, fibers, animal wastes and other waste materials, and municipal solid waste. The term also includes any ethanol produced in facilities where animal wastes or other waste materials are digested or otherwise used to displace 90 percent or more of the fossil fuel normally used in the production of ethanol.

(3) *Waste derived ethanol* means ethanol derived from animal wastes, including poultry fats and poultry wastes, and other waste materials, or municipal solid waste.

(4) *Small refinery* means a refinery for which the average aggregate daily crude oil throughput for a calendar year (as determined by dividing the aggregate throughput for the calendar year by the number of days in the calendar year) does not exceed 75,000 barrels.

(5) *Biodiesel* means a diesel fuel substitute produced from nonpetroleum renewable resources that meets the registration requirements for fuels and fuel additives established by the Environmental Protection Agency under section 211 of the Clean Air Act. It includes biodiesel derived from animal wastes (including poultry fats and poultry wastes) and other waste materials, or biodiesel derived from municipal solid waste and sludges and oils derived from wastewater and the treatment of wastewater.

(b) *Renewable Fuel Standard for 2006*. The percentage of renewable fuel in the total volume of gasoline sold or dispensed to consumers in 2006 in the United States shall be a minimum of 2.78 percent on an annual average volume basis.

(c) *Responsible parties*. Parties collectively responsible for attainment of the standard in paragraph (b) of this section are refiners (including blenders) and importers of gasoline. However, a party that is a refiner only because he owns or operates a small refinery is exempt from this responsibility.

(d) *EPA determination of attainment*. EPA will determine after the close of 2006 whether or not the requirement in paragraph (b) of this section has been

met. EPA will base this determination on information routinely published by the Energy Information Administration on the annual domestic volume of gasoline sold or dispensed to U.S. consumers and of ethanol produced for use in such gasoline, supplemented by readily available information concerning the use in motor fuel of other renewable fuels such as cellulosic biomass ethanol, waste derived ethanol, biodiesel, and other non-ethanol renewable fuels.

(1) The renewable fuel volume will equal the sum of all renewable fuel volumes used in motor fuel, provided that:

(i) One gallon of cellulosic biomass ethanol or waste derived ethanol shall be considered to be the equivalent of 2.5 gallons of renewable fuel; and

(ii) Only the renewable fuel portion of blending components derived from renewable fuel shall be counted towards the renewable fuel volume.

(2) If the nationwide average volume percent of renewable fuel in gasoline in 2006 is equal to or greater than the standard in paragraph (b) of this section, the standard has been met.

(e) *Consequence of nonattainment in 2006*. In the event that EPA determines that the requirement in paragraph (b) of this section has not been attained in 2006, a deficit carryover volume shall be added to the renewable fuel volume obligation for 2007 for use in calculating the standard applicable to gasoline in 2007.

(1) The deficit carryover volume shall be calculated as follows:

$$DC = V_{\text{gas}} \bullet (R_s - R_a)$$

Where:

DC = Deficit carryover in gallons of renewable fuel.

$V_{\text{gas}}$  = Volume of gasoline sold or dispensed to U.S. consumers in 2006, in gallons.

$R_s$  = 0.0278.

$R_a$  = Ratio of renewable fuel volume divided by total gasoline volume determined in accordance with paragraph (d)(2) of this section.

(2) There shall be no other consequence of failure to attain the standard in paragraph (b) of this section in 2006 for any of the parties in paragraph (c) of this section.

[FR Doc. 05-24611 Filed 12-29-05; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 572

[Docket No. NHTSA-2004-18075]

RIN 2127-AJ79

### Anthropomorphic Test Devices; Hybrid III 6-year-old Weighted Child Test Dummy

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

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

**SUMMARY:** This notice responds to a petition submitted by First Technology Safety Systems (FTSS) asking the agency to reconsider several aspects of a July 16, 2004 final rule that added a new subpart S to 49 CFR part 572. Subpart S specifies a Hybrid III 6-year-old weighted child test dummy. The agency is granting the petition in part and denying it in part.

**DATES:** This final rule is effective January 30, 2006. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the **Federal Register** as of January 30, 2006. Petitions for reconsideration must be received no later than 45 days after the date of publication and should refer to this docket and the notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590

#### FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Sean Doyle, NHTSA Office of Crashworthiness Standards. Telephone: (202) 366-1740. Facsimile: (202) 493-2739.

For legal issues: Ms. Deirdre Fujita, NHTSA Office of Chief Counsel. Telephone: (202) 366-2992. Facsimile: (202) 366-3820.

Both officials can be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:** On July 16, 2004, NHTSA published a final rule that amended 49 CFR part 572 by adding a new subpart S describing a weighted version of the current Hybrid III 6-year-old child size (HIII-6C) dummy (69 FR 42595; NHTSA Docket 18075). The weighted dummy is used in Federal Motor Vehicle Safety Standard (FMVSS) No. 213 (49 CFR 571.213) to

test the structural integrity of child restraints, manufactured on or after August 1, 2005, that are recommended for use by children weighing 50 to 65 lb.

FTSS petitioned for reconsideration of the following aspects of the final rule: the force corridor for the thorax impact certification test, and the average force at 45 degrees for the torso flexion certification test; the material specification on drawing number 167–2020 and the weight tolerances on that drawing; and the material specification on drawing number 167–3010 and the weight tolerances on that drawing. Each of these is discussed below.

**(a) The Force Corridor for the Thorax Impact Certification Test, and the Average Force at 45 Degrees for the Torso Flexion Certification Test**

FTSS provided the results for six additional thorax impact tests using a Hybrid III 6-Year-Old Weighted Child Test Dummy (HIII–6CW). The petition requested that the agency “pool this data with the existing data to produce a larger sample size to calculate the average peak pendulum force corridor and modify the rule accordingly.” (The data are provided in Table 1 of the Appendix to this document.)

FTSS also provided an additional seventeen torso flexion response tests. FTSS again requested that these “additional test data be pooled with the existing agency data to calculate the appropriate average Force at 45 degrees.”

NHTSA is denying the first suggested amendment concerning the thorax impact certification test, but is granting the request to adjust the torso flexion test corridor.

**Thorax Impact Test**

In its petition, FTSS provided the results from six additional thorax impact tests using a HIII–6CW. The petition requested that the agency “pool this data with the existing data to produce a larger sample size to calculate the average peak pendulum force corridor and modify the rule accordingly.” (The data are provided in Table 1 of the Appendix to this document.)

NHTSA analyzed the FTSS data from the thorax impact tests and performed a statistical analysis with the additional data points, comparing it to the data set published in the final rule. It was observed that with these additional 6 FTSS data points, the average peak pendulum force would decrease by only 3.7 Newtons (N). The data set used in the final rule produced an average peak pendulum force of 1,321.6 N. When combined with the FTSS data, the

average peak pendulum force is 1,317.9 N, or a decrease of only 0.27% in the average peak force.

NHTSA is denying the request to modify the peak pendulum force corridor. FTSS did not show how changing the average peak force by 0.27% would have any effect on dummy performance. Furthermore, all the tests provided by FTSS fell comfortably within the final rule corridor of 1,205–1,435 N. Accordingly, the agency does not believe that the peak force corridor needs to be changed at this point in time.

**Torso Flexion Test**

With regard to the additional torso flexion response data (see Table 2 of the Appendix), the FTSS data, combined with the data set published in the final rule, results in an average force of 95.2 N at 45 degrees of flexion. This value is slightly higher than that of the value provided in the Hybrid III 6-year-old weighted child test dummy final rule, which provided an average force of 88.6 N at 45 degrees of flexion (49 CFR 572.165(b)(1)). The standard deviation of the combined data set would be reduced from the data set published in the final rule, 14.2 N compared to 15.6 N. If the new average responses were accepted and the same tolerance of  $\pm 20$  N were applied, then the force at the 45-degree corridor would change from 68.6 N–108.6 N (as published in the final rule) to 72.5 N–112.5 N.

Such a change would reduce the number of samples that did not meet the corridor at the upper end of the limit from five failures to two failures out of the 29 total samples. However, making this change in the corridor would result in three other samples not meeting the new requirement at the low end of the limit (test numbers DATD–97–10, –11, and –12 would no longer pass the new requirement). FTSS provided data showing that the dummies used in their 13 tests met the requirements set forth in 49 CFR part 572, Subpart N (“Six-year-old child test dummy, beta version”) prior to adding the weights, indicating the overall acceptability of the dummies. After considering the available information, we have decided to adjust slightly the torso flexion test corridor from 88.6 N  $\pm$  20 N to 88.6 N  $\pm$  25 N. This slight adjustment in the torso flexion test corridor results in all 29 test samples being compliant with the torso flexion force at 45 degrees.

**(b) The Material Specification on Drawing Number 167–2020 and the Weight Tolerances on That Drawing**

FTSS noted that NHTSA drawing number 167–2020 specifies a material,

Tungsten Alloy CMW 2000, which is a proprietary brand name of Contacts Metals Welding (CMW) Inc. FTSS requested the addition of “or equivalent” to the material specification “to allow for use of alternate suppliers of Tungsten Alloy.” FTSS also noted, “NHTSA has specified the weight to be 2.54 lb, but has specified no tolerance.” FTSS recommended applying a weight tolerance, which is computed by calculating the variance of the minimum and maximum dimensions and using the density of the Tungsten alloy. FTSS suggested a tolerance of  $\pm 0.11$  lb.

NHTSA agrees that, with regard to the recommendation to add “or equivalent” to the currently specified Tungsten Alloy GMW 2000, it is not preferable to specify one specific source for the raw materials needed to produce this item. The agency will therefore add the word “reference” to the currently specified Tungsten Alloy GMW 2000 located in the material specification section of drawing 167–2020. NHTSA will use the word “reference” rather than “or equivalent” to maintain consistency with the material specification generally used in NHTSA drawings.

With regard to the recommendation to apply a weight tolerance to drawing 167–2020, the agency agrees that a weight tolerance is desirable and concurs with the approach FTSS has taken in calculating this tolerance. The agency confirmed FTSS’s calculation and will change the weight note to read as follows: “Weight: 2.54  $\pm$  0.11 lb.”

**(c) The Material Specification on Drawing Number 167–3010 and the Weight Tolerances on That Drawing**

FTSS stated that a proprietary material has also been specified in this drawing. FTSS again suggested that a generic material specification would be more desirable.

In addition, FTSS noted “NHTSA has specified the weight to be 4.88 lbs, but has specified no tolerance.” FTSS recommended applying a weight tolerance, which, similar to the approach taken above, was computed by calculating the variance of the minimum and maximum dimensions and using the density of the Tungsten alloy. FTSS suggested a tolerance of  $\pm 0.17$  lb.

NHTSA agrees that a generic material specification is desirable. Therefore, the word “reference” will be added to the material specification in drawing number 167–3010. NHTSA further agrees that a weight tolerance is desirable and concurs with the approach suggested by the petitioner. Thus, the weight note on drawing number 167–3010 is changed to read: “Weight: 4.88  $\pm$  0.17 lb.”

## Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "nonsignificant" under the Department of Transportation's regulatory policies and procedures. The agency concludes that the impacts of the amendments are so minimal that preparation of a full regulatory evaluation is not required. The rule will not impose any new requirements or costs on manufacturers, but instead will slightly widen the torso flexion test corridor as well as make minor changes to two drawings of the dummy.

### B. Regulatory Flexibility Act

NHTSA has considered the impacts of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. The rule will not impose any new requirements or costs on manufacturers.

### C. Paperwork Reduction Act

This document does not establish any new information collection requirements.

### D. National Environmental Policy Act

NHTSA has analyzed this amendment 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.

### E. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 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 have no 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.

### F. Civil Justice Reform

This rule does not have any retroactive effect. Under section 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. Section 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.

### 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 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 agency searched for, but did not find any voluntary consensus standards relevant to this response to FTSS's petition for reconsideration.

### H. Unfunded Mandates Reform Act

This final rule will not impose any unfunded mandates under the Unfunded Mandates Reform Act of 1995. This rule 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. Privacy Act Statement

Anyone is able to search the electronic form of all comments or petitions 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>.

## List of Subjects in 49 CFR Part 572

Motor vehicle safety, Incorporation by reference.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 572 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. Section 572.160 is amended by revising paragraphs (a)(1)(iii) and (v) to read as follows:

### Subpart S—Hybrid III Six-Year-Old Weighted Child Test Dummy

\* \* \* \* \*

#### § 572.160 Incorporation by reference.

\* \* \*

(iii) Drawing No. 167-2020 Revision A, dated December 8, 2005, Spine Box Weight, incorporated by reference in §§ 572.161 and 572.165 as part of a complete dummy assembly;

\* \* \*

(v) Drawing No. 167-3010 Revision A, dated December 8, 2005, Lumbar Weight Base, incorporated by reference in §§ 572.161 and 572.165 as part of a complete dummy assembly; and

\* \* \* \* \*

■ 3. Section 572.161 is amended in paragraph (a) by revising Table A to read as follows:

#### § 572.161 General description.

\* \* \* \* \*

TABLE A

Component assembly <sup>1</sup>	Drawing No.
Complete assembly .....	167-0000.
Upper torso assembly .....	167-2000.
Spine box weight .....	167-2020 Rev. A.
Lower torso assembly .....	167-3000.
Lumbar weight base .....	167-3010 Rev. A.

<sup>1</sup> Head, neck, arm, and leg assemblies are as specified in 49 CFR 572 subpart N.

\* \* \* \* \*

■ 4. Section 572.165 is amended by revising paragraphs (a) and (b)(1) to read as follows:

#### § 572.165 Upper and lower torso assemblies and torso flexion test procedure.

(a) *Upper/lower torso assembly.* The test objective is to determine the stiffness effects of the lumbar spine (specified in 49 CFR 572.125(a)),

including cable (specified in 49 CFR 572.125(a)), mounting plate insert (specified in 49 CFR 572.125(a)), nylon shoulder bushing (specified in 49 CFR 572.125(a)), nut (specified in 49 CFR 572.125(a)), spine box weighting plates (drawing 167–2020 Revision A), lumbar base weight (drawing 167–3010 Revision A), and abdominal insert (specified in 49 CFR 572.125(a)), on resistance to articulation between the upper torso assembly (drawing 167–2000) and the lower torso assembly (drawing 167–3000). Drawing Nos. 167–2000, 167–2020 Revision A, 167–3000,

and 167–3010 Revision A, are incorporated by reference, see § 572.160.

(b)(1) When the upper torso assembly of a seated dummy is subjected to a force continuously applied at the head to neck pivot pin level through a rigidly attached adaptor bracket as shown in Figure S2 according to the test procedure set out in 49 CFR 572.125(c), the lumbar spine-abdomen assembly must flex by an amount that permits the upper torso assembly to translate in angular motion until the machined surface of the instrument cavity at the back of the thoracic spine box is at 45

± 0.5 degrees relative to the transverse plane, at which time the force applied as shown in Figure S2 must be within 88.6 N ± 25 N (20.0 lbf ± 5.6 lbf), and

\* \* \* \* \*

Issued on: December 22, 2005.

**Jacqueline Glassman,**  
*Deputy Administrator.*

**Note:** The following appendix will not appear in the Code of Federal Regulations.

## Appendix

**BILLING CODE 4950–59–P**

Table 1. Thorax impact test results for the HIII-6CW

Test ID	Dummy S/N	Test Date	Peak chest deflection (mm)	Peak Force 38 - 46mm (N)	Peak Force 12.5 - 38mm (N)	Hysteresis (%)	Comments
VRTC-4	108	7-Aug-01	40.7	1332	1405	77.6	
VRTC-5	108	7-Aug-01	39.8	1355	1435	77.7	
VRTC-6	108	7-Aug-01	40.3	1351	1430	76.9	
VRTC-7	108	7-Aug-01	41.2	1341	1413	76.8	
VRTC-8	108	27-Aug-01	41.0	1343	1407	76.6	
VRTC-9	108	28-Aug-01	40.6	1328	1386	77.1	
VRTC-10	108	28-Aug-01	40.7	1328	1391	76.8	
VRTC-11	108	24-Jan-02	43.5	1228	1222	75.3	new rib set
VRTC-A1	088	18-Oct-01	39.8	1388	1448	77.4	
VRTC-A2	088	24-Jan-02	40.3	1392	1405	75.9	
DATD-1			43.8	1259	1149	70.5	
DATD-2			43.9	1265	1234	68.3	
DATD-3			43.7	1271	1191	70.1	
FTSS-1		24-Jul-03	41.5	1350	1440	74.3	
FTSS-2		24-Jul-03	41.4	1340	1420	74.0	
FTSS-3		24-Jul-03	41.0	1370	1470	74.1	
FTSS-4		4-Aug-03	44.1	1260	1240	72.9	
FTSS-5		4-Aug-03	44.0	1250	1350	73.8	
FTSS-6		4-Aug-03	42.6	1290	1410	74.4	
NHTSA-108	avg		41.0	1325.8	1386.1	76.9	
	std. dev.		1.1	40.8	68.4	0.7	
	%CV		2.7	3.1	4.9	1.0	
NHTSA-088	avg		40.1	1390.0	1426.5	76.7	
	std. dev.		0.4	2.8	30.4	1.1	
	%CV		0.9	0.2	2.1	1.4	
DATD	avg		43.8	1265.0	1191.3	69.6	
	std. dev.		0.1	6.0	42.5	1.2	
	%CV		0.2	0.5	3.6	1.7	
FTSS	avg		42.4	1310.0	1388.3	73.9	
	std. dev.		1.4	50.2	82.8	0.5	
	%CV		3.2	3.8	6.0	0.7	
NHTSA + DATD	avg		41.5	1321.6	1347.4	75.2	
	std. dev.		1.6	50.7	106.0	3.2	
	%CV		3.9	3.8	7.9	4.3	
NHTSA + DATD + FTSS	avg		41.8	1317.9	1360.3	74.8	
	std. dev.		1.6	49.4	98.9	2.7	
	%CV		3.7	3.7	7.3	3.7	

Table 2. Combined Torso Flexion Response Data

Test Number	Test Date	Initial Angle (deg)	Force @ 45 degrees (Newtons)	Return Angle (deg)
VRTC-1	8/9/2001	30.7	100.5	4.1
VRTC-2	8/9/2001	33.4	101.0	4.2
VRTC-3	9/4/2001	30.1	105.0	5.1
VRTC-4	9/4/2001	30.7	100.5	4.1
VRTC-5	9/4/2001	30.2	110.3	6.5
VRTC-6	9/4/2001	31.9	101.0	4.3
DATD-97-10		27.9	69.0	8.3
DATD-97-11		27.9	70.0	8.7
DATD-97-12		28	72.0	8.3
DATD-98-4		27.3	79.0	7.4
DATD-98-5		29.3	80.0	5.4
DATD-98-6		29.4	75.0	5.8
FTSS-34972	7/24/2003	20.4	90.9	8.9
FTSS-34978	7/24/2003	18.6	110.6	8.4
FTSS-34983	7/24/2003	18.4	93.7	10.5
FTSS-53763	7/31/2003	18.5	113.7	7.4
FTSS-53780	7/31/2003	17.8	113.5	8.3
FTSS-53766	7/31/2003	18.4	110.9	7.5
FTSS-53885	8/5/2003	25.5	77.7	7.9
FTSS-53886	8/5/2003	26.7	76.4	7.2
FTSS-53887	8/5/2003	28.1	75.3	6.0
FTSS-SAE-1	8/12/2003	19.8	92.0	10.2
FTSS-55241	8/12/2003	22.9	99.7	4.8
FTSS-55243	8/12/2003	22.3	97.5	5.2
FTSS-55244	8/12/2003	22.4	110.6	5.4
FTSS-75060	8/16/2003	22.1	88.7	4.9
FTSS-75064	8/16/2003	23.7	86.4	3.7
FTSS-75032	8/17/2003	21.8	87.7	4.5
FTSS-75039	8/17/2003	23.7	93.7	3.4
VRTC	avg	31.2	103.0	4.7
	std. dev.	1.27	3.95	0.95
	% CV	4.07%	3.83%	20.18%
DATD	avg	28.3	74.2	7.3
	std. dev.	0.85	4.62	1.40
	% CV	3.01%	6.23%	19.16%
FTSS	avg	21.8	95.2	6.7
	std. dev.	3.09	12.96	2.18
	% CV	14.15%	13.61%	32.40%
NHTSA + DATD	avg	29.7	88.6	6.0
	std. dev.	1.82	15.63	1.77
	% CV	6.11%	17.64%	29.49%
NHTSA + DATD + FTSS	avg	25.1	92.5	6.4
	std. dev.	4.7	14.2	2.0
	% CV	18.88%	15.41%	31.38%