

burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 19, 2004. No comments were received.

DATES: Comments must be submitted on or before November 15, 2004.

FOR FURTHER INFORMATION CONTACT:

Michael Ferris, Maritime Administration, 400 7th Street SW., Washington, DC 20590. Telephone: 202-366-2324; FAX: 202-366-9580; or e-mail: michael.ferris@marad.dot.gov. Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION: Maritime Administration (MARAD).

Title: Subsidy Voucher—Operating Differential Subsidy (Bulk and Line Cargo Vessels).

OMB Control Number: 2133-0024.

Type of Request: Extension of currently approved collection.

Affected Public: Operators of bulk and liner vessels.

Forms: MA-790 and supporting schedules.

Abstract: The Merchant Marine Act 1936, authorizes the Secretary of Transportation to provide financial aid in the operation of contract vessels for bulk or liner cargo carrying services that help promote, develop, expand and maintain the foreign commerce of the United States. Vessel owners must submit documentation requesting the financial assistance to the Maritime Administration (MARAD).

Annual Estimated Burden Hours: Two hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Authority: 49 CFR 1.66.

Issued in Washington, DC on October 8, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04-23043 Filed 10-13-04; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18765]

Frontal New Car Assessment Program (NCAP)

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).
ACTION: Notice, request for comments.

SUMMARY: The primary purpose of the New Car Assessment Program (NCAP) is to provide consumers with a measure of the relative safety of vehicles to aid them in their purchasing decisions. Since 1978, the testing procedures used for the frontal program have remained relatively unchanged. The frontal NCAP test procedure has been almost identical to the frontal barrier test procedure used in Federal Motor Vehicle Safety Standard (FMVSS) No. 208, except vehicles in frontal NCAP tests are tested at a speed 5 mph (8 km/h) faster than the belted test speed in FMVSS No. 208. The higher test speed allows us to observe differences in frontal crashworthiness performance more readily. However, recent amendments to FMVSS No. 208 will require vehicles manufactured after September 1, 2007, to meet the injury criteria of that standard at an increased test speed of 35 mph (56 km/h) for the belted 50th percentile male dummy, the same test speed as the current frontal NCAP test. Because the NCAP test would no longer be a higher test speed than the FMVSS test, the agency has been considering possible changes to NCAP. This document introduces and requests comments on some alternatives to the future of the frontal NCAP.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than December 13, 2004.

ADDRESSES: Comments should refer to the docket number and be submitted by any of the following methods:

- *Federal Rulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Web Site:* <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site. Please note, if you are submitting

petitions electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using an Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Comment heading of the **SUPPLEMENTARY INFORMATION** section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Privacy Act: Anyone is able to search the electronic form of all petitions received into any of our dockets by the name of the individual submitting the petition (or signing the petition, 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 technical issues surrounding the information in this document, please contact Mr. Nathaniel Beuse at (202) 366-1740. For legal issues surrounding this document, please contact Mr. Stephen Wood at (202) 366-4992. Both of these individuals may be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh St. SW., Washington, DC 20590.

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I. Background

A. History of the Frontal New Car Assessment Program

In 1978, the National Highway Traffic Safety Administration (NHTSA) began the New Car Assessment Program (NCAP) to provide consumers with comparative crashworthiness information on new vehicles. Years of developmental work led to the creation of a frontal crash test procedure designed to do this. The agency published the first set of NCAP results based on this test for 1979 model year (MY) vehicles.

Since the beginning of the program, the frontal NCAP test procedure has been almost identical to NHTSA's Compliance program, which follows the Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant crash protection. Like the FMVSS No. 208 test, vehicles subjected to an NCAP test are towed head-on into a fixed, rigid barrier. However, for frontal NCAP, the vehicles are tested at a speed of 35 mph (56 km/h). This is 5 mph (8 km/h) greater than the speed for the belted test under the FMVSS No. 208 standard.¹ The NCAP crash test is conducted at 35 mph (56 km/h) rather than the 30 mph (48 km/h) specified in FMVSS No. 208 to allow differences in frontal crashworthiness performance to be more readily observed.

In a frontal NCAP test, the vehicle carries two instrumented Hybrid III test dummies that represent 50th percentile adult males. The dummies are located in the driver and front passenger seats and are restrained by the vehicle's seat belts and air bags (if available in earlier years). During the crash, forces and accelerations are recorded and then used to indicate the likelihood of serious injury and, in turn, the relative

crashworthiness of the vehicle in a severe frontal impact. Originally, this frontal NCAP data was presented to the public in the form of numerical scores for Head Injury Criterion (HIC), chest acceleration (measured in Gs), and femur forces.

Beginning with the 1994 model year (MY), NHTSA adopted a simplified nonnumeric format, the "star rating", for presenting the test results. The star rating is based on the combined effect of injury to the head and chest. Injury risk curves were developed that related HIC and chest accelerations to injury probability (P). The combined probability of serious injury is then calculated from the equation:

$$P_{\text{combined}} = P_{\text{head}} + P_{\text{chest}} - P_{\text{head}} * P_{\text{chest}}$$

A star rating from one to five (five being the highest) is then awarded based on this combined probability of serious injury:

- ★ = 5 stars = 10% or less chance of serious injury to the head or chest
- ★ = 4 stars = 11 to 20% chance of serious injury to the head or chest
- ★ = 3 stars = 21 to 35% chance of serious injury to the head or chest
- ★ = 2 stars = 36 to 45% chance of serious injury to the head or chest
- ★ = 1 star = 46% or greater chance of serious injury to the head or chest

A graphical representation of this system may be found in Appendix A. Even though they are currently not included in the calculations of the star rating, readings from the neck, femur, lower legs, and pelvis are also measured. In addition, anomalous test occurrences have been noted for the past several years, and beginning with MY 2001, NHTSA has provided further explanation on safety concerns not reflected in the star rating.²

Each model year, the agency is able to provide safety information in frontal crashes on approximately 80–85% of new model entries to the vehicle fleet. The agency widely distributes the results of its crash tests through media events, brochure circulation, and promotion of its Web site. Consumer interest in this type of information can be measured in a number of ways. The number of visitors to the NCAP section of NHTSA's Web site has grown from an average of 3,000 weekly in 1997 to an average of more than 43,000 weekly in 2004. The results of a 1997 Customer Satisfaction Survey conducted by NHTSA suggest that safety does sell. In fact, 74% of the survey respondents considered safety a "very important"

factor in their purchase decision. Another 21% deemed safety as being "somewhat important." Given this level of consumer interest in vehicle safety, it is no surprise that ads touting star ratings from NCAP's crash tests are used to market today's vehicles.

Not only is the program popular with consumers, it has also resulted in measurable improvements in the passenger vehicle fleet. Manufacturers use NCAP results to evaluate and improve their vehicles. For example, in the 1979 MY, only one of the vehicles tested had a 5-star rating for the driver (assuming the results had been presented in that way). In the 2003 MY, 65 of the vehicles tested received a 5-star rating for the driver. A similar trend has been seen for the right front seat passenger. The rise in NCAP ratings has been accompanied by a corresponding decrease in the fatality rate in motor vehicle crashes.³ While NCAP is not the sole stimulus for this improvement in safety, a 1995 General Accounting Office (GAO) study said " * * * it seems reasonable to conclude that manufacturers' successful efforts to improve their products' performance in NHTSA crash tests, particularly NCAP, have contributed to improved occupant protection in real-world crashes."⁴

Real world data shows that frontal crashes still account for the largest portion of crash fatalities for belted occupants in the United States. A recent analysis of 2002 FARS data for belted occupant fatalities showed that 40% of fatalities were attributed to frontal impacts, while 33% were a result of side impact, 22% from rollover, and 5% were rear end crashes and unknowns. The same analysis also found that the major areas subject to injury (AIS 3 or greater) in frontal crashes were the head (22%) and chest (26%). In addition, the next largest percentage of injury (24%) was attributed to the victims' lower limbs and pelvis. This real world data suggests that there continues to be merit in providing consumer information about the relative frontal impact occupant protection provided by various vehicles.

B. Motivation To Revisit the Frontal NCAP

As previously mentioned, the frontal NCAP test procedure is largely based on the FMVSS No. 208 crash test. However in 2000, FMVSS No. 208 was upgraded

¹ In accordance with a 1984 final rule that required automatic crash protection, the agency's compliance office has conducted 30 mph crash tests according to FMVSS No. 208 on passenger cars beginning in MY 1987 and in 1992 on light trucks. Vehicles were required to comply with FMVSS No. 208 requirements with and without manual seat belts on the dummies. The vast majority of 30 mph crash tested conducted by the agency through the compliance office through MY 2003 were unbelted. Beginning in mid-MY 1997, manufacturers could elect to utilize an optional sled test to comply with the unbelted test requirements, but vehicles still needed to comply when tested in a 30 mph crash test with dummies belted. Other options were specified in the May 2000 final rule for advanced airbags.

² For the frontal test, NHTSA indicates on the Web site and in the Buying A Safer Car brochure anomalies such as femur loads in excess of FMVSS No. 208 requirements.

³ Hackney, James R. "The Effects of FMVSS No. 208 and NCAP as Determined From Crash Test Results." Proceedings of the 13th International Conference on Experimental Safety Vehicles. Paris, France. November 1991.

⁴ GAO. "Highway Safety: Reliability and Validity of DOT Crash Tests." GAO/PEMD-95-5. May 1995.

to include multiple sized dummies and replace the current fixed barrier belted test with a higher speed version (65 FR 30679, May 12, 2000).

Beginning with vehicles manufactured on September 1, 2003, additional testing using the 5th percentile female dummy was introduced to the FMVSS No. 208 requirements. Also, beginning with vehicles manufactured on September 1, 2007, vehicles must meet the FMVSS No. 208 requirements when tested with a belted 50th percentile male dummy at 35 mph (56 km/h), (*i.e.* the same speed as the current NCAP test).⁵ Each of these changes to FMVSS No. 208 will affect the utility of NCAP. Currently, the frontal NCAP test does not use any dummy other than the 50th percentile male. In addition, since all vehicles will have to comply at this higher speed, differences between vehicles will likely be less apparent. These changes to FMVSS No. 208 have led the agency to consider revising the test procedures and/or the calculation of the star rating used in frontal NCAP.

II. Worldwide Frontal New Car Assessment Program Test Procedures

A. European New Car Assessment Program

The European New Car Assessment Program (EuroNCAP) was established and began rating vehicles in 1997. Five European governments, the European Commission, and various motoring and consumer organizations throughout Europe currently back and provide funding for EuroNCAP.

The frontal test performed by Euro NCAP uses a speed of 40 mph (64 km/h), wherein a vehicle collides head-on with a fixed aluminum honeycomb barrier at a 40% overlap on the driver's side.⁶ A pair of instrumented 50th percentile Hybrid III dummies is used to collect data in the driver and front passenger seats.⁷

⁵ This new requirement is phased-in over a number of years. The phase-in begins September 1, 2007 (2008 model year). All vehicles will be required to meet this requirement by the 2011 model year. In addition to this, NHTSA has proposed to require vehicles to meet the FMVSS No. 208 requirements using the 5th percentile dummy at 35 mph (56 km/h) (68 FR 46539; August 6, 2003).

⁶ *Frontal Impact Testing Protocol*. Version 4.0. January 2003. European New Car Assessment Program. Accessed May 26, 2004. <http://www.euroncap.com/content/test_procedures/downloads.php?area_ID=3>.

⁷ Although not part of the frontal crashworthiness ratings, two child dummies, a TNO/Ogle P¹/₂ infant (18-month-old) and a TNO P3 toddler (3-year-old), are placed in the rear seat in appropriate child restraints, to assign the vehicle a separate child protection star rating.

Once a vehicle is crashed, occupant response data is linked with a sliding scale to assign points to different body regions.⁸ The regions rated for the driver include the head, neck, chest, knee/femur/pelvis, lower leg, and foot/ankle. The same regions are also rated for the passenger, with the exception of the foot/ankle. Additionally, each adult body region is also rated based on a combination of visual assessment and measurement techniques to determine if the final body region ratings should be adjusted. Once the final point values are assigned, each body region is given one of five corresponding degrees of protection: Good, Adequate, Marginal, Weak, and Poor.

The results of the driver and passenger body regions are later combined with the side impact evaluation to give a final crashworthiness star rating for the vehicle. No star rating for the frontal crash is given. Additional safety features can also add points, called "modifiers," to a vehicle's score used to establish the final star rating. A struck star (a star with a line through it) is used to indicate when a serious safety concern exists for a vehicle, which EuroNCAP considers to be cases when the head, chest, abdomen, or pelvis of an occupant's body receives a score of zero. Currently, Euro NCAP does not note other safety concerns such as fuel leakages and door openings.

B. Japanese New Car Assessment Program

The Japanese New Car Assessment Program (Japan NCAP) testing is conducted by the National Agency for Automotive Safety and Victim's Aid (NASVA) in conjunction with the Ministry of Land, Infrastructure, and Transport.⁹ Japan NCAP began testing and rating vehicles using a full-frontal test in 1995, and added an offset frontal test in 2001.

The full-frontal and offset frontal tests are used, along with a side impact test, to establish an overall rating.¹⁰ In the full-frontal test, a vehicle moving at a speed of 34 mph (55 km/h) collides head-on into a rigid barrier. Hybrid III 50th percentile dummies occupy the

driver and passenger front seats. Identically to EuroNCAP, the Japanese offset frontal test forces the vehicle to collide head-on with a fixed aluminum honeycomb barrier at a 40% overlap, striking the driver's side at 40 mph (64 km/h). Again, two Hybrid III 50th percentile dummies are placed in the driver and front passenger seats.

In the frontal collision tests, Japan NCAP assigns points to injury readings recorded from each dummy's head, neck, chest, and legs. The vehicle is checked for certain types of damage and deformation that may detract from the frontal scores received. After the final number of points is assigned, the scores from each region are weighted and tallied to arrive at the total score for each vehicle occupant. Each vehicle is assigned a "level" from one to five (five being the highest) for the occupant in each configuration.

For the driver, the scores from both frontal tests are combined with the scores from the side collision test to obtain an overall score. For the front passenger, only the scores from the full-frontal test are used. The passenger results are combined with the driver's side impact score to determine an overall score for the passenger. Based on these overall scores, a sliding point scale is used to rate each occupant of the vehicle from one to six stars. Safety concerns such as doors opening and fuel leaks are also noted.

C. Australian New Car Assessment Program

The Australian New Car Assessment Program (ANCAP) is a program supported by the New Zealand and Australian governments as well as a host of automobile clubs and traffic authorities in both of those countries.¹¹ In 1999, the program adopted the test procedures and rating system of EuroNCAP, making the two programs nearly identical.

One major aspect of ANCAP that differs from the EuroNCAP program is the way that safety concerns are reported. Instead of a struck star, ANCAP adds a warning note to the overall score indicating if a score of zero was recorded for the head, chest, abdomen, or pelvis. Another difference is that ANCAP does not rate vehicles for child protection.

D. Korean New Car Assessment Program

In 1999, the Korean Automotive Testing and Research Institute (KATRI) initiated crash testing as part of the

⁸ *Assessment Protocol and Biomechanical Limits*. Version 4.0. January 2003. European New Car Assessment Program. Accessed May 26, 2004. <http://www.euroncap.com/content/test_procedures/downloads.php?area_ID=3>.

⁹ "New Car Assessment Japan." National Agency for Automotive Safety and Victims' Aid. Accessed May 26, 2004. <<http://www.nasva.go.jp/assess/html2004e/as101.html>>.

¹⁰ "Testing Methods." National Agency for Automotive Safety and Victims' Aid. Accessed May 26, 2004. <<http://www.nasva.go.jp/assess/html2003e/as103.html>>.

¹¹ "How ANCAP Tests are Conducted." Australian Automobile Association. Accessed May 26, 2004. <<http://www.aaa.asn.au/ancap.htm>>.

Korean New Car Assessment Program (Korea NCAP). Korean NCAP only performs a frontal crash rating at this time, and has chosen to adopt the testing procedure, risk curves, and star rating system used by the U.S. NCAP.¹²

E. Insurance Institute for Highway Safety

The Insurance Institute for Highway Safety (IIHS) is a nonprofit research and communications organization funded by the auto insurance industry in the United States.¹³ The IIHS performs a 40 mph (64km/h) overlap frontal test by crashing each subject vehicle into a deformable aluminum honeycomb barrier across 40% of its front end.¹⁴ A Hybrid III 50th percentile male dummy is placed in the driver's seat.

The IIHS examines three areas of performance when assigning ratings to a vehicle: structure/safety cage, dummy injury measures, and restraints/dummy kinematics.¹⁵ The structural performance is evaluated by using a series of pre- and post-crash measurements to quantify the intrusion that has occurred. Dummy injury measures are determined from responses collected from the driver's head, neck, chest, legs, and feet. The evaluation of the restraints and dummy kinematics occurs through an examination of the high-speed film and various measurements. Ratings are assigned to each of these three areas by using a scale of Good, Acceptable, Marginal, or Poor. An overall rating is assigned using the same terms by averaging the ratings from each of these areas, with the restraints/dummy kinematics portion weighted less heavily.

III. Discussion of Options

NHTSA is considering several options regarding possible changes to the NCAP frontal crash test program. While listed individually, NHTSA recognizes that there may be merit in combining one or more of these options in the final form of the frontal program. NHTSA anticipates implementing any changes to the frontal test procedure beginning

with the MY 2008 program in order to coincide with the initial phase-in for the 35 mph (56 km/h) belted requirement of FMVSS No. 208. In considering the options, NHTSA is striving to keep the basic philosophy of NCAP in mind—to provide consumers with meaningful comparative safety information for their purchase decisions and to provide a market incentive for manufacturers to build safer motor vehicles.

For each of the options described herein, a number of the agency's observations surrounding each are also briefly discussed. NHTSA will be evaluating options on their potential to provide continued meaningful information to consumers. In addition, some of the factors the agency will also consider will include maintaining the largest market coverage possible and the potential to distinguish superior occupant protection systems in a frontal crash.

A. Maintain Current Program

Since MY 1979, the basic test procedure used for frontal NCAP testing has remained unchanged. Furthermore, since 1994, NCAP has used the same star rating scheme to rate vehicles and provide test results to consumers. The agency believes that this constant method of conducting tests and rating vehicles has led to vast improvements in vehicle restraint design. In MY 2003, 88% of tested vehicles received a four- or five-star driver rating compared to only 30% of MY 1979 vehicles that received these ratings.¹⁶

The real world data indicates that the current frontal test represents around 20% of all fatal frontal crashes and 38% of MAIS 3+ injuries among belted occupants in airbag-equipped vehicles.¹⁷ In addition, NASS data from 1988–1998 suggests frontal crashes account for 42% of non-rollover frontal crashes, assuring that this type of testing continues to be relevant.¹⁸

With this option, NCAP test results could be used for compliance with FMVSS No. 208 and vice-versa, thereby maintaining or perhaps increasing the amount of consumer information provided by the agency. Compliance test results could be used to assign star ratings to additional vehicles tested by NCAP that the agency could have

otherwise not tested. Also, keeping the program test procedure unchanged would eliminate the transition period to another test, and consequently, the results for newly tested vehicles would remain comparable to previous years. In addition, this test is already demanding on restraint systems, thereby continuing to spur market incentives for their improvement.

However, under this choice, only a portion of three-star ratings and the current four- and five-star ratings would equate to a vehicle compliant with the FMVSS No. 208 requirements beginning in MY 2008. The current limits for HIC and chest acceleration in FMVSS No. 208 are 700 (HIC 15) and 60 (g's), respectively. Although NCAP currently uses HIC 36 as part of the star rating calculation as shown in Appendix A, scaling the risk curve to HIC 15 would produce basically the same result. That is, the compliance limit would still represent the current star band separating the three- and two-star bands.¹⁹ As a result, less discrimination among vehicles would exist and essentially a five-tier rating system would be reduced down to three. Only vehicles that barely passed compliance would receive a three-star rating. In order to continue with a five-tier system, a new rating system would need to be developed.

B. Changes to the Test Procedure

As mentioned previously, the frontal NCAP test procedure involves towing a vehicle into a fixed rigid barrier at 35 mph (56 km/h). Two belted instrumented Hybrid III dummies are seated in the driver and front passenger seats; forces and accelerations measured during the test are recorded. Changes to the test speed, dummies used, and barrier type/configuration could result in additional information being provided to consumers. In addition, other crash modes and injuries could be addressed.

1. Increase Test Speed

One option for revising the NCAP frontal test program would be to increase the test speed to 40 mph (64 km/h). This would mean that the frontal NCAP test would again be conducted 5mph (8 km/h) faster than the FMVSS No. 208 test.

This option allows for a simple transition from the current test. No changes to the test procedure would have to be made except for the increase in vehicle speed. In addition, the frontal

¹² "Crash-Test Ratings." Korean Automobile Testing and Research Institute. Accessed May 26, 2004. <http://www.kotsa.or.kr/english/sub/ncap02_1.htm>.

¹³ "Vehicle Research Center." Insurance Institute for Highway Safety. Accessed May 26, 2004. <<http://www.highwaysafety.org/about.htm>>.

¹⁴ "What is Frontal Offset Crash Testing?" Insurance Institute for Highway Safety. Accessed May 26, 2004. <http://www.highwaysafety.org/vehicle_ratings/ce/offset.htm>.

¹⁵ "How the Institute Evaluates Vehicles in the Frontal Offset Crash Test." Insurance Institute for Highway Safety. Accessed May 26, 2004. <http://www.highwaysafety.org/vehicle_ratings/ce/def.htm>.

¹⁶ The star rating percentage for 1979 is assigned as if the star rating had been in place at that time.

¹⁷ Stucki, Sheldon L. "Determination of Frontal Offset Test Conditions Based on Crash Data." Paper No. 98-S1-O-02. Enhanced Safety of Vehicles Conference 1998.

¹⁸ Park, Brian T., et al. "Comparison of Vehicle Structural Integrity and Occupant Injury Potential in Full-frontal and Offset-frontal Crash Tests." SAE International Congress, March 2000.

¹⁹ Regardless of what options are adopted for the revisions to the frontal program, the agency expects to update the star rating system to use HIC 15.

NCAP test could serve as an indicative compliance test since the only difference would be test speed. On the other hand, very limited research has been conducted at this test speed. Vehicle designs that result from this speed of testing could have unintended adverse consequences, such as increased stiffness and more aggressive airbags. Additionally, using 1993–2002 NASS data for all front outboard seat occupants (regardless of belt use), change in velocities of 40 mph (64 km/h) or greater accounted for approximately 0.4% of occupants in non-rollover frontal crashes, a smaller number of real world crashes than is represented by the current NCAP speed. Crashes of this severity accounted for 9% of those who were seriously injured (fatalities plus those with MAIS 3–5) and 30% of fatalities.

2. Testing With a Variety of Dummies

Instead of using only 50th percentile male dummies in the driver and front passenger seat during each frontal NCAP test, two possible alternatives are being considered. One option would be to have the 5th percentile adult female dummy occupy both front seating positions. NHTSA has recently proposed changes to FMVSS No. 208 to require testing with the 5th percentile female dummy at 35 mph (56 km/h), instead of 30 mph (48 km/h), similar to the requirements for the 50th percentile male dummy. If this provision were not adopted as a final rule in FMVSS No. 208, one alternative would be to change the NCAP procedure to test with the 5th female percentile dummy.

Another option would be to vary the dummy used in the front seating positions as well as placing dummies in the rear seating positions. The 50th percentile male dummy could be placed in the driver seating position and the 5th percentile female dummy could be placed in the passenger seating position or vice-versa. Additionally, rear seat occupants could include the twelve-month-old CRABI or the three-, six-, and ten-year-old Hybrid III child dummies restrained in appropriate child seats. The test would still be a 35 mph (56 km/h) frontal crash, but would instead evaluate how well the vehicle protects a range of occupant sizes. Currently, the agency is evaluating the merits of adding child dummies to the rear seat of frontal NCAP tests as part of the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106–414, 114 Stat. 1800). The agency is considering the option of adding child dummies to the frontal program in response to TREAD, as well as here.

If the two different adult dummies mentioned were used, testing could lead to improved protection for many sizes of occupants; manufacturers would have an incentive to improve safety for a greater range of occupant sizes. If child dummies were used, it could also lead to improved rear seat and child occupant protection. Furthermore, all dummy scores could be combined to develop an overall frontal rating.

3. Offset Frontal Test

The offset frontal test is a crashworthiness test conducted by four of the six major consumer information programs around the world. In this test, a vehicle is crashed into a deformable honeycomb barrier across 40% of the vehicle's front end. Testing by other programs has most commonly been conducted at a speed of 40 mph (64 km/h). While the full-frontal test is very demanding on a vehicle's restraint system, the offset frontal test tends to evaluate the structure of the vehicle. On February 3, 2004, the agency published a notice (69 FR 5108) requesting comments on agency test results and the possibility of incorporating high speed offset frontal test requirements into FMVSS No. 208.

Incorporation of an offset test requirement could be done either in conjunction with the FMVSS No. 208 35 mph (56 km/h) requirements, or as a replacement of the full frontal test. The agency is currently evaluating the merits of this high speed test procedure for incorporation into FMVSS No. 208. A new rating system would need to be developed if the offset frontal test is used.

C. Changes to Rating System

One of the unique features of the frontal NCAP is that vehicles are assigned ratings based on occupant injury risk curves. These risk curves equate readings obtained from a test dummy to injuries a human could experience. In the frontal program, HIC and chest acceleration results are combined to predict a combined probability of serious injury to the head and chest. If no changes are made to the frontal test procedure, changes could be made to the rating system to adjust the probability limits or include additional injury criteria. In effect, a five-star rating could become more difficult to attain. Two alternatives to change the rating system are being considered.

1. Change Star Rating Limits

Redefining each of the five star rating probability limits could mean using the same head and chest injury risk curves currently used for the rating, but

adjusting the current five-star rating bands. For example, rather than using a 10% or less chance of serious injury to the head and chest to establish a five star performance, a 5% or less chance of serious injury to the head and chest could be used as a basis for five stars. The result would be that achieving a five-star rating would be more difficult.

For this option, there would be no change to the test procedure. Additionally, occupant injury risk curves that have already been established could be used to calculate ratings from both the frontal NCAP tests and the upgraded frontal compliance tests. A basis for choosing the new probability limits would have to be devised.

2. Add New Injury Metrics to Star Rating

Recent changes to FMVSS No. 208 have added injury criteria for neck loading (Nij) and chest deflection. Both of these injury metrics are currently measured in the NCAP test but are not used to compute the star rating. NCAP also records femur and tibia loads, but these readings are not incorporated into the star rating calculation. In biomechanical literature, there are risk curves for each one of the aforementioned injury metrics.²⁰ These risk curves could be added to the current NCAP head and chest risk curves to develop an occupant rating that is more inclusive than the current frontal NCAP rating. This alternative is feasible in that there would be no change to the frontal NCAP test procedure, and occupant injury risk curves have already been established. However, a few complexities arise with this option. While several authors have developed methodologies to estimate the probability of death from multiple injuries, research would still be needed to update these methodologies, weight the additional injury types differently, or use a methodology similar to other consumer metric programs.

IV. Public Comment

The primary goal of NCAP is provide consumers with a measure of the relative safety potential of vehicles to aid them in purchasing decisions and provide a market incentive for manufacturers to increase the safety potential of their vehicles. NHTSA asks commenters to keep this goal in mind when responding to this Notice.

Comments are sought on the options discussed herein and the agency's initial

²⁰ Kuppaa, Shashi, et al. "Lower Extremity Injuries and Associated Injury Criteria." 17th International Technical Conference on the enhanced Safety of Vehicles. Amsterdam, The Netherlands. June 2001.

assessments. To facilitate analysis of the comments, it is requested that responses be organized by these options. The options discussed in this document are not intended to be all-inclusive. Suggestions on other alternatives such as advanced dummies, injury criteria, and test procedures are also sought. NHTSA will consider all comments and suggestions in deciding what changes, if any, may be appropriate for the frontal NCAP. Given the timeframe, NHTSA would request that other suggestions include any available data and supporting rationale, and research needed to implement them (if not already in the Code of Federal Regulations) to assist the agency in evaluating their merit for a frontal crashworthiness consumer information program.

In addition to comments on these options, NHTSA requests that commenters address the issue of timing the changes to the frontal NCAP program. Given that many of the updates to FMVSS No. 208 will be phased in over a number of years, NHTSA requests comments on whether frontal NCAP should make changes at the beginning of the FMVSS No. 208 phase-in, the 2008 MY, or wait until the end of the phase-in, which is the 2011 MY. Commenters should keep in mind that most of the options under consideration involve differences in test modes and/or assessment methods that will preclude comparison between vehicles tested under the current frontal NCAP program and vehicles tested under the revised program. Therefore, a phase-in of the new frontal NCAP program is not under current consideration. In particular, commenters should discuss any concerns with testing a vehicle under a revised NCAP program prior to its certification to the new FMVSS No. 208 requirements.

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must be no longer than 15 pages long (49 CFR 553.21). We establish this limit to encourage the preparation of comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit to the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given at the beginning of this document under **ADDRESSES**.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. This submission must include the information that you are claiming to be private; that is, confidential business information. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

Will the Agency Consider Late Comments?

We will consider all comments that are received by Docket Management before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we

will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a proposal concerning these proposed frontal NCAP upgrades, we will consider that comment as an informal suggestion for future action.

How Can I Read Comments Submitted By Other People?

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

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also review the comments on the Internet. To access the comments on the Internet, take the following steps:

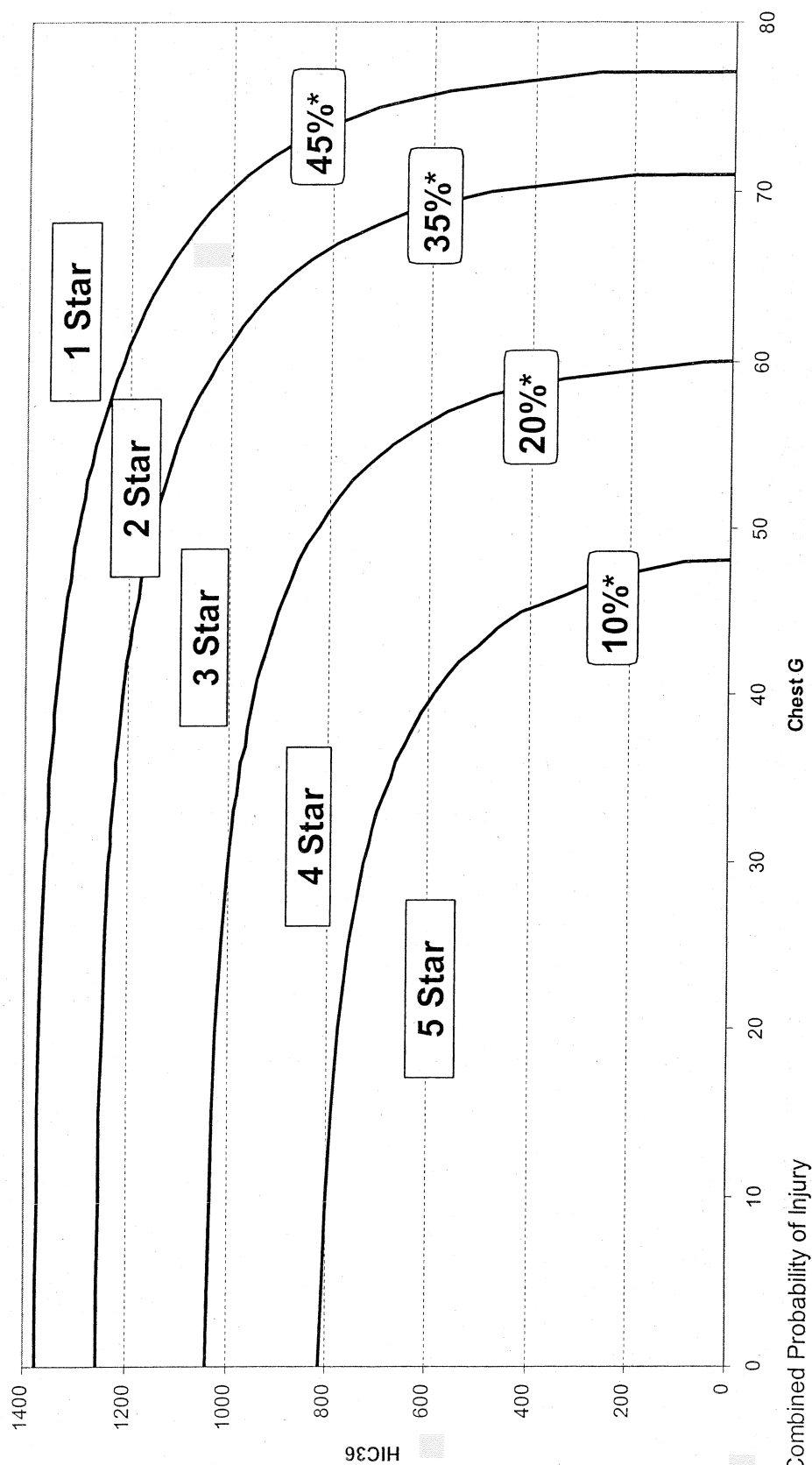
1. Go to the Docket Management System (DMS) web page of the Department of Transportation (<http://dms.dot.gov/>).
2. On that page, click on "Search"
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "Search."
4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You can download the comments.

Please note that even after the comment closing date we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

BILLING CODE 4910-59-P

Appendix A: NCAP Frontal Rating System

NCAP Five Star Rating System



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

Issued on: October 6, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04-23078 Filed 10-13-04; 8:45 am]

BILLING CODE 4910-59-C

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34543]

Patrick D. Broe and OmniTRAX, Inc.—Continuance in Control Exemption—Fulton County Railway, LLC

Patrick D. Broe (Mr. Broe) and OmniTRAX, Inc. (OmniTRAX) (collectively, applicants) have filed a verified notice of exemption to continue in control of Fulton County Railway, LLC (FCR), upon FCR's becoming a Class III rail carrier.

The transaction is scheduled to be consummated on or shortly after October 15, 2004.

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 34542, *Fulton County Railway, LLC—Lease and Operation Exemption—CSX Transportation, Inc.*, wherein FCR¹ seeks to lease from CSX Transportation, Inc. (CSXT), and operate approximately 55 miles of rail lines that extend from: (1) milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94, at the southwest end of the line, through the Fulco Industrial Park, including the track in the Fulco Yard, and the appurtenant sidings, and industrial tracks, in Atlanta, GA.

Mr. Broe is a noncarrier individual who directly controls OmniTRAX, a noncarrier company. OmniTRAX currently controls nine Class III rail carriers operating in seven states: Chicago Rail Link, LLC (CRL); Georgia Woodlands Railroad, LLC (GWRC); Great Western Railway of Colorado, LLC (GWR); Great Western Railway of Iowa LLC (CBGR); Manufacturers' Junction Railway, LLC (MJ); Newburgh & South Shore Railroad Limited (NSR); Northern Ohio & Western Railway, LLC (NOW); Panhandle Northern Railroad, LLC

(PNR); and Alliance Terminal Railroad, LLC (ATR).²

Applicants state that: (1) The rail lines operated by CRL, GWRC, GWR, CBGR, MJ, NSR, NOW, PNR and ATR do not connect with the rail lines being leased by FCR; (2) the continuance in control is not part of a series of anticipated transactions that would connect the rail lines being leased by FCR with any railroad in the OmniTRAX corporate family; and (3) neither FCR nor any of the carriers controlled by OmniTRAX are Class I rail carriers. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. See 49 CFR 1180.2(d)(2). The purpose of the transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the ten railroads.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Accordingly, the Board may not impose labor protective conditions here, because all of the carriers involved are Class III carriers.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34543, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: October 7, 2004.

² CRL's lines are located in Illinois; GWRC's line is located in Georgia; GWR's lines are located in Colorado; CBGR's lines are located in Iowa; MJ's lines are located in Illinois; NSR's lines are located in Ohio; NOW's line is located in Ohio; PNR's line is located in Texas; and ATR's lines are located in Texas.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 04-23049 Filed 10-13-04; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34542]

Fulton County Railway, LLC—Lease and Operation Exemption—CSX Transportation, Inc.

Fulton County Railway, LLC (FCR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from CSX Transportation, Inc. (CSXT), and operate approximately 55 miles of rail lines located in Atlanta, GA. The rail lines extend from: (1) Milepost ANO 855.06, V.S. 3+30, at Fulco Junction, westerly to milepost ANO 858.72, V.S. 196+31; (2) milepost ANO 858.72, V.S. 196+31 northeasterly to milepost ANO 860.75, V.S. 304+70, at the northeast end of the line; and (3) V.S. 196+31 = V.S. 0+00 southwesterly to V.S. 208+94, at the southwest end of the line, through the Fulco Industrial Park, including the track in the Fulco Yard, and the appurtenant sidings, and industrial tracks.

This transaction is related to STB Finance Docket No. 34543, *Patrick D. Broe and OmniTRAX, Inc.—Continuance in Control Exemption—Fulton County Railway, LLC.*, wherein Patrick D. Broe and OmniTRAX, Inc., have filed a notice of exemption to continue in control of FCR upon its becoming a Class III rail carrier.

FCR certifies that its projected revenues as a result of this transaction will not result in FCR's becoming a Class II or Class I rail carrier, and further certifies that its projected annual revenues will not exceed \$5 million.

The transaction is expected to be consummated on or shortly after October 15, 2004.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34542, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, Ball Janik, LLP, 1455 F

¹ FCR, a Colorado Limited Liability Company, was formed for the purpose of leasing and operating certain rail lines owned by CSXT in Atlanta, GA.