

intersection with the eastern boundary of section 5, T5S, R1E; then

(18) Continue northwest in a straight line approximately 1.1 miles to the 1,291-foot peak in section 32, T4S, R1E; then

(19) Continue northwest in a straight line approximately 1.1 miles to the 1,004-foot peak in section 30, T4S, R1E; then

(20) Continue northwest in a straight line approximately 3.8 miles, passing through BM 161 in section 11, T4S, R1W, until the line intersects Palomares Road in section 11; then

(21) Follow Palomares Road in a northerly direction for approximately 0.7 miles to the road's intersection with the power transmission line shown in section 11, T4S, R1W; then

(22) Proceed northwest along the power transmission line for approximately 6.4 miles, passing through the Dublin map near Walpert Ridge, onto the Hayward map to the point where the power transmission line turns nearly west, approximately 500 feet south of an unnamed 891-foot peak; then

(23) Continue north-northwest in a straight line approximately 1.4 miles to an unnamed 840-foot peak; then

(24) Proceed north-northeast in a straight line approximately 3.4 miles, returning to the Dublin map, to the point of an angle in the Contra Costa-Alameda County line in section 20, T2S, R1W, about 0.4 miles west of Wiedemann Hill (elevation 1,854); then

(25) Beginning in a northwesterly direction, proceed along the meandering Contra Costa-Alameda County line for approximately 6.0 miles, passing briefly onto the Hayward, Las Trampas Ridge, and Diablo maps, before returning the Las Trampas Ridge map and continuing to the point of an angle in the Contra Costa-Alameda County line in section 35, T1S, R2W; then

(26) From that point, continue north-northwest in a straight line approximately 2.7 miles to the summit of Las Trampas Peak (elevation 1,827 feet) in section 22, T1S, R2W; then

(27) Proceed east-northeast in a straight line approximately 8.8 miles, passing through the Diablo map, and return to the beginning point at the summit of Mount Diablo on the Clayton map.

Signed: April 28, 2005.

John J. Manfreda,
Administrator.

[FR Doc. 05-10006 Filed 5-18-05; 8:45 am]

BILLING CODE 4810-31-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA-309-4775b; FRL-7902-1]

Revisions to the California State Implementation Plan, Imperial County Air Pollution Control District and San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Imperial County Air Pollution Control District (ICAPCD) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) portions of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from aerospace manufacturing and component coating and can and coil coating operations. We are proposing to approve local rules to regulate these emission sources under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by June 20, 2005.

ADDRESSES: Send comments to Andy Steckel, Rulemaking Office Chief (AIR-4), U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, or e-mail to steckel.andrew@epa.gov, or submit comments at <http://www.regulations.gov>.

You can inspect copies of the submitted SIP revisions, EPA's technical support documents (TSDs), and public comments at our Region IX office during normal business hours by appointment. You may also see copies of the submitted SIP revisions by appointment at the following locations:

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 "I" Street, Sacramento, CA 95814;
Imperial County Air Pollution Control District, 150 South 9th Street, El Centro, CA 92243; and
San Joaquin Valley Unified Air Pollution Control District, 1990 East Gettysburg Ave., Fresno, CA 93726.

A copy of the rule may also be available via the Internet at <http://www.arb.ca.gov/drdb/drdbtxt.htm>. Please be advised that this is not an EPA Web site and may not contain the same version of the rule that was submitted to EPA.

FOR FURTHER INFORMATION CONTACT:

Jerald S. Wamsley, EPA Region IX, (415) 947-4111, wamsley.jerry@epa.gov.

SUPPLEMENTARY INFORMATION: This proposal addresses ICAPCD Rule 425—Aerospace Coating Operations and SJVUAPCD Rule 4604—Can and Coil Coating Operations. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe these SIP revisions are not controversial. However, if we receive adverse comments, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: March 25, 2005.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 05-10011 Filed 5-18-05; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-21244]

RIN 2127-AJ59

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM would amend Federal Motor Vehicle Safety Standard No. 208, *Occupant crash protection*, by proposing test procedures applicable to vehicles that have a child restraint anchorage system, commonly referred to as a "LATCH" system, in a front passenger seating position and that comply with advanced air bag requirements through the use of a

suppression system. Beginning September 1, 2006, these vehicles must suppress the air bag in the presence of a child restraint system that is attached to the vehicle's LATCH system. The procedures proposed in this document specify a repeatable, reproducible, and realistic method of attaching child restraints to the LATCH system for the suppression test.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than July 18, 2005.

ADDRESSES: You may submit comments by any of the following methods:

- Web site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- 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.
- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request for Comments 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. Please see the Privacy Act heading under Rulemaking Analyses and Notices.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to 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.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Lou Molino, Office of Crashworthiness Standards, Light Duty Vehicle Division by phone at (202) 366-1740, and by fax at (202) 493-2739.

For legal issues, you may contact Christopher Calamita of the NHTSA

Office of Chief Counsel by phone at (202) 366-2992 and by fax at (202) 366-3820.

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:

I. Background

Federal Motor Vehicle Safety Standard (FMVSS) No. 208, "Occupant crash protection" (49 CFR 571.208), requires passenger vehicles to be equipped with safety belts and frontal air bags for the protection of vehicle occupants in crashes. While air bags have been very effective in protecting people in moderate and high speed frontal crashes, there have been instances in which they have caused serious or fatal injuries to occupants who were very close to the air bag when it deployed. On May 12, 2000, NHTSA published a final rule to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology ("Advanced Air Bag Rule," 65 FR 30680, Docket No. NHTSA 00-7013). Under that Advanced Air Bag Rule, manufacturers are provided several compliance options in order to minimize the risk to infants and small children from deploying air bags, including an option to suppress an air bag in the presence of a child restraint system (CRS).

To ensure the robustness of automatic suppression systems, NHTSA tests an air bag suppression system under conditions representative of real world use. Manufacturers choosing to rely on an air bag suppression system to minimize the risk to children in a CRS must ensure that the vehicle complies with the suppression requirements when tested with the CRSs specified in Appendix A of the standard (*see* S19, S21 and S23 of FMVSS No. 208).

On November 19, 2003, we revised Appendix A by adding two CRSs that are equipped with components that attach to a vehicle's LATCH¹ system (68

¹ "LATCH" stands for "Lower Anchors and Tethers for Children," a term that was developed by child restraint manufacturers and retailers to refer to the standardized child restraint anchorage system that vehicle manufacturers must install in vehicles pursuant to FMVSS No. 225, *Child Restraint Anchorage Systems* (49 CFR 571.225). The LATCH system is comprised of two lower anchorages and one tether anchorage. Each lower anchorage is a rigid round rod or bar onto which the connector of a child restraint system can be attached. FMVSS No. 225 does not permit vehicle manufacturers to install LATCH systems in front

FR 65179, Docket No. NHTSA 03-16476). Since September 1, 2002, CRSs have been required by FMVSS No. 213, *Child restraint systems* (49 CFR 571.213), to have permanently-attached components that enable the CRS to connect to a LATCH system on a vehicle. The addition of these "LATCH-equipped" CRSs to Appendix A kept the appendix up-to-date in reflecting current CRS designs.²

FMVSS No. 208 currently states that the CRS manufacturer's installation instructions are to be used when installing a LATCH-equipped CRS into a vehicle for suppression testing. It does not provide a specific procedure apart from these instructions. Today's NPRM proposes a specific procedure, which we have tentatively determined to provide a repeatable and reproducible installation of LATCH-equipped CRSs. The procedure is based on real-world installations of CRSs and is consistent with CRS manufacturers' instructions.

II. Proposed Test Procedures

There are two types of LATCH-equipped CRSs. One type is composed of CRSs that have the LATCH components attached to them by use of flexible belt webbing (for purposes of this NPRM, we refer to child restraints that use the flexible means of attachment as "flexible LATCH CRSs"). The other type is comprised of CRSs that use a rigid ratchet mechanism built into the CRS ("rigid LATCH CRSs"). This NPRM proposes procedures for attaching both types of CRSs to the vehicle's LATCH system.

Test Procedure for Flexible LATCH CRSs

The test procedure for flexible LATCH CRSs uses a loading device that enables a consistent means of installing the restraints. (A schematic of the device accompanies the proposed regulatory text.) Under the proposed procedure, a flexible LATCH CRS is centered between the seat's two lower LATCH anchor bars and the CRS LATCH is connected to the anchor bars with slack in the straps. The loading device, consisting of a loading bar, load cell, and loading bar foot, is placed at the CRS seat bight (the intersection of the CRS seat cushion and seat back) at an angle of 15 ± 3 degrees from vertical.

designated seating positions unless the vehicle has an air bag on-off switch meeting the requirements of S4.5.4 of FMVSS No. 208.

² On August 20, 2004, the agency extended the compliance date (from September 1, 2004 to September 1, 2006) on which manufacturers must certify to requirements with the LATCH-equipped CRSs installed on a LATCH system (69 FR 51598; Docket No. NHTSA 2004-18905).

The device applies a load to the CRS, replicating installers using their weight to install a CRS. The loading device first applies a preload of 50 to 100 Newtons (N) to the CRS, which is then increased to 875 ± 10 N. After the load settles to between 845 and 855 N, the flexible LATCH straps, already attached to the anchor bars but not yet in tension, are manually tightened such that the change in the preload is not more than 25 N.³

The procedure was developed by NHTSA to replicate real-world CRS installations in vehicles by experienced installers, particularly with respect to the appropriate load vector to be applied and the amount of load relief when LATCH belts are manually tightened. The procedure was developed using four installers⁴ working with three vehicles and four CRSs. The vehicles used were: (a) The 2003 GMC Sierra Regular Cab C1500 Truck, certified to the advanced air bag requirements; (b) the 2003 Toyota Tacoma regular Cab Truck, certified with depowered air bags; and (c) the 2004 Ford F150 Regular Cab Truck, certified to the advanced air bag requirements. The CRSs used were: (a) The Cosco Forerunner convertible child restraint; (b) the Cosco Alpha-Omega convertible child restraint; (c) the Graco SnugRide rear-facing child restraint; and (d) the Britax Expressway convertible child restraint. A memorandum describing development of the procedure has been placed in the docket for this rulemaking.⁵

Agency tests demonstrated that the proposed procedure results in a CRS installation representative of a real-world installation. The distance of a target on the side of the CRS to the LATCH anchor bars was measured to determine the positioning of the CRS after various installations. There was no statistical difference in the test results between the installations made by technicians using the test procedure and the real-world installations of the installers that had not used the procedure. When the loading device and test procedure were used by individual technicians, a similar level of

positioning repeatability was achieved as by any single installer without the device and procedure.

Each CRS was installed with the loading device according to the proposed procedure two times in the GMC Sierra. The Britax Expressway was installed twice using the procedure in the Ford F150 and the Toyota Tacoma. The Cosco Forerunner and the Graco SnugRide each were installed two times in the Toyota Tacoma. When installations of the same CRS model in the same vehicle were evaluated, the CRSs were installed comparably, and consistent air bag suppression status was achieved in all but one instance. The exception was the installation of the Britax Expressway in the GMC Sierra, which resulted in a suppressed air bag in one trial and a failed suppression in a second trial. This same phenomenon occurred with one of the certified installers not using the device. Thus, we believe that the difference in air bag suppression status was a reflection of the characteristics of the suppression system rather than that of the repeatability of the test procedure.

As a result of testing we tentatively conclude that:

- Installing a CRS with the test device results in a CRS installation reflective of real-world installation by experienced CRS installers;
- Installing a CRS with the test device results in a repeatable installation independent of the installer; and
- Installing a CRS with the test device can result in a suppression system test failure representative of real-world use.

Test Procedure for Rigid LATCH CRS System

Rigid LATCH CRS systems typically have a ratchet mechanism built into a rigid structure to obtain a tight/snug fit between the CRS and the vehicle seat. Because flexible webbing material is not used to attach the LATCH components, rigid LATCH CRSs limit the potential variability in installation. They also do not exhibit the tendency of flexible LATCH CRSs to load the vehicle seat cushion with a distinct downward force that some suppression systems have interpreted as being generated by an adult occupant. As such, a test matrix was not needed to develop an installation procedure for rigid LATCH CRS systems.

In the proposed installation procedure for rigid LATCH CRSs, the rigid LATCH CRSs would be centered in a vehicle seat, as in the flexible LATCH CRS procedure. The lower anchor attachments would then be connected to the vehicle's anchor bars pursuant to the CRS manufacturer's instruction. The CRS would be moved rearward until it

contacted the vehicle seat back. If the CRS were equipped with a linear sliding or ratcheting mechanism that requires the application of force to securely install the CRS, a force of 600 N would be applied to the CRS in a plane parallel to the plane formed by the linear mechanism. The load would then be removed and the suppression test performed.

III. Benefits and Costs

The proposed amendment to FMVSS No. 208 would not establish new performance criteria but would instead provide a developed procedure for demonstrating compliance with existing requirements. This document proposes a specific procedure that we have tentatively determined to provide a repeatable and reproducible installation of LATCH-equipped CRSs.

We do not require manufacturers to use the test device or the procedure. This NPRM proposes to specify how NHTSA would conduct that aspect of the suppression test that involves attaching the CRS to the vehicle's LATCH system. For manufacturers that wish to use the test procedure in testing their vehicles, the test device described in the proposed amendment would result in a negligible cost to vehicle manufacturers and testing laboratories. The agency constructed the device with load cells commonly relied upon in vehicle testing and less than fifty dollars worth of supplies.

IV. Effective Date of the Proposed Rule

If made final, this rule would become effective 60 days following its publication. However, compliance testing based on these procedures would not apply to vehicles manufactured before September 1, 2006. Vehicles manufactured on or after September 1, 2006, are tested for compliance with the Advanced Air Bag Rule suppression requirements using LATCH-equipped CRSs installed using the LATCH configuration. See Appendix A, FMVSS No. 208. In such tests, the proposed procedure for attaching the CRS to the LATCH system would be used.

V. Request for Comments

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 not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you

³ To replicate a common misuse condition, the top tether of the CRS is not attached.

⁴ All four installers were practiced with the installation of the CRSs. Two of the installers were certified Child Passenger Safety Technicians. We used experienced installers because we wanted to achieve a secure, "tight" installation of the CRS on the LATCH system. A tight installation of a CRS, which is the installation that caregivers seek to achieve, is more likely to be read by some suppression systems as an adult occupying the seating position than an installation that is less tight.

⁵ Test Report—FMVSS No. 208, LATCH Equipped Child Restraint Installation Procedure, June 22, 2004.

to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

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

Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.⁶

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at <http://dmses.dot.gov/submit/DataQualityGuidelines.pdf>.

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 above under **FOR FURTHER INFORMATION CONTACT**. 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 Docket Management receives 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 final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted By Other People?

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 see the comments on the Internet. To read 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 "Simple 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 may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

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.

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

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

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

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

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

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

This document proposes to amend 49 CFR 571.208 by incorporating a procedure for installing LATCH equipped CRSs in order to demonstrate compliance with the advanced air bag requirements. The equipment necessary for the procedure would cost vehicle manufacturers and testing laboratories less than \$50 and would provide a repeatable and reproducible method for installing LATCH equipped CRSs in a manner representative of real world use.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this proposed action on small entities. I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). If adopted, the proposal would directly affect motor vehicle manufacturers,

⁶ Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

second stage or final stage manufacturers, and alterers.

The majority of motor vehicle manufacturers would not qualify as a small business. These manufacturers, along with manufacturers that do qualify as a small business, are already required to comply with the advanced air bag requirements. This proposal would not establish new requirements, but instead provide specific procedures to demonstrate compliance with existing requirements.

C. Executive Order No. 13132

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

D. National Environmental Policy Act

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

E. Paperwork Reduction Act

Under the new procedures established by the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number.

F. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104-113), "all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments." The agency searched for, but did not find any voluntary consensus standards that addressed the installation of LATCH-equipped CRSs.

G. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C.

21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 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.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually.

I. Executive Order 13045

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

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866.

J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If made final, this

rulemaking would provide a compliance procedure for an existing motor vehicle safety requirement. Therefore this proposal was not analyzed under E.O. 13211.

K. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that isn't clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

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

L. Regulation Identifier Number (RIN)

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

M. Privacy Act

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>.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 would continue 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 571.208 would be amended by:

a. Revising S20.2.1.1 through S20.2.1.5, S20.4.6, S22.2.1, S22.2.1.4, S22.2.1.5, S22.2.1.6 through S22.2.1.6.2, S22.2.1.7, S22.2.1.8, S24.2, S24.2.2, and the introductory text of Section C of Appendix A;

b. Adding S20.2.1.6, S20.2.1.6.1, S20.2.1.6.2, S22.2.1.7.1 through S22.2.1.7.3, S22.2.1.8.1 through S22.2.1.8.4, Figures A1 and A2 at the end of Appendix A; and

c. Removing S22.2.1.5.1, S22.2.1.5.2, S22.2.1.5.3, S22.2.1.6.3, S22.2.1.6.4, to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S20.2.1.1 The vehicle shall comply in tests using any child restraint specified in section B and section C of Appendix A of this standard, installed in the front outboard passenger vehicle seat in the following orientations:

(a) With the section B and section C child restraints facing rearward as appropriate; and

(b) With the section C child restraints facing forward.

S20.2.1.2 The vehicle shall comply with the child restraint attached to the vehicle in the following manner:

(a) Using the vehicle safety belts as specified in S20.2.1.5; and

(b) If the child restraint is certified to S5.9 of FMVSS No. 213, and the vehicle seat has an anchorage system as specified in FMVSS No. 225, using only the mechanism provided by the child restraint manufacturer for attachment to the lower anchorages as specified in S20.2.1.6.

S20.2.1.3 Locate a vertical plane through the longitudinal centerline of the child restraint. This will be referred to as "Plane A."

S20.2.1.4 For bucket seats, "Plane B" refers to a vertical plane parallel to the vehicle longitudinal centerline through the longitudinal centerline of the front outboard passenger vehicle seat cushion. For bench seats, "Plane B" refers to a vertical plane through the front outboard passenger vehicle seat parallel to the vehicle longitudinal centerline the same distance from the longitudinal centerline of the vehicle as the center of the steering wheel.

S20.2.1.5 *Installation with vehicle safety belts.*

(a) Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant.

(b) Without attaching the child restraint anchorage system as specified in S5.9 of FMVSS No. 213 to a vehicle seat anchorage system specified in FMVSS No. 225, align the child restraint system facing rearward or forward, depending on the orientation being tested, such that Plane A is aligned with Plane B.

(c) While maintaining the child restraint positions achieved in S20.2.1.5(b), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint for the orientation being tested. Cinch the vehicle belts to any tension from zero up to 134 N to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

(d) Position the 49 CFR part 572 subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(e) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.1.6 *Installation using the lower anchor bars and the child restraint manufacturer provided attachment mechanism.*

S20.2.1.6.1 If the attachment mechanism provided by the manufacturer incorporates a strap(s), use the following procedure:

(a) Place the child restraint on the vehicle seat facing rearward or forward, depending on the orientation being tested, with Plane A of the child restraint aligned within ± 10 mm with a longitudinal vertical plane passing through a point midway between the centers of the two lower anchor bars.

(b) Position any adjustments on the child restraint, to the extent possible according to the child restraint manufacturer's instructions.

(c) Move the child restraint rearward until it contacts the seat back.

(d) Connect the lower anchor straps of the restraint to the lower anchor bars of the seat and remove the slack, but do not apply any load using these straps.

(e) Use the loading device equipped with the loading foot shown in Figure A1 and position it as shown in Figure A2 of Appendix A of this standard. The 15 ± 3 degree angle of the loading device illustrated in Figure A2 is determined with an initial preload of 75 ± 25 N.

(f) In 90 ± 30 seconds, increase the preload to $875 \text{ N} \pm 10 \text{ N}$.

(g) Observe the settling of the preload and tighten the lower anchor straps when the preload is $850 \pm 5 \text{ N}$. Tighten the lower anchor straps at the same time such that the load is reduced $15 \pm 10 \text{ N}$ and the change occurs within 2 seconds.

(h) Remove the loading device and position the 49 CFR part 572 subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(i) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S20.2.1.6.2 If the mechanism provided by the manufacturer does not incorporate a strap(s), use the following procedure:

(a) Place the child restraint on the vehicle seat facing rearward or forward, depending on the orientation being tested, with Plane A of the child restraint aligned within ± 10 mm with a longitudinal vertical plane passing through a point midway between the centers of the two lower anchor bars.

(b) Position any adjustments on the child restraint, to the extent possible, according to the child restraint manufacturer's instructions.

(c) Connect the lower anchor attachments to the lower anchor bars following, to the extent possible, the child restraint manufacturer's instructions.

(e) Move the child restraint rearward until it contacts the seat back.

(f) If the child restraint does not use a linear sliding or ratcheting mechanism that requires the application of force to securely install the child restraint, follow, to the extent possible, the CRS manufacturer's instructions for installing the child restraint onto the seat. Do not load the seat as provided in S20.2.1.6.2(g).

(g) If the child restraint uses a linear sliding or ratcheting mechanism that requires the application of force to securely install the child restraint, in 25 ± 5 seconds, apply a 600N force, that has no lateral component, in a plane located within ± 100 mm and parallel with the plane formed by the linear mechanism. The force shall be in

the same direction as the motion of the mechanism. Release the force.

(h) Position the 49 CFR part 572 subpart R 12-month-old CRABI dummy in the child restraint by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating infants.

(i) Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

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S20.4.6 If the child restraint is certified to S5.9 of §571.213, and the vehicle seat has an anchorage system as specified in §571.225, attach the child restraint to the vehicle seat anchorage as specified in S20.2.1.6. Do not attach the vehicle safety belt.

* * * * *

22.2.1 *Belted test with forward facing or booster seat child restraint.*

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S22.2.1.4 The vehicle shall comply with the child restraint belted to the vehicle in the following manner:

(a) Using the vehicle safety belts as specified in S22.2.1.5 with section C and section D child restraints of Appendix A of this standard designed to be secured to the vehicle seat even when empty; and

(b) If the child restraint is certified to S5.9 of §571.213, and the vehicle seat has an anchorage system as specified in §571.225, using only the mechanism provided by the child restraint manufacturer for attachment to the lower anchorage as specified in S22.2.1.6.

S22.2.1.5 *Installation with vehicle safety belts.*

(a) Place any adjustable seat belt anchorages at the vehicle manufacturer's nominal design position for a 50th percentile adult male occupant.

(b) Without attaching the child restraint anchorage system as specified in S5.9 of §571.213 to a vehicle seat anchorage system specified in §571.225, align the child restraint system facing forward, such that Plane A is aligned with Plane B.

(c) While maintaining the child restraint positions achieved in S22.2.1.5(b), secure the child restraint by following, to the extent possible, the child restraint manufacturer's directions regarding proper installation of the restraint. Cinch the vehicle belts to any tension from zero up to 134 N to secure the child restraint. Measure belt tension in a flat, straight section of the lap belt between the child restraint belt path and

the contact point with the belt anchor or vehicle seat, on the side away from the buckle (to avoid interference from the shoulder portion of the belt).

S22.2.1.6 *Installation using the lower anchor bars and the child restraint manufacturer provided attachment mechanism.*

S22.2.1.6.1 If the mechanism provided by the manufacturer incorporates a strap(s), use the following procedure.

(a) Place the child restraint on the vehicle seat facing forward, with Plane A of the child restraint aligned within ± 10 mm with a longitudinal vertical plane passing through a point midway between the centers of the two lower anchor bars.

(b) Position any adjustments on the child restraint, to the extent possible, according to the child restraint manufacturer's instructions.

(c) Move the child restraint rearward until it contacts the seat back.

(d) Connect the lower anchor straps to the lower anchor bars and remove most of the slack, but do not apply any load using these straps.

(e) Do not attach any tethers.

(f) Use the loading device equipped with the loading foot shown in Figure A1 and position it as shown in Figure A2 of Appendix A of this standard. The 15 ± 3 degree angle of the loading device is determined with an initial preload of 50 to 100 N.

(g) In 90 ± 30 seconds, increase the preload to $875\text{N} \pm 10\text{N}$.

(h) Observe the settling of the preload and tighten the lower anchor straps when the preload is $850 \pm 5\text{N}$. Tighten the lower anchor straps at the same time such that the load is reduced $15 \pm 10\text{N}$ and the change occurs within 2 seconds.

(i) Remove the loading device.

S22.2.1.6.2 If the mechanism provided by the manufacturer does not incorporate a strap(s), use the following procedure.

(a) Place the child restraint on the vehicle seat facing forward with Plane A of the child restraint aligned within ± 10 mm with a longitudinal vertical plane passing through a point midway between the centers of the two lower anchor bars.

(b) Position any adjustments on the child restraint, to the extent possible, according to the child restraint manufacturer's instructions.

(c) Connect the lower anchor attachments to the lower anchor bars following, to the extent possible, the child restraint manufacturer's instructions.

(d) Move the child restraint rearward until it contacts the seat back.

(e) Do not attach any tethers.

(f) If the child restraint does not use a linear sliding or ratcheting mechanism

that requires the application of force to securely install the child restraint, follow, to the extent possible, the manufacturer's instructions for installing the child restraint onto the seat. Do not load the seat as provided in S20.2.1.6.2(f).

(g) If the child restraint uses a linear sliding or ratcheting mechanism that requires the application of force to securely install the child restraint, in 25 ± 5 seconds, apply a 600N force, that has no lateral component, in a parallel plane located within ± 100 mm of the plane formed by the linear mechanism. Release the force.

S22.2.1.7 *Forward facing child restraint.*

S22.2.1.7.1 After installation of a forward facing child restraint, position the 49 CFR part 572 subpart P 3-year-old child dummy in the child restraint such that the dummy's lower torso is centered on the child restraint and the dummy's spine is against the seat back of the child restraint. Place the arms at the dummy's sides.

S22.2.1.7.2 Attach all belts that come with the child restraint that are appropriate for a child of the same height and weight as the 3-year-old child dummy, if any, by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating children.

S22.2.1.7.3 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

S22.2.1.8 *Booster seat child restraint.*

S22.2.1.8.1 After installation of a booster seat child restraint, position the 49 CFR part 572 subpart P 3-year-old child dummy in the booster seat such that the dummy's lower torso is centered on the booster seat cushion and the dummy's back is parallel to and in contact with the booster seat back or, if there is no booster seat back, the vehicle seat back. Place the arms at the dummy's sides.

S22.2.1.8.2 If applicable, attach all belts that come with the child restraint that are appropriate for a child of the same height and weight as the 3-year-old child dummy, if any, by following, to the extent possible, the manufacturer's instructions provided with the child restraint for seating children.

S22.2.1.8.3 If applicable, place the Type 2 manual belt around the test dummy and fasten the latch. Remove all slack from the lap belt portion. Pull the upper torso webbing out of the retractor and allow it to retract; repeat this four

times. Apply a 9 to 18 N (2 to 4 lb) tension load to the lap belt. Allow the excess webbing in the upper torso belt to be retracted by the retractive force of the retractor.

S22.2.1.8.4 Start the vehicle engine or place the ignition in the "on" position, whichever will turn on the suppression system, and then close all vehicle doors. Wait 10 seconds, then check whether the air bag is deactivated.

* * * * *

S24.2 *Static tests of automatic suppression feature which shall result in deactivation of the passenger air bag.* Each vehicle that is certified as complying with S23.2 of FMVSS No. 208 shall meet the following test requirements with the child restraint in the front outboard passenger vehicle seat under the following conditions:

(a) Using the vehicle safety belts as specified in S22.2.1.5 with section D

child restraints designed to be secured to the vehicle seat even when empty;

(b) If the child restraint is certified to S5.9 of §571.213, and the vehicle seat has an anchorage system as specified in §571.225, using only the mechanism provide by the child restraint manufacturer for attachment to the lower anchorage as specified in S22.2.1.6; and

(c) Without securing the child restraint with either the vehicle safety belts or any mechanism provided with a child restraint certified to S5.9 of §571.213.

* * * * *

S24.2.2 *Exceptions.* The tests specified in the following paragraphs of S22.2 need not be conducted: S22.2.1.7, S22.2.2.3, S22.2.2.5, S22.2.2.6, S22.2.2.7, and S22.2.2.8.

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Appendix A to § 571.208

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C. Any of the following forward facing toddler and forward-facing convertible child restraint systems, manufactured on or after December 1, 1999, may be used by the National Highway Traffic Safety Administration to test the suppression system of a vehicle that is manufactured on or after the effective date and prior to the termination date specified in the table below and that has been certified as being in compliance with 49 CFR 571.208 S19, or S21. (**Note:** Any child restraint listed in this subpart that is not recommended for use in a rear-facing position by its manufacturer is excluded from use in testing in a belted rear-facing configuration under S20.2.1.1(a)):

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BILLING CODE 4910-59-P

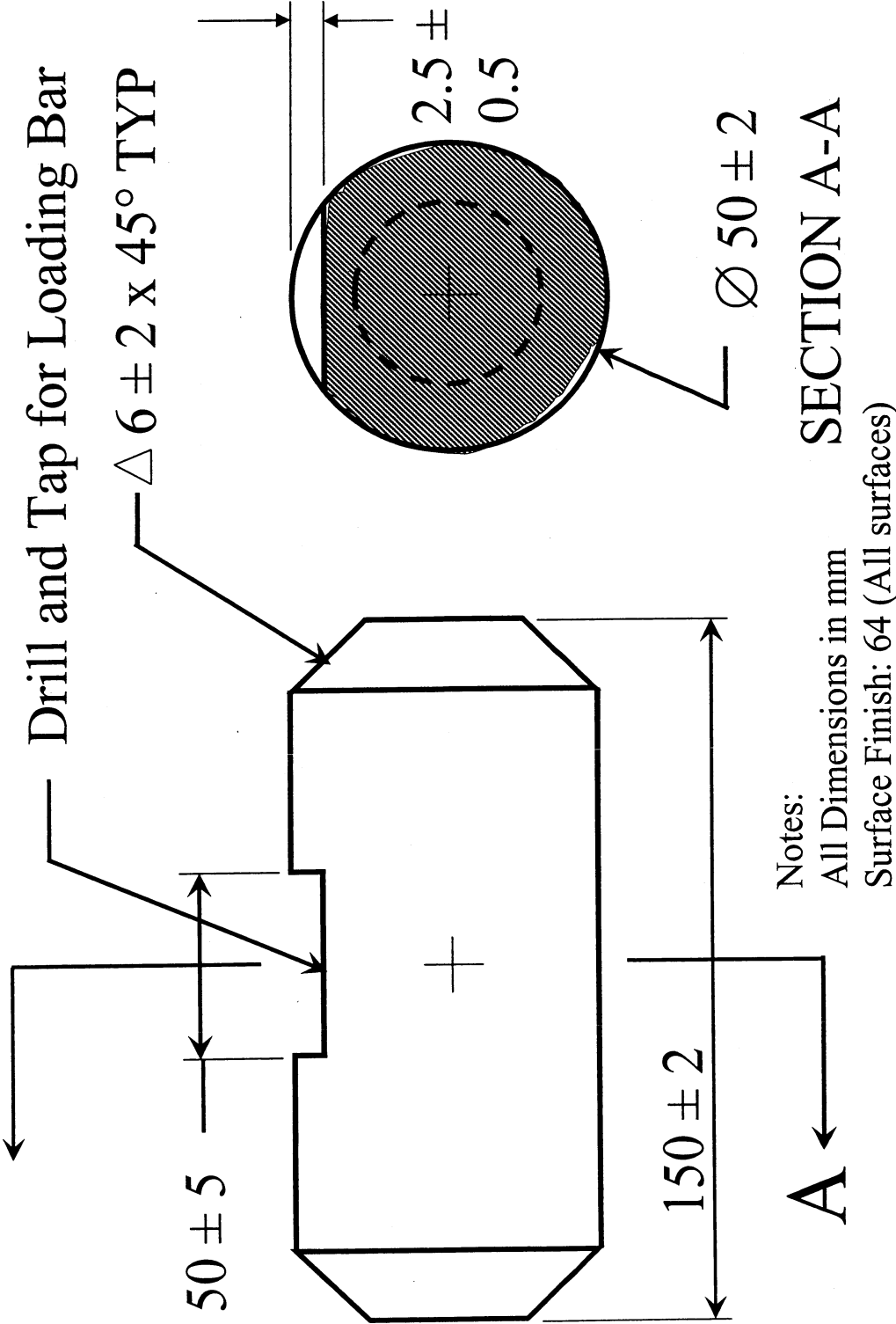


Figure A1 - Loading Bar Foot

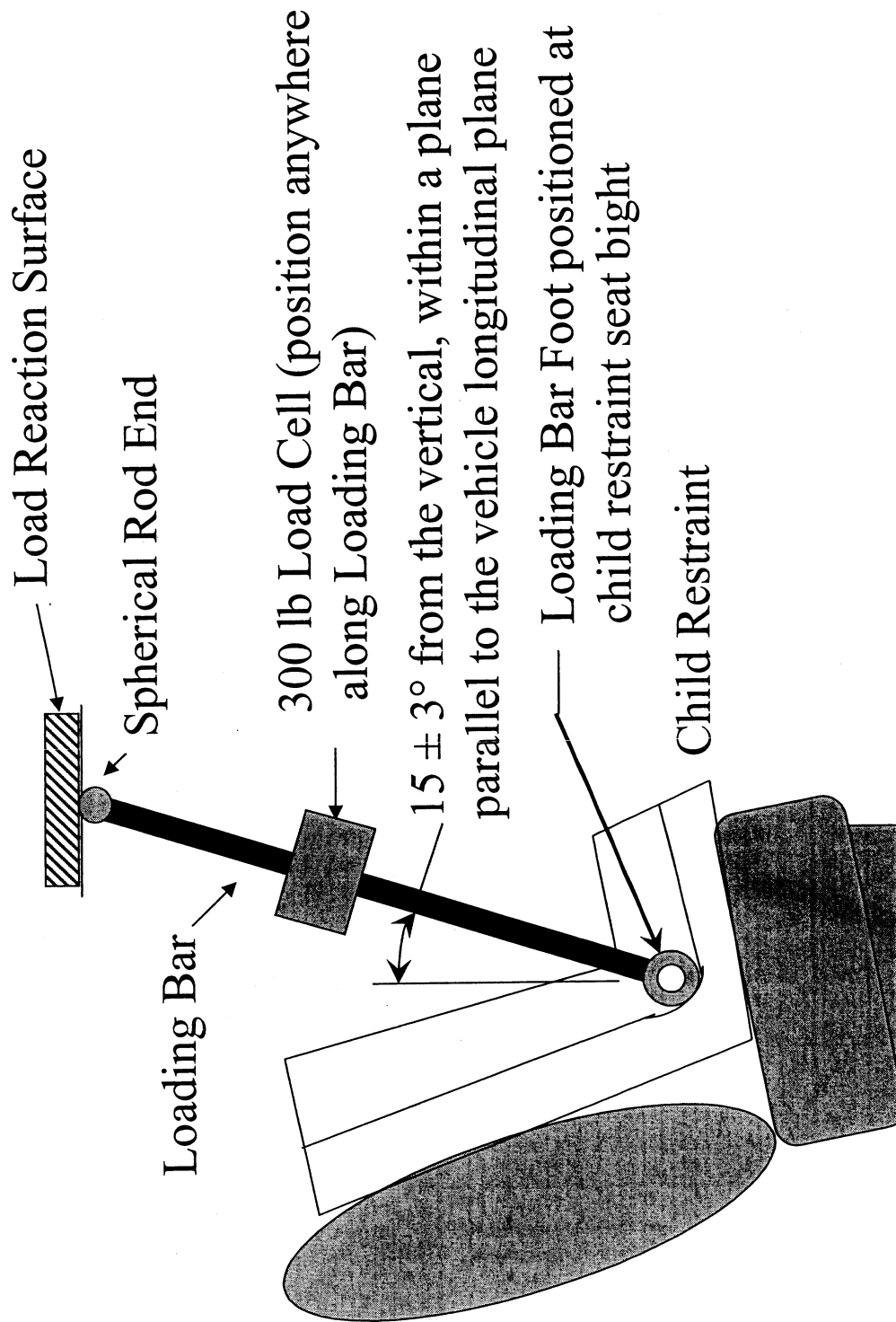


Figure A2 – Loading Bar Installation

Issued on May 10, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05-9924 Filed 5-18-05; 8:45 am]

BILLING CODE 4910-59-C

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2005-20967]

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies a petition from the Rubber Manufacturers Association (RMA) to conduct rulemaking to amend the Federal motor vehicle safety standard on tire selection and rims to require manufacturers of new motor vehicles to establish a recommended cold inflation pressure (placard pressure) for their vehicles using a tire pressure reserve. The tire pressure reserve would be based on the minimum pressure the RMA believes is necessary to support the vehicle's maximum load at the activation pressure of the installed tire pressure monitoring system (TPMS). The agency has decided to deny the petition because neither the RMA's nor the agency's data demonstrate a safety need for such a requirement.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590: For technical issues: Mr. George Soodoo or Mr. Ezana Wondimneh, Office of Crash Avoidance Standards (Telephone: 202-366-2720) (Fax: 202-366-7002). For legal issues: Mr. Eric Stas, Office of the Chief Counsel (Telephone: 202-366-2992) (Fax: 202-366-3820).

SUPPLEMENTARY INFORMATION:

I. Executive Summary

A. The RMA's Petition

The Rubber Manufacturers Association¹ submitted a petition for

rulemaking² to NHTSA to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 110, Tire Selection and Rims, to include a tire pressure reserve sufficient to permit the tires to carry the vehicle maximum load at the threshold activation pressure for illumination of the low tire pressure telltale (a lighted indicator) under FMVSS No. 138, Tire Pressure Monitoring Systems. Pursuant to FMVSS No. 138, the under-inflation warning threshold for the TPMS is set at 25% below the vehicle manufacturer's recommended cold inflation pressure or a minimum activation pressure corresponding to the type of tire, whichever is higher.

The Tire and Rim Association (TRA) establishes and publishes guidelines, by tire size, for recommended tire load and tire pressure. The TRA guidelines, along with similar publications by other specified tire industry organizations, incorporate detailed tables that are used by vehicle manufacturers when deciding on original equipment tires and the recommended tire pressure to place on the vehicle's tire placard. The tire placard is located on the driver's side B-pillar and is intended to inform vehicle owners of the proper tire inflation pressure level.

In addition to the tire placard information, pursuant to a statutory mandate, the agency has recently issued a Final Rule establishing requirements to ensure that vehicle owners are informed when a tire is significantly under-inflated. These systems, known as tire pressure monitoring systems, will detect and warn consumers within 20 minutes after a tire's inflation pressure drops to 25% below the vehicle manufacturer's recommended inflation level. The primary function of a TPMS is to detect under-inflation caused by slow leaks that may otherwise go unnoticed. TPMS are not substitutes for proper tire maintenance. Instead, they provide a supplemental system to assist in informing vehicle owners when maintenance is needed.

The RMA's petition postulates that the pressure in a vehicle's tires at maximum load may fall below the recommended value in the TRA tables before the TPMS warning telltale provides its alert. According to the RMA, the tables specify the minimum pressure that should be recommended for each tire at the vehicle's maximum load. Following this reasoning, if a vehicle manufacturer recommends a placard pressure with less than a 25%

margin above what is required to support the vehicle's maximum load, the tires could conceivably fall below the TRA specified value before the TPMS warning telltale illuminates. The RMA asserted that a vehicle driven under such conditions (below TRA specified values) is overloading its tires and that this may lead to tire degradation and, ultimately, to tire failure.

The RMA cited a recent NHTSA study finding that 26% of passenger cars—and 29% of pick-up trucks, sport utility vehicles, and vans—had at least one tire that was under-inflated by at least 25% below placard pressure.³ The RMA also submitted calculations from a sample of 100 vehicles (model years (MY) 1997 to 2003) indicating that 61% would not have sufficient pressure reserve at maximum load (based on the TRA tables) if the vehicle's tire pressure were to fall to 25% below placard pressure.⁴ Finally, the RMA relied on a telephone survey of motorists, which reported that 67% of those surveyed would be less concerned about checking their tire pressure if their vehicles were equipped with a TPMS.

From these data, the RMA concluded that NHTSA's tire standards must be amended to provide a reserve load so that drivers are not lulled into a false sense of security that may lead them to rely exclusively on the TPMS. The RMA argued that the TPMS could encourage drivers to neglect proper tire maintenance, leading in turn to an increased risk of driving on overloaded tires and resulting tire failures.

B. NHTSA's Research To Consider the Petition

The Secretary of Transportation has delegated rulemaking authority under 49 U.S.C. Chapter 301 to prescribe motor vehicle safety standards to NHTSA.⁵ However, in order to issue such standards, the agency must make a determination that the standard (or amendment to an existing standard) is practicable, meets the need for motor vehicle safety, and is stated in objective terms.⁶ Consistent with this statutory directive, NHTSA's regulations related to the requirements for petitions for rulemaking state that the petition must "[s]et forth facts which it is claimed

³ Docket No. NHTSA-2000-8572-74.

⁴ We note that the RMA submitted calculations based upon two sets of data that together totaled 100 vehicles. For the purposes of this notice, we have combined these two data sets as a single weighted average. We have done this both for ease of use and because the distinctions between those data sets do not impact our resolution of the RMA's petition.

⁵ See 49 CFR 1.50.

⁶ 49 U.S.C. 30111(a).

¹ The Rubber Manufacturers Association is a national trade organization representing tire and rubber manufacturers in the United States. Its membership includes: (1) Bridgestone/Firestone Americas Holdings, L.L.C., (2) Continental North America, Inc., (3) Cooper Tire and Rubber Company,

(4) The Goodyear Tire and Rubber Company, (5) Michelin North America, Inc., (6) Pirelli Tire North America, and (7) Yokohama Tire Corporation.

² Docket No. NHTSA-2005-20967-1.