

2. Section 571.105 would be amended by revising S6.1.2, S7.7.3, S7.8, and S7.9.1 to read as follows:

§ 571.105 Standard No. 105; Hydraulic and electric braking systems.

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S6.1.2 For applicable tests specified in S7.5(a), S7.7, S7.8, and S7.9, vehicle weight is lightly loaded vehicle weight, with the added weight, except for the roll bar structure allowed for trucks and buses with a GVWR greater than 10,000 pounds, distributed in the front passenger seat area in passenger cars, multipurpose passenger vehicles, and trucks, and in the area adjacent to the driver's seat in buses.

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S7.7.3 *Lightly loaded vehicle.* Repeat S7.7.1 or S7.7.2 as applicable except with the vehicle at lightly loaded vehicle weight or at manufacturer's option, for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle.

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S7.8 *Service brake system test—lightly loaded vehicle (third effectiveness) test.* Make six stops from 60 mph with vehicle at lightly loaded vehicle weight, or at the manufacturer's option for a vehicle with GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle. (This test is not applicable to a vehicle which has a GVWR of not less than 7,716 pounds and not greater than 10,000 pounds and is not a school bus.)

S7.9 *Service brake system test—partial failure.*

S7.9.1 With the vehicle at lightly loaded vehicle weight or at the manufacturer's option for a vehicle with a GVWR greater than 10,000 pounds, at lightly loaded vehicle weight plus not more than an additional 1,000 pounds for a roll bar structure on the vehicle, alter the service brake system to produce any one rupture or leakage type of failure, other than a structural failure of a housing that is common to two or more subsystems. Determine the control force, pressure level, or fluid level (as appropriate for the indicator being tested) necessary to activate the brake system indicator lamp. Make four stops if the vehicle is equipped with a split service brake system, or 10 stops if the vehicle is not so equipped, each from 60 mph, by a continuous application of the service brake control. Restore the

service brake system to normal at completion of this test.

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Issued on: October 29, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 587

[Docket No. NHTSA-2003-16417]

RIN 2127-AJ11

Offset Deformable Barrier

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This document denies a petition for reconsideration submitted by Toyota Motor Corporation (Toyota). The petition asked the agency to harmonize the specifications of the offset deformable barrier (ODB) with the European standard. The agency is denying the petition because the current specifications were intentionally designed to accommodate the vehicle designs of the U.S. fleet. Further, the additional design issues raised by Toyota are performance neutral and do not justify amending the specifications.

FOR FURTHER INFORMATION CONTACT: For non-legal issues you may call Lori Summers, Office of Crashworthiness Standards, at (202) 366-1740. For legal issues, you may call Christopher Calamita, Office of the Chief Counsel, at (202) 366-2992. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW, Washington, DC, 20590.

SUPPLEMENTARY INFORMATION:

Summary of the Petition

Toyota petitioned NHTSA to amend the ODB specifications contained in 49 CFR Part 587, for the purpose of harmonization with Economic Commission for Europe (ECE) regulation 96/79/EC, *Frontal impact*. The specifications for the ODB were published in a March 31, 2000, final rule as the first step towards using an ODB to evaluate the crashworthiness of vehicles (65 **Federal Register** 17196.) In its petition for reconsideration of the

March 2000 final rule, Toyota claimed that the specified barrier height could allow the test vehicle to contact the rigid portion of the barrier, potentially affecting the results of the test. Toyota also argued that the differences in the specifications between Part 587 and the European standard were unduly burdensome on manufacturers performing compliance tests with the ODB.

Issues Raised in the Petition

In its petition for reconsideration, Toyota stated that the specifications in Part 587 allow the fixed rigid barrier portion of the ODB to be higher than the ECE barrier. Toyota argued that because of the height difference, as a vehicle crushes and rotates, it could contact the rigid portion of the barrier (the portions of the concrete block higher than the deformable barrier). The company claimed that this contact could affect the results of the test vehicle. Toyota stated that this possibility is especially true for sport utility vehicles (SUVs) and light trucks and vans (LTVs), which ride higher than passenger cars. Toyota petitioned for the minimum barrier height requirement to be harmonized with the ECE requirement.

Toyota also petitioned for an increase in the sample size of the aluminum honeycomb used to test the crush characteristics of the barrier, the removal of backing sheet material specifications, and a reduction in hole size for deformable face mounting. Toyota claimed that by harmonizing these specifications, separate test runs would not be required to meet the Part 587 and ECE specifications, reducing the burden on manufacturers.

Analysis of the Petition

Toyota expressed concern with the potential for contact between the rigid portions of the ODB and the vehicle being tested due to the barrier height specifications. Part 587.18(b) specifies that:

The height of the fixed barrier is at least as high as the highest point on the vehicle at the intersection of the vertical transverse plane tangent to the forward most point of both front tires, when the tires are parallel to the longitudinal centerline of the vehicle, and the vertical plane through the longitudinal centerline of the vehicle.

We acknowledge that the barrier height may affect the ODB results for SUVs and LTVs, as this was our intention in establishing this height specification in the March 2000 final rule. For larger, high-riding vehicles, the agency believes that it is important for the rigid barrier height to be sufficiently high to engage the full height of the

vehicle's front structure. In testing high-riding LTVs with the ECE barrier in the ODB test configuration, the agency observed that LTVs tended to override the ECE barrier, thus transferring a larger amount of crash energy through their lower load paths. The agency is concerned that this could lead LTV and SUV manufacturers to design unnecessarily stiff lower structures to mitigate intrusion in the ODB test. Stiffening the structure of an LTV or SUV in the region where they are likely to engage with a passenger car would be detrimental to improving vehicle-to-vehicle compatibility. While encouraging a lower load path in LTVs and SUVs would enhance vehicle compatibility through improved load path engagement with passenger cars, the omission of an upper load path for the upper rails during an offset test with the ECE barrier could force some manufacturers to design considerably stiffer lower LTV and SUV structures, negating any gains from aligning the load paths.

By allowing the upper rails of the SUVs and LTVs to engage the upper portion of the Part 587 barrier, manufacturers have more flexibility in designing their front ends to allow a better distribution of force across the full height of the vehicle front structure, thus improving compatibility. Furthermore, Toyota's request for harmonization alone is not sufficient justification to amend Part 587 since the U.S. and European vehicle fleets are very different. The population of SUVs in Europe is around 5 percent of the vehicle population. In contrast, LTVs and SUVs are approximately 50 percent of U.S. vehicle sales and constitute approximately 38 percent of U.S. registrations.

We are also rejecting Toyota's claim that differences in the sample size of the honeycomb used to test the crush characteristics of the barrier, material specifications for backing material, and hole size for deformable face mounting are unduly burdensome. The agency found no difference in the force versus displacement curves for the current sample thickness and the sample thickness proposed by Toyota. (See the test data in this docket.)

Further, Toyota states that the differences in backing material and hole size specifications have no influence on barrier performance. Part 587 does not require manufacturers to follow prescribed specifications. It merely states what specifications the agency will use when we run compliance tests. If differences in specifications have no influence on barrier performance, Toyota and other manufacturers are free

to use the ECE specifications in compliance testing.

Conclusion: For the reasons stated above, the agency is denying Toyota's petition for reconsideration.

Authority: 49 U.S.C. 30162; delegation of authorities at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: October 29, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 102803A]

RIN 0648-AP03

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 13A

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: The South Atlantic Fishery Management Council (Council) has submitted Amendment 13A to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. The amendment would extend the current prohibitions on fishing for South Atlantic snapper-grouper in the experimental closed area and on retaining such species in or from the area. The experimental closed area constitutes a portion of the Oculina Bank Habitat Area of Particular Concern (HAPC), which is in the exclusive economic zone (EEZ) in the Atlantic Ocean off Ft. Pierce, FL.

DATES: Written comments must be received on or before January 5, 2004.

ADDRESSES: Written comments on Amendment 13A must be sent to Julie Weeder, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be sent via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet.

Copies of Amendment 13A may be obtained from the South Atlantic Fishery Management Council, One

Southpark Circle, Suite 306, Charleston, SC 29407-4699; phone: 843-571-4366 or toll free at 1-866-SAFMC-10; fax: 843-769-4520; e-mail: safmc@noaa.gov. Amendment 13A includes an Environmental Assessment (EA), an Initial Regulatory Flexibility Analysis that was supplemented by NMFS, a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

FOR FURTHER INFORMATION CONTACT: Julie Weeder, telephone: 727-570-5753, fax: 727-570-5583, e-mail: Julie.Weeder@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery off the southern Atlantic states is managed under the FMP. The FMP was prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The Magnuson-Stevens Act requires a regional fishery management council to submit an amendment to a fishery management plan to NMFS for review, approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment, publish a notice in the **Federal Register** stating that the amendment is available for public review and comment.

Background

In Amendment 6 to the FMP the Council proposed prohibitions on fishing for South Atlantic snapper-grouper in what is currently known as the experimental closed area and on retaining such species in or from the area. NMFS approved these prohibitions, and they became effective June 27, 1994 (59 FR 27242, May 26, 1994). In the experimental closed area, any South Atlantic snapper-grouper taken incidentally by hook-and-line gear must be released immediately by cutting the line without removing the fish from the water.

The experimental closed area is slightly less than 92 square nautical miles in the EEZ offshore from Ft. Pierce to Sebastian Inlet, FL. The geographical coordinates are specified at 50 CFR 622.35(c)(2). The experimental closed area constitutes a portion of the southern part of the Oculina Bank HAPC. In the entire HAPC no person may: (1) use a bottom longline, bottom trawl, dredge, pot, or trap; (2) if aboard a fishing vessel, anchor, use an anchor and chain, or use a grapple and chain; or (3) fish for rock shrimp or possess rock shrimp in or from the area on board a fishing vessel.