

a Board of Contract Appeals shall be paid promptly from the Judgment Fund. The Department of the Treasury's Financial Management Service (FMS), through the Treasury Financial Manual, volume I, part 6, chapter 3100, requires that the Government agency "responsible for defending the United States" in litigation or "authorized to settle the claim" in administrative actions submit completed copies of specified forms to FMS in order to process payment of monetary awards from the Judgment Fund. These requirements have superseded the procedures contained in section 6101.36, and the revised section 6101.36 reflects these requirements. This revision only affects paragraphs (c) and (d) of section 6101.36.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### B. Regulatory Flexibility Act

The General Services Administration certifies that this final rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule does not impose any additional costs on either small or large businesses.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes do not impose recordkeeping or information collection requirements, or otherwise collect information from offerors, contractors, or members of the public that require approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

#### List of Subjects in 48 CFR Part 6101

Administrative practice and procedure, Government procurement.

Dated: August 15, 2005.

**Stephen M. Daniels,**

*Chairman, Board of Contract Appeals,  
General Services Administration.*

■ Therefore, GSA amends 48 CFR part 6101 as set forth below:

#### **PART 6101—RULES OF PROCEDURE OF THE GENERAL SERVICES ADMINISTRATION BOARD OF CONTRACT APPEALS (STANDARD PROCEEDINGS)**

■ 1. The authority citation for 48 CFR part 6101 continues to read as follows:

**Authority:** 41 U.S.C. 601–613.

■ 2. Amend section 6101.36 by revising paragraphs (c) and (d) to read as follows:

#### **6101.36 Payment of Board awards [Rule 136].**

\* \* \* \* \*

(c) *Procedure for filing of certificates of finality.* Whenever the Board issues a decision or an order awarding a party any amount of money, it will attach to the copy of the decision sent to each party forms such as those illustrated in the appendix to this part. The conditions for payment prescribed in paragraph (b)(1) of this section are satisfied if each of the parties returns a completed and duly executed copy of this form to the Board. When the form is executed on behalf of an appellant or applicant by an attorney or other representative, proof of signatory authority shall also be furnished. Upon receipt of completed and duly executed Certificates of Finality from the parties, the Board will forward a copy of each such certificate (together with proof of signatory authority, if required) and a certified copy of its decision to the responsible agency for certification and transmission to the United States Department of the Treasury for payment.

(d) *Procedure in absence of certificate of finality.* When one or both of the parties fails to submit a duly executed Certificate of Finality, but the conditions for payment have been satisfied as provided in paragraph (b)(2) of this section, the appellant or applicant may file a written request that the Board forward its decision to the responsible agency for certification and transmission to the United States Department of the Treasury for payment. Thereupon, the Board will forward a copy of that request and a certified copy of its decision to the responsible agency.

\* \* \* \* \*

[FR Doc. 05–16479 Filed 8–19–05; 8:45 am]

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#### **DEPARTMENT OF TRANSPORTATION**

#### **National Highway Traffic Safety Administration**

#### **49 CFR Parts 571**

[Docket No. NHTSA 2005–22052]

**RIN 2127–AI38**

#### **Federal Motor Vehicle Safety Standards; Seat Belt Assemblies**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Federal motor vehicle safety standard (FMVSS) for seat belt assemblies to redefine the requirements and to establish a new test methodology for emergency-locking retractors. Specifically, this final rule establishes a new acceleration-time corridor, adds a figure illustrating the new acceleration-time corridor, provides a tolerance on angle measurements, and adopts the same instrumentation specifications currently found in other FMVSSs containing crash tests.

**DATES:** *Effective Date:* This final rule is effective October 21, 2005. The incorporation by reference of a certain publication listed in the regulation is approved by the Director of the Federal Register as of October 21, 2005.

*Compliance Date:* Seat belt assemblies manufactured on or after February 22, 2007 must comply with this rule. Voluntary compliance is permitted prior to that date.

*Petitions for Reconsideration:* If you wish to submit a petition for reconsideration of this rule, your petition must be received by October 6, 2005.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

See the **SUPPLEMENTARY INFORMATION** portion of this document (Section VI; Rulemaking Analyses and Notice) for DOT's Privacy Act Statement regarding documents submitted to the agency's dockets.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. Christopher Wiacek, Office of Crashworthiness Standards (Telephone: 202–366–4801) (Fax: 202–493–2290).

For legal issues, you may call Mr. Eric Stas, Office of the Chief Counsel (Telephone: 202–366–2992) (Fax: 202–366–3820).

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

#### **SUPPLEMENTARY INFORMATION:**

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**I. Executive Summary**

In response to a petition for rulemaking, NHTSA published a notice of proposed rulemaking<sup>1</sup> on June 3, 2004, which proposed to amend FMVSS No. 209, *Seat Belt Assemblies*, by redefining the requirements and establishing a new test methodology for emergency-locking retractors (ELRs). As noted above, the NPRM proposed to establish a new acceleration-time (A–T) corridor, to add a figure illustrating the new A–T corridor, to provide a tolerance on angle measurements, and to adopt the same instrumentation specifications currently found in other FMVSSs containing crash tests. The purpose of these proposed amendments was to clarify the test procedures for ELRs, while ensuring that those devices continue to perform their important safety function of locking up a seat belt in the event of a crash or emergency braking.

After careful consideration of all available information, including public comments, the agency has decided to retain in this final rule the approach set forth in the NPRM, with minor technical modifications. All such modifications and the accompanying rationale are discussed fully in the balance of this document. The following points highlight the key changes to FMVSS No. 209 resulting from the final rule.

- The final rule modifies that portion of FMVSS No. 209's test procedures relevant to ELRs by adopting a new Figure 8, which provides a specified acceleration-time corridor for test pulses. The A–T corridor includes an upper boundary onset rate of 375 g/sec and permits acceleration to peak at up to 0.8 g. The lower boundary of the A–T corridor allows for a minimum onset rate of 21.67 g/sec. The steady-state tolerance range is from 0.65 g to 0.72 g.

- During dynamic testing, the final rule requires each acceleration pulse to be recorded using an accelerometer having a full scale range of  $\pm 10$  g and to be processed according to the practices set forth in Society of Automotive Engineers (SAE) Recommended Practice J211–1 rev. December 2003, "Instrumentation for Impact Test—Part 1—Electronic

Instrumentation," Channel Frequency Class 60. (That SAE standard has been incorporated by reference into FMVSS No. 209.) Webbing displacement is required to be measured using a displacement transducer.

- Unless a range of angles is specified or a tolerance is otherwise explicitly provided, the final rule states that all angles and orientations of seat belt assemblies and components specified in the standard shall have a tolerance of  $\pm 3$  degrees.

Manufacturers of seat belt assemblies must comply with the requirements of the final rule commencing on February 22, 2007. Voluntary compliance is permitted prior to the mandatory compliance date.

In terms of the impacts, the agency anticipates that this final rule will not result in substantial changes to the performance of ELRs and that current ELRs will continue to comply with FMVSS No. 209 without change. Instead, the final rule clarifies the specifications in the standard's test procedures. Furthermore, we expect that this rule will result in only a minimal cost burden to vehicle manufacturers. Testing laboratories might need to purchase new equipment, but this one-time cost is likewise expected to be minimal on a cost-per-vehicle basis.

**II. Background**

The seat belt emergency-locking retractor is a device that was first developed in the 1960's for the purpose of maintaining occupant position during rapid vehicle deceleration. Since its inception, the ELR's locking sensitivity has been an important issue because of the need to assure that the retractor would lock very early during a collision or emergency braking, but not be so sensitive as to cause "nuisance" locking during routine driving.

Based upon the limited knowledge and technology available at that time, the SAE Motor Vehicle Seat Belt Committee (MVSBC) developed Recommended Practice SAE J–4b, *Motor Vehicle Seat Belt Assemblies*, and subsequently, SAE J–4c, *Motor Vehicle Seat Belt Assemblies*. These Recommended Practices provided performance requirements, laboratory test procedures, and minimal design requirements for seat belt assemblies for use in motor vehicles, in order to minimize the risk of bodily harm in an impact. In promulgating FMVSS No. 209, NHTSA ultimately adopted SAE J–4c, although the test methodologies for ELRs developed by SAE were not clearly defined. As a result, the test methodology, instrumentation, and measurements for assessing

conformance were not explicitly described in S4.3(j) and S5.2(j) of FMVSS No. 209. This situation has not changed appreciably since adoption of our safety standard in a final rule published in the **Federal Register** on February 3, 1967.<sup>2</sup>

Currently, there are two modes of ELR sensors in production: (1) webbing withdrawal-sensitive ELRs and (2) vehicle acceleration-sensitive ELRs. The latter mode of a retractor responds directly to a 0.7 g acceleration pulse, and lock-up usually occurs within a short period of time. The former mode of a retractor responds to the webbing withdrawal speed, which slowly builds up from zero to the threshold (*i.e.*, lock-up) speed, when the assembly is subjected to the 0.7 g acceleration pulse. As a result, a longer time period may be required for the webbing-sensitive type of retractor to respond.

Despite the two different basic ELR designs, FMVSS No. 209 has a unified set of requirements for compliance testing. Specifically, under S4.3(j)(1) of FMVSS No. 209, an emergency-locking retractor of a Type 1 or Type 2 seat belt assembly,<sup>3</sup> when tested in accordance with S5.2(j), "shall lock before the webbing extends 25 mm when the retractor is subject to an acceleration of 7 m/s<sup>2</sup> (0.7 g)." Paragraph S5.2(j) of the standard states in relevant part that "[t]he retractor shall be subject to an acceleration of 7 m/s<sup>2</sup> (0.7 g) within a period of 50 milliseconds (ms), while the webbing is at 75 percent extension[.]"

In addition, FMVSS No. 209 establishes a sensitivity threshold for ELRs to prevent "nuisance" locking during routine driving. Under S4.3(j)(2), an ELR sensitive to vehicle acceleration must not lock up when the retractor is rotated in any direction to any angle 15 degrees or less. Under S4.3(j)(3), an ELR sensitive to webbing withdrawal must not lock up before the webbing extends 51 millimeters (mm) when the retractor is subject to an acceleration of 0.3 g or less.

Based upon FMVSS No. 209, the agency developed a laboratory test procedure for its compliance laboratories to follow, which provides more detail concerning test set up. The most recent version, TP–209–05,<sup>4</sup> was issued on January 17, 2003. In relevant

<sup>2</sup> 32 FR 2408, 2415 (Feb. 3, 1967).

<sup>3</sup> Under S3 of FMVSS No. 209, a "Type 1 seat belt assembly" is defined as "a lap belt for pelvic restraint," and a "Type 2 seat belt assembly" is defined as "a combination of pelvic and upper torso restraints."

<sup>4</sup> See <http://www.nhtsa.dot.gov/staticfiles/DOT/NHTSA/Vehicle%20Safety/Test%20Procedures/Associated%20Files/TP-209-05.pdf>.

<sup>1</sup> 69 FR 31330 (June 3, 2004) (Docket No. NHTSA–2004–17980–1).

part, that laboratory test procedure specifies the use of a 0.72 g acceleration pulse, which is intended to ensure that the retractor will be subject to at least 0.7 g during testing, as required by the standard. This test pulse accounts for calibration and accuracy ranges of the test equipment.

In order to gain a better understanding of the seat belt emergency-locking retractor test procedures and performance requirements, the Automotive Occupant Restraints Council (AORC<sup>5</sup>) wrote a letter to NHTSA requesting an interpretation of S4.3(j) and S5.2(j) of FMVSS No. 209. The AORC stated that neither the SAE Committee nor NHTSA addressed the onset rate range and the deceleration tolerance for ELRs when their respective standards were developed or since that time. The AORC stated its belief that the intent of both the SAE Committee and NHTSA at the time FMVSS No. 209 was adopted was to mimic a hard braking deceleration pulse in which the 0.7 g level should be achieved with a sharp onset rate, followed by steady-state deceleration. NHTSA responded through an interpretation letter to Mr. Steven Fredin dated February 4, 2000.<sup>6</sup> However, the AORC did not agree with the position expressed in the interpretation letter and subsequently submitted a petition for rulemaking on June 2, 2000.<sup>7</sup>

The AORC petition requested that NHTSA amend paragraphs S4.3(j) and S5.2(j) of FMVSS No. 209 to specify: (A) a rate of onset;<sup>8</sup> (B) an acceleration pulse duration; (C) an acceleration tolerance level, and (D) a subsequent acceleration decay.<sup>9</sup> In addition, the AORC requested that NHTSA apply the same instrumentation specifications to those provisions as are used in other

<sup>5</sup> The Automotive Occupant Restraints Council is an industry association of 49 suppliers of occupant restraints, components/materials, and services to the automobile industry.

<sup>6</sup> In the February 4, 2000 letter of interpretation, the agency stated:

Nothing in the standard purports to require a consistent acceleration (or a constant rate of increase of acceleration), to establish a specific period during which the acceleration must be maintained, or to prohibit any "decay" after the 0.7 g level is reached. Therefore, each retractor must be able to meet the locking requirements of the standard regardless of the rate of acceleration, or the extent of any subsequent "decay."

See <http://www.nhtsa.dot.gov/cars/rules/interps/files/aorc3.ogm.html>.

<sup>7</sup> Docket No. NHTSA-2127-2000-7073-12.

<sup>8</sup> "Onset rate" is defined as the rate (in g/sec) at which the seat belt retractor is initially accelerated from time zero.

<sup>9</sup> "Acceleration decay" is defined as the rate (in g/sec) at which the retractor acceleration is returned to zero.

FMVSSs with dynamic performance requirements.

The AORC argued that it is necessary to amend the standard because many acceleration pulses conform to S4.3(j) and S5.2(j) in theory, but those pulses would cause retractors, currently compliant under FMVSS No. 209, to fail the locking requirements within the 25 mm webbing payout. Furthermore, the AORC asserted that NHTSA's interpretation letter permits testing methodologies that no known ELR could possibly meet. The petition provided several example pulses that, according to the AORC, would conform to the criteria in the interpretation letter, but would not be sufficient to consistently lock a production retractor.

In suggesting a means of addressing these concerns, the AORC petitioned that S5.2(j) should include a specific A-T corridor, with maximum and minimum acceleration onset rates matching those specified in the Economic Commission for Europe Regulation No. 16, *Uniform Provisions Concerning the Approval of: Safety Belts and Restraint Systems for Occupants of Power-Driven Vehicles and Vehicles Equipped with Safety Belts* (ECE R16). The AORC also stated that the acceleration and the webbing displacement recording techniques should conform to SAE Recommended Practice J211-1 rev. March 1995, "Instrumentation for Impact Test—Part 1—Electronic Instrumentation" (SAE J211-1, rev. Mar. 1995). In addition, the AORC petition stated that the safety standard should require that the signals should be filtered with an SAE Class 60 filter, and that the accelerometer should be an instrumentation-grade, high-accuracy,  $\pm 10$  g device. The AORC contended that the addition of an A-T corridor and specification of the test methodology and instrumentation, in a manner consistent with its petition, would create needed objectivity and fully clarify the standard in this area.

NHTSA granted the AORC's petition to clarify the relevant provisions of FMVSS No. 209.

### III. June 2004 Notice of Proposed Rulemaking (NPRM) and Public Comments

#### A. The NPRM

As noted above, on June 3, 2004, NHTSA published an NPRM, which proposed to address the issues raised by the AORC in its petition for rulemaking. The NPRM provided a 60-day public comment period, which was subsequently extended.<sup>10</sup> In general, the

<sup>10</sup> The NPRM provided a public comment period through August 2, 2004. However, in a letter dated

NPRM proposed to redefine certain requirements of FMVSS No. 209 to establish a new test methodology for emergency-locking retractors. To accommodate the time needed for vehicle manufacturers and testing laboratories to reconfigure their testing equipment in conformity with the proposed amendments, NHTSA proposed that the final rule would provide lead time of one year. The following discussion highlights the key provisions of the proposal.

#### Rate of Onset

The agency proposed a new acceleration corridor with an increased maximum onset rate, which represents a modified version of the A-T corridor suggested by the AORC in its petition. The proposed corridor was sufficiently wide as to allow a range of onset rates to be tested that were preliminarily determined to be more representative of real world crashes and emergency braking events. The NPRM proposed a maximum onset rate of 375 g/sec and a minimum onset rate of 16.25 g/sec, which would accommodate purely linear pulses during the first 50 ms interval.

Although the agency found that the onset rate for various crash test pulses varied greatly (from over 1,000 g/sec for crash pulses to 2 g/sec for emergency braking pulses), the agency tentatively decided that its proposed maximum onset rate would capture pulses that historically have been used for ensuring a minimum level of safety performance for the ELR in vehicle seat belts along with a wide range of acceleration pulses (including those used by the agency's compliance testing laboratories). As a result, the agency tentatively concluded that the proposed A-T corridor would permit the generation of repeatable and reproducible acceleration pulses and that the proposed onset rate corridor should eliminate the potentially problematic "theoretical" test pulses cited by the AORC, while at the same time maintaining the integrity of FMVSS No. 209.

#### Acceleration Pulse Duration

The NPRM did not propose a minimum time duration for the test pulse, as had been requested by the

July 14, 2004, the AORC petitioned for a 60-day extension of the comment period in order to provide time for the gathering of additional technical information in response to the NPRM's proposed provisions (Docket No. NHTSA-2004-17980-4). On August 4, 2004, the agency published a notice in the *Federal Register* to extend the public comment period from August 2, 2004 to October 1, 2004, to allow the industry additional time to generate data relevant to the proposal (69 FR 47075) (Docket No. NHTSA-2004-17980-5).

AORC in its petition. The agency reasoned that once the onset rate of the acceleration pulse is given, the pulse duration that is required to produce a 25 mm webbing payout is implicitly determined. Therefore, a pulse time duration specification is not necessary.

#### Acceleration Tolerance Level

Based upon current compliance test data, the agency proposed that an initial peak above 0.7 g should be allowed within the first 50 ms time period of the test pulse. The proposed A–T corridor would have an upper bound of 0.8 g from 2 ms to 50 ms to allow the initial peak to exceed 0.7 g prior to reaching a “steady-state” response. For the remainder of the A–T corridor (*i.e.*, from 50 ms to the end of the test), the A–T corridor would be specified at 0.7 g with a +0.02/–0.05 g tolerance boundary (*i.e.*, a tolerance range between 0.72 g and 0.65 g), which is consistent with NHTSA’s current compliance test procedures and test data. As discussed in the NPRM, the agency expected that the proposed A–T corridor would simulate the worst-case test condition, similar to those observed in laboratory hard (emergency) braking tests, while recognizing that acceleration may peak before reaching a “steady-state” condition.

#### Subsequent Acceleration Decay

In the NPRM, the agency stated that the proposal addresses the AORC’s concerns about rapid acceleration decay after the initial peak, even though we did not include a specification for acceleration decay (*i.e.*, pulse shape and duration). The NPRM stated that the lower boundary of the proposed A–T corridor would prevent the use of acceleration pulses that have early, rapid acceleration decay. Furthermore, after either a lock-up occurs or the webbing payout reaches 25 mm, the test is officially over. The acceleration pulse after this point does not affect the test results and is no longer a concern to test accuracy (*i.e.*, after this point, it is permissible for the pulse to cross the lower boundary of the corridor).

#### Test Procedures and Measurement Specification

In agreement with the AORC petition, the NPRM proposed that the acceleration specifications under FMVSS No. 209 be recorded and processed according to the practices specified in SAE J211–1, rev. March 1995. Specifically, the proposal stated that the instrumentation used to record the A–T history and the webbing payout would be in conformance with the instrumentation requirements of SAE

J211–1, rev. March 1995, that the electronic signals would be filtered with an SAE Class 60 filter, and that the accelerometer used for retractor testing would be an instrumentation-grade, high-accuracy,  $\pm 10$  g device. The proposed instrumentation requirements were the same as those currently specified in other FMVSSs with a dynamic performance component.

As part of the proposed test procedures, the NPRM specified use of a displacement transducer to directly measure and record webbing displacement, thereby eliminating the uncertainty inherent in indirect measurement techniques (*e.g.*, numerical integration of accelerometer data). In addition, the NPRM’s proposed test procedures included a tolerance of  $\pm 3$  degrees for all angles and orientations of the seat belt assemblies and component, unless a range of angles is otherwise specified.

#### “Nuisance” Locking

In order to address the issue of “nuisance locking,” the NPRM proposed to amend S4.3(j)(2) of FMVSS No. 209’s test procedures to require retractors sensitive to webbing withdrawal to be subjected to an acceleration of 0.3 g occurring within a period of the first 50 ms and sustaining an acceleration no greater than 0.3 g throughout the test, while the webbing is at 75 percent extension.

#### Request for Comments on Specific Questions

In addition to the matters discussed above, the NPRM requested responses to several questions regarding the ability of current ELRs to comply with the proposed A–T corridor, methods used by the industry to determine when ELR lock-up occurs, and potential modifications to the proposal (*e.g.*, narrowing the A–T corridor).

#### B. Summary of Public Comments on the NPRM

NHTSA received six comments on the June 3, 2004 NPRM from a variety of interested parties including an industry association (the AORC), suppliers (Renfroe Engineering, Inc.; TK Holdings, Inc.), a vehicle manufacturer (Ford Motor Company (Ford)), a public interest group (Public Citizen), and an individual (Dr. Ave Ziv). All of these comments may be found in Docket No. NHTSA–2004–17980.

The commenters generally supported the proposal but suggested a number of modifications to the proposed requirements, including ones related to the A–T corridor, the data acquisition methodology and related equipment,

tolerances, requirements for dual-sensing retractors, and lead time. The following discussion summarizes the main issues raised by these public comments and the positions expressed on these topics. A more complete discussion of the public comments is provided under Section IV.C, which provides an explanation of the agency rationale for the requirements of the final rule and addresses related public comments by issue.

At least one commenter acknowledged that existing ELRs would continue to comply with FMVSS No. 209 if the proposed A–T corridor were to be adopted, although another commenter (Ford) argued that the corridor is overly broad and, therefore, not objective. Overall, however, commenters recommended adoption of the A–T corridor with certain modifications. For example, one commenter recommended redefining the lower corridor, because of concerns that a lower onset rate could result in nuisance locking, and providing a longer locking distance. In terms of the upper portion of the corridor, at least one commenter supported the proposed upper boundary; however, another commenter argued that the high maximum onset rate is unrealistic in light of the more limited capabilities of existing test equipment, and it recommended a new upper corridor with a maximum onset rate of 150 g/sec.

One commenter sought modifications to the range of the A–T corridor after 50 ms, such that 0.7 g is at the center of the upper and lower limits of the corridor. Commenters generally agreed with the proposal to allow acceleration decay outside of the proposed corridor after the compliance test is completed.

There were several comments pertaining to the proposed data acquisition requirements, including the following points. There was support for the use of an SAE Class 60 filter. Commenters also supported use of SAE Recommended Practice J211–1, although there was a recommendation to use a more recent December 2003 version of that standard, which provides a more detailed test methodology. One commenter recommended use of a  $\pm 20$  g accelerometer, rather than the  $\pm 10$  g accelerometer proposed in the NPRM.

Regarding the angle tolerances of  $\pm 3$  degrees proposed in the NPRM, commenters generally supported such a tolerance for most applications, unless a range is specified. However, commenters requested a tighter tolerance of  $\pm 0.5$  degrees for angles and orientations specifically addressed in the proposal, in order to prevent the

need to redesign currently compliant ELRs to account for such tolerance.

Commenters also raised some issues not covered by the NPRM, such as requiring a seat belt assembly with dual-sensing retractors to comply with the standard for both designs, including the no-lock test at low accelerations.

Another commenter requested specification of a defined A–T corridor for the no-lock requirement for accelerations no greater than 0.3 g.

Regarding lead time, commenters that addressed this issue requested that lead time be extended to 18 months, from the 12 months proposed in the NPRM, in order to provide companies with additional time to purchase and install new equipment, if necessary, to ensure compliance with the amended standard.

#### IV. The Final Rule and Response to Public Comments

##### A. Summary of the Requirements

After careful consideration of the public comments, in this final rule amending FMVSS No. 209, we are adopting the approach set forth in the June 2004 NPRM, with certain modifications. In general, this rule redefines the requirements and establishes a new test methodology for emergency-locking retractors. The standard is intended to be technology-neutral, so as to permit compliance with any available ELR technology that meets the standard's performance requirements.

The following points highlight the key change resulting from the final rule.

- The final rule modifies that portion of FMVSS No. 209's test procedures relevant to ELRs by adopting a new Figure 8 which provides a specified acceleration-time corridor for test pulses. The A–T corridor includes an upper boundary onset rate of 375 g/sec and permits acceleration to peak at up to 0.8 g. The lower boundary of the A–T corridor allows for a minimum onset rate of 21.67 g/sec. The steady-state tolerance range is from 0.65 g to 0.72 g.

- During dynamic testing, the final rule requires each acceleration pulse to be recorded using an accelerometer having a full scale range of  $\pm 10$  g and to be processed according to the practices set forth in SAE Recommended Practice J211–1 rev. December 2003, "Instrumentation for Impact Test—Part 1—Electronic Instrumentation," Channel Frequency Class 60. (That SAE standard has been incorporated by reference into FMVSS No. 209.) Webbing displacement is required to be measured using a displacement transducer.

- Unless a range of angles is specified or a tolerance is otherwise explicitly provided, the final rule states that all angles and orientations of seat belt assemblies and components specified in the standard shall have a tolerance of  $\pm 3$  degrees.

##### B. Lead Time

Consistent with the request of commenters, the agency has decided to provide 18 months of lead time for manufacturers to meet the requirements of the amended standard. Accordingly, compliance with the requirements of the final rule commences for seat belt assemblies manufactured on or after February 22, 2007. Voluntary compliance is permitted prior to the mandatory compliance date.

##### C. Response to Public Comments by Issue

As noted previously, public comments on the June 2004 NPRM to amend FMVSS No. 209 raised a variety of issues with the NPRM's proposed requirements. Each of these topics will be discussed in turn, in order to explain how these comments impacted the agency's determinations in terms of setting requirements for this final rule.

##### 1. Acceleration-Time Corridor

The NPRM proposed an A–T corridor with a maximum onset rate of 375 g/sec, a minimum onset rate of 16.25 g/sec, and a width sufficient to accommodate acceleration test pulses preliminarily determined to be representative of real world crashes and emergency braking events. The proposal also provided an acceleration tolerance that would permit the pulse to attain an upper bound peak of 0.8 g within the first 48 ms corridor (*i.e.*, between 2 ms and 50 ms) prior to reaching a steady-state response. For the remainder of the A–T corridor, the NPRM proposed 0.7 g with a  $+0.02/-0.05$  tolerance boundary. (*See* Figure 8 of the NPRM.) The agency did not deem it necessary to specify a minimum time duration for the acceleration pulse or a specification for acceleration decay (*i.e.*, pulse shape and duration).

A number of commenters raised concerns about the proposed A–T corridor, including the AORC, TK Holdings, Ford, and Dr. Ziv. The AORC commented that the NPRM's expansion of the A–T corridor beyond the boundaries originally recommended in its petition for rulemaking is unnecessary. Specifically, the AORC objected to the NPRM's proposed lower onset rate, because the AORC believes that static friction in the ELR, coupled with the low onset rate, could result in nuisance locking during routine driving.

To address its concern, the AORC developed a new lower A–T corridor as part of its comment submission, which reflects a compromise between the AORC's original suggested boundary and the one proposed in the NPRM. (TK Holdings supported such a compromise approach in its comments.)

The AORC further commented that if a lower onset rate were to be adopted, a longer locking distance would be required. To illustrate its point, the AORC argued that with an onset rate of 13 g/sec, the ELR would have 21.5 mm of payout available to lock up once it reached 0.7 g, as compared to 25 mm of payout being available for an ELR experiencing a nearly instantaneous rise to 0.7 g.

Regarding the upper boundary of the proposed A–T corridor, commenters expressed divergent viewpoints. TK Holdings concurred with the upper boundary presented in the NPRM. However, the AORC objected to the high onset rate (*i.e.*, 375 g/sec). Although the AORC acknowledged that high onset rates do occur during high-speed barrier crashes, it argued that these tests serve the purpose of demonstrating performance under these conditions, so no component-level test is necessary. In addition, the AORC argued that it does not know of any commercially-available, component-level test equipment that can reliably conduct a test with an onset rate above 200 g/sec. As an alternative, the AORC developed and submitted a new upper corridor, which: (1) Adopts the agency's upper corridor limit of 0.8 g; (2) modifies the limit along the "sustain" portion at the end of the test to 0.75 g (*i.e.*, the portion of the A–T corridor in which the steady-state response should have been achieved), and (3) provides a maximum onset rate of 150 g/sec.

TK Holdings expressed concern about the range of the corridor after 50 ms, arguing that the boundary should be controlled such that 0.7 g is at the center of the upper and lower limit of the corridor. Accordingly, TK Holdings recommended a range of 0.7 g  $\pm 0.05$  g for the corridor after 50 ms.

The AORC and TK Holdings agreed with the agency's proposal to allow acceleration decay outside the proposed corridor after the compliance test is complete.

Ford commented that the NPRM's proposed A–T corridor is not objective because it is overly broad and that other concerns about test objectivity have not been adequately addressed. For example, Ford expressed concern that an agency contracting laboratory could choose an audit test pulse that is substantially different from the pulse

selected by the manufacturer. The company requested that the agency demonstrate a safety need for test pulses that are both more severe and less severe than those within the A-T corridor originally recommended by the AORC. Ford stated that if the agency does identify a safety need for the augmented regions of the A-T plot, that there should be additional, objectively-defined corridors to assess ELR compliance.

In his comments, Dr. Ziv sought clarification as to whether a retractor must meet the requirements for any acceleration pulse within the proposed corridor, or at least one acceleration pulse within the corridor.

In response to these comments, the agency has decided to modify the lower boundary of the A-T corridor in the manner suggested by the AORC in its latest submission. NHTSA's intention in proposing the lower boundary in the NPRM was to ensure that it encompassed current test pulses, particularly those with slower onset rates. Although the AORC did not provide any data to demonstrate the nature and extent of this "nuisance locking" problem, we believe that the AORC's proposed new lower boundary would address the concern of potential "nuisance locking," while maintaining inclusion of all current test pulses. In addition, we believe that the new lower A-T corridor should minimize the variation in onset rates, while maintaining the repeatability and reproducibility of the test procedures.

Regarding comments on the upper corridor boundary, the agency has decided to adopt, as part of this final rule, the same upper corridor boundary that was presented in the NPRM. High onset rates do occur in crashes, and even though current equipment cannot generate pulses of that magnitude, technological developments may permit generation of such pulses in the future. The agency believes that a high onset rate limit is not detrimental to current ELR performance or vehicle safety. Instead, we believe that it is advantageous for manufacturers to reach 0.7 g in the shortest time period possible, because that would make the maximum amount of webbing payout available to achieve compliance. In addition, we believe that the specificity in the final rule's data acquisition methodology (discussed below) will prevent the generation of unreliable test pulses with overly-high onset rates.

Although the maximum onset rate recommended by the AORC would (barely) encompass current test pulses, we do not believe that the AORC has demonstrated a need for its

recommended change. In addition, the AORC did not provide evidence to demonstrate a compliance problem with its test pulses to meet a steady-state tolerance between 0.65 g and 0.72 g, as would justify its request to change the upper limit on the "sustain" portion of the boundary to 0.75 g; all test pulses included in the AORC's comments fell within the proposed tolerance, and the pulses generated by the agency during compliance testing similarly fell within that range.

In response to the AORC's comment regarding adoption of a longer locking distance, we have decided that such an amendment is not necessary for this new lower corridor. We believe that the test pulses, arising under the final rule, would provide sufficient onset rates to adequately permit enough webbing payout to comply with the standard.

We do not agree with Ford's opinion that the proposed A-T is overly broad and, therefore, not objective. NHTSA did not have an issue with performance of the existing test pulses used for compliance purposes. We found that those acceleration pulses have proven repeatable, reproducible, and indicative of pulse experience in the real world. The proposed A-T corridor was developed to ensure inclusion of these pulses, and in contrast to Ford's characterization, the proposed A-T corridor actually narrows the range of potential test pulses and addresses potential problems arising from the need to certify to theoretical pulses that might not exist in real world events. We believe that the proposed test corridor (further narrowed in the final rule through adoption of the AORC's newly suggested lower boundary) is objective because it clearly delineates which pulses are valid for the test procedure, thereby helping to meet the safety need of ensuring proper ELR lock-up. Furthermore, Ford did not state the criteria it believes necessary to define a corridor narrow enough to be objective. We would also note that, by definition, a corridor will accommodate more than one pulse; therefore, there will always be the possibility that the agency will choose to test a different pulse than the manufacturer.

In response to Dr. Ziv's comment, we would clarify that the ELR must meet the standard's requirements for any and all acceleration pulses that could be generated within the A-T corridor. Otherwise, proper functioning of the ELR could be limited to a highly targeted subset of the conceivable test pulses than would otherwise occur in actual crash events.

## 2. Data Acquisition

The NPRM proposed that the acceleration specifications under FMVSS No. 209 be recorded and processed according to the practices specified in SAE J211-1, rev. March 1995. It also proposed to require electronic signals to be filtered with an SAE Class 60 filter and use of an instrumentation-grade, high-accuracy  $\pm 10$  g accelerometer. The proposal also called for use of a displacement transducer to measure webbing displacement. (See S5.2(j)(3) of the NPRM.)

While generally supporting the aspect of the agency's proposal that would require proper filtering, TK Holdings recommended that, as part of the final rule, NHTSA require use of a  $\pm 20$  g full-scale accelerometer because of the potential for damage to a  $\pm 10$  g accelerometer during testing.

Both the AORC and Ford supported specification of the SAE Class 60 filter. However, they commented that NHTSA should further define the accelerometer type and that hardware/digital filters should be added in order to ensure objective test results. The AORC stated that in order to ensure meaningful comparisons, the data acquisition process must include identical sample rate, accelerometer sizing/type, and filtering. Accordingly, the AORC recommended adoption of a newer version of SAE J211-1 (December 2003), which was issued since the time of its initial petition, because the AORC believes that the updated versions of the SAE standard provides a more detailed data acquisition methodology; the AORC's view is that this change would help preclude the use of erroneous test conditions and facilitate correlation of data between test laboratories.

On another matter related to data acquisition, the AORC commented that the preamble of the NPRM discussed "direct measurement of webbing displacement," but that related language was not incorporated into the proposed regulatory text. The AORC concurred with NHTSA that indirect measurement of webbing displacement by means of numeric integration could impart a degree of uncertainty to the results. The AORC suggested that it is unnecessary to accept such uncertainty, because all modern acceleration sleds utilized by the restraints industry and independent test laboratories use high-precision and high-accuracy linear displacement transducers. By nature of these instruments, the AORC argued that no interpretation or filtering is necessary. According to the AORC, test laboratories use one of two designs to measure

webbing payout: (1) A pinch roller mechanism that acts directly on the webbing, with a transducer at the roller to measure webbing movement, or (2) a displacement transducer on a sled carriage that moves in a linear direction. The AORC suggested that NHTSA should add this information to the Laboratory Test Procedure for FMVSS No. 209.

In response to these comments, NHTSA has decided to make certain modifications in the final rule. We concur with the commenters that, with the development of the A-T corridor, the test procedures should be specific enough to ensure repeatability and reproducibility and that a more detailed data acquisition methodology would help preclude variance among testing laboratories and would improve test objectivity and enforceability. To this end, we have decided to adopt the AORC's recommendation to utilize SAE J211-1 (Dec. 2003 version), which we are incorporating by reference in FMVSS No. 209.

We also agree with the AORC that filtering is not necessary for data related to webbing payout, in light of the direct measurement equipment utilized by the industry. The agency's compliance test laboratories currently utilize high-precision and high-accuracy displacement transducers to directly measure webbing payout, thereby eliminating the need for numeric integration and data filtering. Accordingly, we have eliminated the statement in S5.2(j)(3) of the NPRM which had provided, "The displacement data shall be processed at Channel Frequency Class 60."

However, we have decided not to adopt TK Holdings' recommendation that we adopt a  $\pm 20$  g full-scale accelerometer, because we do not believe that such device is necessary for the present application. The commenter did not provide any supporting data to demonstrate that current  $\pm 10$  g accelerometers are at a high risk for damage, and the agency is unaware of any accelerometer failures at its compliance test laboratories due to an overshoot in the acceleration pulse. Furthermore, we are concerned that the precision of the pulse up to 0.7 g would be diminished by switching to an accelerometer with a larger range. Accordingly, we have decided to retain the requirement for use of a  $\pm 10$  g accelerometer.

### 3. Tolerances

The NPRM proposed to require a tolerance of  $\pm 3$  degrees for all angles and orientation of the seat belt assemblies

and components, unless otherwise specified. (See S5.4 of the NPRM.)

On the issue of tolerances, the AORC, TK Holdings, and Ford all concurred that NPRM's proposed angle tolerances should not apply to requirements where a range of angles is specified. However, these commenters argued that the proposed tolerance of  $\pm 3$  degrees is inappropriate for certain provisions of the standard, because it would necessitate a more sensitive ELR design, in order to compensate for mounting error during testing. The commenters stated that ELR designs with increased sensitivity are likely to be more nuisance-prone. For this reason, the AORC and TK Holdings recommended a tolerance level of  $\pm 0.5$  degrees for the angles and orientations specifically addressed in the NPRM.

We agree with the commenters that a tolerance level of  $\pm 3$  degrees for certain angle and orientation requirements might drive nuisance-prone ELR designs. Excessive tolerance, beyond the minimum level that is consistent with the ability of the test equipment, could introduce more error into the test procedure, thereby forcing unwanted compensation in the design of the ELR. Accordingly, we have decided to modify the relevant provisions in S5.2(j)(2) of the final rule to explicitly provide a tolerance level of  $\pm 0.5$  degrees for all angle and orientation requirements contained in that paragraph. The language of S5.4, "Tolerance on angles," has also been modified to reflect this change.

### 4. Request for Comments on Specific Issues

As noted above, the NPRM requested responses to several questions regarding the compliance of current ELRs to the proposed A-T corridor and methods that could be employed to accurately determine when ELR lock-up occurs. Each of the questions posed in the NPRM is repeated below, followed by the comments received on that issue, if any.

- The AORC suggested a corridor more narrowly defined at the beginning (*i.e.*, a 0-4 ms window). Would a narrower corridor as suggested by the AORC be feasible? Would a narrower corridor more accurately specify the A-T onset?

The AORC provided another suggested A-T corridor which was broader than the one it originally suggested. Specifically, the AORC extended the bottom portion of the corridor from 0-4 ms to 0-10 ms, in order to accommodate a potential lag in the initiation of the test pulse. However, the AORC's newly recommended

corridor was narrower than the one proposed in the NPRM.

- Would any currently compliant emergency-locking retractor be unable to comply under the proposed corridor?

TK Holdings responded by stating that all of its currently compliant ELR seat belt assemblies would comply with the A-T corridor proposed in the NPRM.

- Is 50 ms at the beginning of the time period sufficient to allow for an initial peak above 0.7 g limit?

In response to this question, TK Holdings stated that 50 ms provides sufficient time to reach 0.7 g.

The agency notes that in this final rule, we have modified the lower boundary of the A-T corridor such that the initial peak must be obtained within 40 ms. However, we do not believe that this modification will impact any existing compliant ELR because agency data show that current acceleration pulses reach 0.7 g well before 40 ms.

- ELR lock-up occurs when rotation of the ELR gear assembly stops. The methods employed by test laboratories to determine ELR lock-up are indirect methods rather than direct measurement of the ELR gear. In general, an ELR lock-up occurrence is determined by the observation of a sudden change in sled acceleration-time curve. Thus, the exact time of lock-up is subject to test laboratory's interpretation of this event. We are requesting input on methods that can be employed in our test procedures to accurately determine when ELR lock-up occurs. Your response should include the following:

(a) The type of sensing device and/or test equipment to be employed for detecting lock-up.

(b) Any procedures for performing a lock-up test. Please provide technical support.

(c) Any criteria used to evaluate the lock-up condition. Please provide technical support.

The AORC and TK Holdings both responded to this question by suggesting the use of a threshold load, which they stated is consistent with current industry practice. According to the commenters, a typical set-up includes a belt load sensor in the webbing path between the fixed webbing end and the retractor. They stated that the standard industry practice is to use a 35 Newton (N)  $\pm 10$  N belt load to indicate that a lock-up has occurred. However, the AORC argued that an additional 3-5 mm of allowable webbing payout is necessary to account for the additional webbing travel between the actual lock-up time and the time it takes to achieve a 35 N load on the webbing.

NHTSA understands that there is currently more than one methodology in use for determining ELR lock-up. Some laboratories use the industry standard (i.e., a 35 N threshold), while others determine lock-up through observation of a sudden change in the A-T curve. In the final rule, we have decided not to specify a required method for determining ELR lock-up for the following reasons. First, the industry load threshold approach is also an indirect measurement of lock-up, and the agency does not have sufficient technical information to assess and adopt that approach. Furthermore, we have not heard of any problems associated with existing methods for determining ELR lock-up.

#### 5. Lead Time

The NPRM proposed to provide affected entities with lead time of one year from the time of publication of a final rule to meet the requirements of the amended standard.

The AORC and TK Holdings requested that the lead time for compliance with the final rule's requirements be extended from 12 months, as proposed, to 18 months. The commenters stated that such additional time is necessary to permit companies to purchase and to install new equipment, if necessary, to ensure compliance with the amended standard.

NHTSA has decided to extend the compliance date with these amendments to FMVSS No. 209 to 18 months after the date of issuance of this final rule, as requested by the commenters. Because we do not anticipate that the changes contained in this final rule would have any significant impact upon the effectiveness or compliance of existing ELRs, we believe that it is appropriate to afford companies additional time to purchase and configure their equipment, if necessary, to comply with the amended standard.

#### 6. Other Issues

Commenters also raised a number of other sundry issues with the NPRM, as discussed below.

The AORC commented that in the proposed regulatory text in S4.3(j)(2), the agency changed certain wording in that paragraph from "when the retractor is subjected to an acceleration" to "after the retractor is subjected to an acceleration." In its submission, the AORC argued that this wording change affects the meaning of that provision, and it requested that in the final rule, the agency revert to the original language.

We have decided to adopt the recommendation of the AORC and reintroduce the phrase "when the retractor is subjected to an acceleration" at the appropriate place in the final rule. We agree that using the phrase "after the retractor is subjected to an acceleration" could be misinterpreted as permitting the retractor to lock up anytime after an acceleration pulse of 0.7 g, something that the agency clearly did not intend. We believe that this modification will correctly capture the relationship between acceleration and ELR lock-up.

Renfroe Engineering commented that there is not any existing minimum acceleration requirement for webbing-sensitive retractors, so long as the assembly complies with the vehicle-sensitive test. It also argued that a range of 1-4 g is necessary to induce lock-up in webbing-sensitive retractors (although the commenter provided no technical data in support of this position). Accordingly, Renfroe Engineering requested that FMVSS No. 209 be amended to require ELRs equipped with dual-sensitive retractors to comply with the standard for both designs.

We believe that Renfroe's request is outside the scope of the present rulemaking. Furthermore, we believe that having two separate lock-up requirements for each assembly would introduce unnecessary duplicity into the standard, because compliance is based on whether or not the ELR locks up at the proper acceleration and webbing payout, regardless of the type of sensor used to accomplish this.

In a similar vein, the AORC raised the issue of "nuisance locking" for multi-sensing ELRs. Specifically, the AORC expressed concern about multi-sensing ELRs for which only the vehicle-sensing capability is certified, thereby leaving the webbing-sensing mode unchecked. The AORC stated that the vehicle sensor might engage a lock-up on a multi-sensing ELR when testing for a webbing-sensitive "no lock" by a 0.3 g acceleration of the retractor. To remedy this potential problem, the AORC suggested that the regulatory text be amended either by requiring webbing acceleration of 0.3 g for dual-sensing retractors or by providing a related provision in the test procedures. In addition, the AORC stated that on the issue of the requirements for locking of a webbing-sensitive retractor, the webbing of the retractor should be accelerated, rather than the retractor itself.

In a February 19, 1981 letter of interpretation to Mr. Frank Pepe,<sup>11</sup> we stated that dual-sensitive ELRs should be treated as either a vehicle-sensitive retractor or a webbing-sensitive retractor for purposes of the standard. In that letter, the agency explained its intention to require use of either type of retractor. Accordingly, the agency decided to require manufacturers to elect one type of retractor for certification purposes and to conduct testing for only that type of retractor (while voluntarily permitting a different type of retractor). In that interpretation letter, we expressed our belief that this approach would eliminate the apparent conflict that had arisen in the compliance envelopes established in S4.3(j)(1) and (2), given the compliance tolerances built into these dual-sensitive systems. That approach also would not discourage manufacturers from providing the overlapping protection of a dual-sensitive ELR.

As to the issue of whether the webbing or the retractor should be accelerated, the same letter of interpretation points out that paragraph S4.3(j)(2) specifically states that the retractor is to be accelerated, not the belt webbing, because there are inertial forces that react on the retractor during its acceleration that are not present when the webbing alone is accelerated. We believe that this reasoning remains valid, and it is reflected in the regulatory text of this final rule.

The agency has not been receiving complaints regarding "nuisance locking" of multi-sensing ELRs, and we do not believe that this issue presents a safety concern in the present fleet. However, if the agency were presented with supporting data to document a genuine problem, we might reconsider our 1981 interpretation.

In its comments, the AORC also argued as to the need for an A-T corridor for the no-lock requirement at an acceleration of no greater than 0.3 g, citing similar reasoning as contained in its petition for the corridor in the 0.7 g lock-up requirement. Specifically, the AORC recommended a corridor with only an upper boundary, with an initial onset rate of 150 g/sec and an upper limit sustained at 0.3 g.

After carefully considering the AORC's comment on this issue, we do not believe that it is necessary to amend the standard to provide an A-T corridor for the no-lock requirement because the existing specification is valid. In the existing standard, the requirement in S4.3(j)(2) states that the retractor shall

<sup>11</sup> See <http://www.nhtsa.dot.gov/cars/rules/interps/gm/81/nht81-1.14.html>.



not lock before the webbing payout extends to the minimum limit of 51 mm when the retractor is subjected to an acceleration no greater than 0.3 g, which is to occur within the first 50 ms and is to be sustained throughout the test. The agency believes that this requirement implicitly provides the appropriate boundary for the acceleration pulse (with a range specified at 0.3 g or less), so there is not any need to explicitly define an acceleration tolerance corridor for the no-lock requirement. We likewise do not believe that it is necessary to limit the onset rate limit to 150 g/sec. If the acceleration pulse meets the existing requirements of the hardware and data acquisition methodology, a no-lock corridor should not be necessary. Furthermore, even if we did agree with the AORC's suggestion in this regard, it would not be appropriate to make this change immediately in the final rule without the opportunity for public comment, because the issue of a no-lock corridor was not raised in either the AORC's original petition or the NPRM.

Public Citizen submitted its report titled, "Rolling Over on Safety: The Hidden Failures of Belts in Rollover Crashes," which documents what that organization perceives to be inadequacies in current safety belt design and performance during rollover events. Although rollover crashes are a topic of significant concern for the agency, our assessment is that the Public Citizen report does not directly address the specific issues in this rulemaking because of the different nature of rollover sensors and seat belt technology such as pretensioners.

## V. Benefits and Costs

In preparing its June 3, 2004 proposal, NHTSA did not estimate benefits for this rulemaking because we anticipated that it would not result in substantial changes to the performance of emergency-locking retractors. This assessment has not changed at the final rule stage. These amendments to FMVSS No. 209 more directly affect the test procedure specifications and are intended only to clarify the test specifications.

NHTSA anticipates only a minimal cost burden to vehicle manufacturers from this final rule. Testing laboratories might have to develop new specifications for the instrumentation used to generate the acceleration pulses and may be required to obtain the specified accelerometer. However, NHTSA anticipates that only a small number of businesses will need to purchase new equipment, since the specifications were requested by the

AORC in its petition. The members of the AORC constitute the majority of seat belt suppliers in the U.S. Those who would have to purchase new equipment may do so for a one-time, minimal cost to the test laboratory. Furthermore, it is anticipated that all current ELRs will continue to comply with FMVSS No. 209 without change under the final rule's amendments.

## VI. Rulemaking Analyses and Notices

### A. Vehicle Safety Act

Under 49 U.S.C. Chapter 301, *Motor Vehicle Safety* (49 U.S.C. 30101 *et seq.*), the Secretary of Transportation is responsible for prescribing motor vehicle safety standards that are practicable, meet the need for motor vehicle safety, and are stated in objective terms.<sup>12</sup> These motor vehicle safety standards set a minimum standard for motor vehicle or motor vehicle equipment performance.<sup>13</sup> When prescribing such standards, the Secretary must consider all relevant, available motor vehicle safety information.<sup>14</sup> The Secretary also must consider whether a proposed standard is reasonable, practicable, and appropriate for the type of motor vehicle or motor vehicle equipment for which it is prescribed and the extent to which the standard will further the statutory purpose of reducing traffic accidents and associated deaths.<sup>15</sup> The responsibility for promulgation of Federal motor vehicle safety standards has been delegated to NHTSA.<sup>16</sup>

In developing this final rule to further clarify the test procedures of FMVSS No. 209, *Seat Belt Assemblies*, the agency carefully considered the statutory requirements of 49 U.S.C. Chapter 301.

First, this final rule arose from a petition for rulemaking brought by the industry association for seat belt assembly manufacturers, which recommended changes for amending the standard to more clearly define requirements and to establish a new test methodology for emergency-locking retractors. This final rule is preceded by an NPRM, which facilitated the efforts of the agency to obtain and consider relevant motor vehicle safety information, as well as public comments. Further, in preparing this document, the agency carefully evaluated available research, testing results, and other information related to

various ELR technologies. In sum, this document reflects our consideration of all relevant, available motor vehicle safety information.

Second, to ensure that the requirements for ELRs are practicable, the agency considered the form and functionality of currently compliant ELRs, consistent with our safety objectives and the statutory requirements. We note that ELRs are already required on light vehicles, and we believe that it will be practicable to adopt the new requirements and test methodology of this final rule without necessitating redesigns on the part of ELR manufacturers. We expect that vehicle manufacturers will continue to have a number of technological choices available for meeting the requirements of the FMVSS No. 209 for ELRs. In sum, we believe that this final rule is practicable and will provide greater clarity in terms of the test procedures for ELRs.

Third, the regulatory text following this preamble is stated in objective terms in order to specify precisely what performance is required and how performance will be tested to ensure compliance with the standard. Specifically, the final rule sets forth performance requirements for operation of the ELR, including the circumstances under which the ELR must lock. The final rule also includes revised test requirements for ELRs, including establishment of a new acceleration-time corridor, provision of a tolerance for angle measurements, and adoption of the same instrumentation specifications currently found in other FMVSSs containing crash tests. The standard's test procedures carefully delineate how testing will be conducted. Thus, the agency believes that this test procedure is sufficiently objective and would not result in any uncertainty as to whether a given vehicle satisfies the requirements of FMVSS No. 209.

Fourth, we believe that this final rule will meet the need for motor vehicle safety because the standard will better define the acceleration pulse that will be utilized in testing ELRs, mechanisms which serve the critical function of ensuring that seat belts are properly locked up in the event of sudden deceleration or a crash.

Finally, we believe that this final rule is reasonable and appropriate for motor vehicles subject to the applicable requirements. As discussed elsewhere in this notice, the agency is addressing the petitioner's concern that to better define the ELR requirements and test procedures, actions which we do not expect will increase the present stringency of the standard or cause

<sup>12</sup> 49 U.S.C. 30111(a).

<sup>13</sup> 49 U.S.C. 30102(a)(9).

<sup>14</sup> 49 U.S.C. 30111(b).

<sup>15</sup> *Id.*

<sup>16</sup> 49 U.S.C. 105 and 322; delegation of authority at 49 CFR 1.50.

compliance problems for existing ELRs. Accordingly, we believe that this final rule is appropriate for the seat belt assemblies in covered vehicles that are subject to these provisions of FMVSS No. 209 because it furthers the agency's objective of preventing deaths and serious injuries by ensuring that ELRs in seat belts function properly.

#### *B. 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 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 budgetary 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 Executive Order 12866. The rule is not considered to be significant within the meaning of E.O. 12866 or the Department of Transportation's Regulatory Policies and Procedures (44 FR 11034 (Feb. 26, 1979)). As stated above in Section V, *Benefits and Costs*, this final rule is not expected to require substantial changes in performance of emergency-locking retractors. Testing laboratories might need to develop new specifications for the instrumentation used to generate the acceleration pulses, but it is not expected to result in more than a minimal cost burden for manufacturers.

#### *C. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public

comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR Part 121 define a small business, in part, as a business entity "which operates primarily within the United States." (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule would not have a significant economic impact on a substantial number of small entities. The rationale for this certification is as follows. The final rule is expected to directly affect motor vehicle manufacturers, manufacturers of seat belt assemblies, and test laboratories. North American Industrial Classification System (NAICS) code numbers 336111, *Automobile Manufacturing*, and 336112, *Light Truck and Utility Vehicle Manufacturing*, prescribe a small business size standard of 1,000 or fewer employees. NAICS code No. 336399, *All Other Motor Vehicle Parts Manufacturing*, prescribes a small business size standard of 750 or fewer employees.

Most vehicle manufacturers would not qualify as a small business, and we understand that currently there are only four small motor vehicle manufacturers (*i.e.*, only four with fewer than 1,000 employees) in the United States that will have to comply with this final rule. These manufacturers are expected to rely on suppliers to provide the seat belt assembly hardware, and then they would integrate it into their vehicles.

In addition, we note that this final rule has been promulgated in response to a petition for rulemaking from the AORC, which represents U.S. manufacturers of seat belt assemblies. The agency does not anticipate manufacturers of seat belt assemblies having any difficulty in complying with the final rule. The final rule might make it necessary for testing laboratories to develop new specifications for the instrumentation used to generate and record the acceleration pulses. We anticipate that this would result in only

a minimal burden to seat belt manufacturers and vehicle manufacturers. Since test laboratories already have the instrumentation necessary to record the A-T response for compliance testing, we estimate the maximum, one-time cost to laboratories to be less than \$500. This cost would be for the purchase of an instrument-grade, high-accuracy  $\pm 10$  g accelerometer. In conclusion, the agency believes that this final rule will not have a significant economic impact upon a substantial number of small businesses.

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

Executive Order 13132, "Federalism" (64 FR 43255, August 10, 1999), requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" are defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, the agency may not issue a regulation with Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation with federalism implications and that preempts a State law unless the agency consults with State and local officials early in the process of developing the regulation.

NHTSA has analyzed this final rule in accordance with the principles and criteria set forth in Executive Order 13132, and the agency determined that the rule does not have sufficient Federalism implications to warrant consultations with State and local officials or the preparation of a Federalism summary impact statement. This final rule is not expected to have any substantial effects on the States, or on the current distribution of power and responsibilities among the various local officials.

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

Pursuant to Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996), the agency has considered whether this rulemaking would have any retroactive effect. This final rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the State requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file a suit in court.

#### *F. Executive Order 13045 (Protection of Children From Environmental Health and Safety Risks)*

Executive Order 13045, "Protection of Children from Environmental Health and Safety Risks" (62 FR 19855, April 23, 1997), applies to any rule that: (1) Is determined to be "economically significant" as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency 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 the agency.

This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action under Executive Order 12866 and because it does not involve decisions based on environmental, health, or safety risks that disproportionately affect children.

#### *G. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA) (Pub. L. 104-13), 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. This final rule does not contain any collection of information requirements requiring review under the PRA.

#### *H. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, (15 U.S.C. 272) directs the agency to evaluate and use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or is otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the Society of Automotive Engineers. The NTTAA directs us to provide Congress (through OMB) with explanations when we decide not to use available and applicable voluntary consensus standards. The NTTAA does not apply to symbols.

The amendments adopted in this final rule incorporate voluntary consensus standards adopted by the Society of Automotive Engineers. Accordingly, this final rule is in compliance with Section 12(d) of the NTTAA.

#### *I. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires federal 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 (so currently about \$112 million in 2001 dollars)). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

This final rule is not expected to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector in excess of \$112 million annually.

#### *J. National Environmental Policy Act*

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

#### *K. Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use)*

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (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 significant adverse effect on the supply of, distribution of, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. This final rule, which amends the acceptable pulse corridor for demonstrating compliance with the seat belt emergency-locking retractor specifications and incorporates SAE measurement procedures, is neither an economically significant rulemaking nor one likely to have a significant energy impact. Therefore, this final rule was not analyzed under E.O. 13211.

#### *L. Regulatory Identifier Number (RIN)*

The Department of Transportation assigns a regulatory 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*

Please note that 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 Parts 571**

Imports, Incorporation by Reference, Motor vehicle safety, Motor vehicles, Tires.

■ In consideration of the foregoing, NHTSA is amending 49 CFR parts 571 as follows:

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

■ 1. The authority citation for Part 571 of Title 49 continues to read as follows:

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

- 2. Section 571.209 is amended by:
  - a. Revising S4.1(a) and (b), S4.3(j), and S5.2(j);
  - b. Adding S5.4; and
  - c. Adding Figure 8 after Figure 7 of § 571.209.

The revised and added sections read as follows:

**§ 571.209 Standard No. 209; Seat belt assemblies.**

\* \* \* \* \*

**S4 Requirements.**

S4.1(a) *Incorporation by reference.* SAE Recommended Practice J211-1 rev. December 2003, "Instrumentation for Impact Test—Part 1—Electronic Instrumentation," is incorporated by reference in S5.2(j) and is hereby made part of this Standard. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. Copies of SAE Recommended Practice J211-1 rev. December 2003, "Instrumentation for Impact Test—Part 1—Electronic Instrumentation" may be obtained from the Society of Automotive Engineers, Inc., 400 Commonwealth Drive, Warrendale, PA 15096-0001. Copies may be inspected at the National Highway Traffic Safety Administration, Technical Information Services, 400 Seventh Street, SW., Plaza Level, Room 403, Washington, DC 20590, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

(b) *Single occupancy.* A seat belt assembly shall be designed for use by one, and only one, person at any one time.

\* \* \* \* \*

**S4.3 Requirements for hardware.**

\* \* \* \* \*

**(j) Emergency-locking retractor.**

(1) *For seat belt assemblies manufactured before February 22, 2007.* Except for manufacturers that, at the manufacturer's option, voluntarily

choose to comply with S4.3(j)(2) during this period (with said option irrevocably selected prior to, or at the time of, certification of the seat belt assembly), an emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)(1)—

(i) Shall lock before the webbing extends 25 mm when the retractor is subjected to an acceleration of 7 m/s<sup>2</sup> (0.7 g);

(ii) Shall not lock, if the retractor is sensitive to webbing withdrawal, before the webbing extends 51 mm when the retractor is subjected to an acceleration of 3 m/s<sup>2</sup> (0.3 g) or less;

(iii) Shall not lock, if the retractor is sensitive to vehicle acceleration, when the retractor is rotated in any direction to any angle of 15° or less from its orientation in the vehicle;

(iv) Shall exert a retractive force of at least 3 N under zero acceleration when attached only to the pelvic restraint;

(v) Shall exert a retractive force of not less than 1 N and not more than 5 N under zero acceleration when attached only to an upper torso restraint;

(vi) Shall exert a retractive force not less than 1 N and not more than 7 N under zero acceleration when attached to a strap or webbing that restrains both the upper torso and the pelvis.

(2) *For seat belt assemblies manufactured on or after February 22, 2007 and for manufacturers opting for early compliance.* An emergency-locking retractor of a Type 1 or Type 2 seat belt assembly, when tested in accordance with the procedures specified in paragraph S5.2(j)(2)—

(i) Shall under zero acceleration loading—

(A) Exert a retractive force of not less than 1 N and not more than 7 N when attached to a strap or webbing that restrains both the upper torso and the pelvis;

(B) Exert a retractive force not less than 3 N when attached only to the pelvic restraint; and

(C) Exert a retractive force of not less than 1 N and not more than 5 N when attached only to an upper torso restraint.

(D) For a retractor sensitive to vehicle acceleration, lock when tilted at any angle greater than 45 degrees from the angle at which it is installed in the vehicle or meet the requirements of S4.3(j)(2)(ii).

(E) For a retractor sensitive to vehicle acceleration, not lock when the retractor is rotated in any direction to any angle of 15 degrees or less from its orientation in the vehicle.

(ii) Shall lock before the webbing payout exceeds the maximum limit of 25 mm when the retractor is subjected to an acceleration of 0.7 g under the applicable test conditions of S5.2(j)(2)(iii)(A) or (B).

(iii) For a retractor sensitive to webbing withdrawal, shall not lock before the webbing payout extends to the minimum limit of 51 mm when the retractor is subjected to an acceleration no greater than 0.3 g under the test condition of S5.2(j)(2)(iii)(C).

\* \* \* \* \*  
**S5.2 Hardware.**

\* \* \* \* \*

**(j) Emergency-locking retractor.**

(1) *For seat belt assemblies manufactured before February 22, 2007.*

Except for manufacturers that elect to comply with S4.3(j)(2) and the corresponding test procedures of S5.2(j)(2), a retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on hardware or webbing being retracted. The webbing shall be fully extended from the retractor, passing over or through any hardware or other material specified in the installation instructions. While the webbing is being retracted, the lowest force of retraction within ±51 mm of 75 percent extension shall be determined. A retractor that is sensitive to webbing withdrawal shall be subjected to an acceleration of 3 m/s<sup>2</sup> (0.3 g) within a period of 50 milliseconds (ms) while the webbing is at 75 percent extension, to determine compliance with

S4.3(j)(1)(ii). The retractor shall be subjected to an acceleration of 7 m/s<sup>2</sup> (0.7 g) within a period of 50 ms, while the webbing is at 75 percent extension, and the webbing movement before locking shall be measured under the following conditions: For a retractor sensitive to webbing withdrawal, the retractor shall be accelerated in the direction of webbing retraction while the retractor drum's central axis is oriented horizontally and at angles of 45°, 90°, 135°, and 180° to the horizontal plane. For a retractor sensitive to vehicle acceleration, the retractor shall be:

(i) Accelerated in the horizontal plane in two directions normal to each other, while the retractor drum's central axis is oriented at the angle at which it is installed in the vehicle; and

(ii) Accelerated in three directions normal to each other while the retractor drum's central axis is oriented at angles of 45°, 90°, 135°, and 180° from the angle at which it is installed in the vehicle, unless the retractor locks by gravitational force when tilted in any

direction to any angle greater than 45° from the angle at which it is installed in the vehicle.

(2) *For seat belt assemblies manufactured on or after February 22, 2007 and for manufacturers opting for early compliance.* A retractor shall be tested in a manner that permits the retraction force to be determined exclusive of the gravitational forces on the hardware or webbing being retracted.

(i) Retraction force: The webbing shall be extended fully from the retractor, passing over and through any hardware or other material specified in the installation instructions. While the webbing is being retracted, measure the lowest force of retraction within  $\pm 51$  mm of 75 percent extension.

(ii) Gravitational locking: For a retractor sensitive to vehicle acceleration, rotate the retractor in any direction to an angle greater than 45 degrees from the angle at which it is installed in the vehicle. Apply a force to the webbing greater than the minimum force measured in S5.2(j)(2)(i) to determine compliance with S4.3(j)(2)(i)(D).

(iii) Dynamic tests: Each acceleration pulse shall be recorded using an accelerometer having a full scale range

of  $\pm 10$  g and processed according to the practices set forth in SAE Recommended Practice J211-1 rev. December 2003, "Instrumentation for Impact Test—Part 1—Electronic Instrumentation," Channel Frequency Class 60. The webbing shall be positioned at 75 percent extension, and the displacement shall be measured using a displacement transducer. For tests specified in S5.2(j)(2)(iii)(A) and (B), the 0.7 g acceleration pulse shall be within the acceleration-time corridor shown in Figure 8 of this standard.

(A) For a retractor sensitive to vehicle acceleration—

(1) The retractor drum's central axis shall be oriented at the angle at which it is installed in the vehicle  $\pm 0.5$  degrees. Accelerate the retractor in the horizontal plane in two directions normal to each other and measure the webbing payout; and

(2) If the retractor does not meet the 45-degree tilt-lock requirement of S4.3(j)(2)(i)(D), accelerate the retractor in three directions normal to each other while the retractor drum's central axis is oriented at angles of 45, 90, 135, and 180 degrees  $\pm 0.5$  degrees from the angle at which it is installed in the vehicle and measure webbing payout.

(B) For a retractor sensitive to webbing withdrawal—

(1) The retractor drum's central axis shall be oriented horizontally  $\pm 0.5$  degrees. Accelerate the retractor in the direction of webbing retraction and measure webbing payout; and

(2) The retractor drum's central axis shall be oriented at angles of 45, 90, 135, and 180 degrees  $\pm 0.5$  degrees to the horizontal plane. Accelerate the retractor in the direction of the webbing retraction and measure the webbing payout.

(C) A retractor that is sensitive to webbing withdrawal shall be subjected to an acceleration no greater than 0.3 g occurring within a period of the first 50 ms and sustaining an acceleration no greater than 0.3 g throughout the test, while the webbing is at 75 percent extension. Measure the webbing payout.

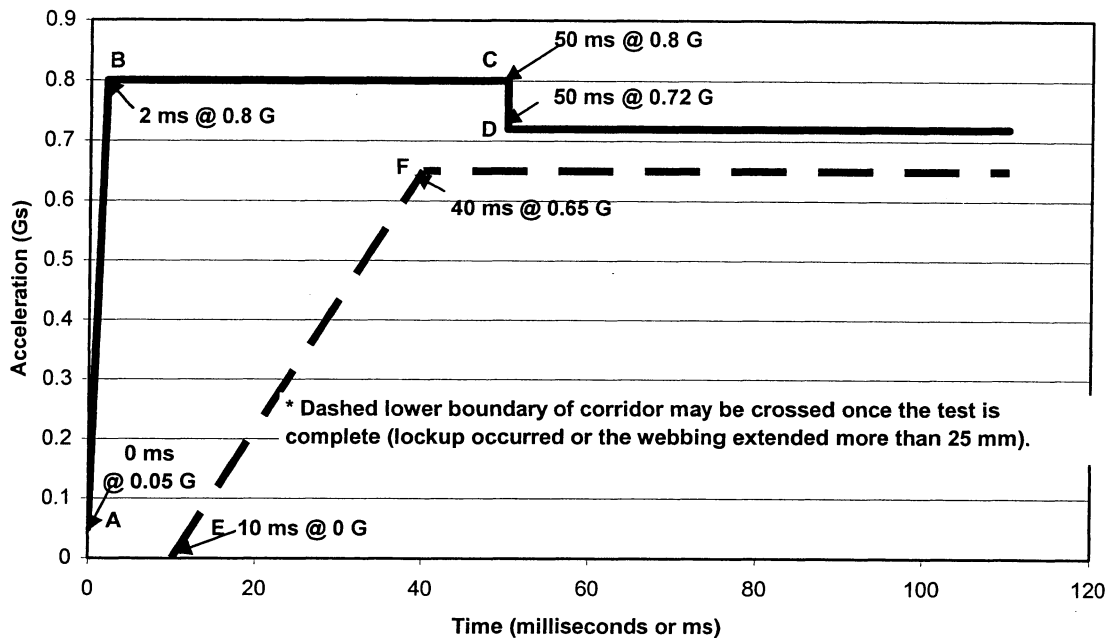
\* \* \* \* \*

S5.4 *Tolerances on angles.* Unless a range of angles is specified or a tolerance is otherwise explicitly provided, all angles and orientations of seat belt assemblies and components specified in this standard shall have a tolerance of  $\pm 3$  degrees.

\* \* \* \* \*

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Figure 8: Acceleration Corridors



Reference Point	Time (ms)	Acceleration (g)
A	0	0.05
B	2	0.8
C	50	0.8
D	50	0.72
E	10	0
F	40	0.65

Issued: August 12, 2005.

**Ronald L. Medford,**

Senior Associate Administrator for Vehicle Safety.

[FR Doc. 05-16524 Filed 8-19-05; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN 1018-AT54

**Endangered and Threatened Wildlife and Plants; Correction of Special Rule to Control the Trade of Threatened Beluga Sturgeon (*Huso huso*)**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; correction.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are correcting a special rule promulgated under Section 4(d) of the Endangered Species Act of 1973, as amended (Act), to exempt the import and export of, and foreign and interstate commerce in, certain products of beluga sturgeon (*Huso huso*) from the permit requirements under 50 CFR 17.32. These corrections are not substantive.

**DATES:** This rule is effective March 4, 2005.

**FOR FURTHER INFORMATION CONTACT:** Robert R. Gabel, Chief, Division of Scientific Authority, at the above address (phone: 703-358-1708). For permitting information, contact: Tim Van Norman, Chief, Branch of Permits—International, at the address above (phone: 703-358-2104, or toll free, 1-800-358-2104).

**SUPPLEMENTARY INFORMATION:** On March 4, 2005, we, the U.S. Fish and Wildlife Service (Service), promulgated a special rule (70 FR 10493) under Section 4(d) of the Endangered Species Act of 1973, as amended (Act), to exempt the import and export of, and foreign and interstate commerce in, certain products of beluga sturgeon (*Huso huso*) from the permit requirements in 50 CFR 17.32 regarding the importation of threatened species. Errors were introduced into the regulatory text of the rule. We correct these errors now for the purpose of reinstating clarity. None of these changes are substantive.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Export, Import, Reporting and recordkeeping requirements, Transportation.