

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 245B1 at Lost Hills, and by removing Channel 246B1 at San Luis Obispo.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-15129 Filed 8-2-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 05-2007; MB Docket No. 05-129; RM-11201]

Radio Broadcasting Services; Jacksonville, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making*, 70 FR 19403 (April 13, 2005) this *Report and Order* grants the proposal to allot Channel 236A to Jacksonville, Texas and also grants requests to relocate the transmitter sites of vacant Channels 237C3, Teague, Texas and 237A, Meridian, Texas, to accommodate the allotment of Channel 236A to Jacksonville. The coordinates for Channel 236A at Jacksonville, Texas are 31-54-15 North Latitude and 95-17-42 West Longitude, with a site restriction of 7.0 kilometers (4.3 miles) east of Jacksonville. The new allotment coordinates of vacant Channel 237C3 at Teague, Texas, are 31-48-30 North Latitude and 96-14-00 West Longitude, with a site restriction of 20.7 kilometers (12.8 miles) north of Teague, Texas. The new allotment coordinates of vacant Channel 237A, Meridian, Texas, are 32-00-00 North Latitude and 97-43-00 West Longitude, with a site restriction of 10.3 kilometers (6.4 miles) northwest of Meridian, Texas.

DATES: Effective August 29, 2005.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order*, MB Docket No. 05-129, adopted July 13, 2005, and released July 15, 2005.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information

Center at Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail qualexint@aol.com. The Commission will send a copy of this *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

■ Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

■ 1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 236A to Jacksonville.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-15128 Filed 8-2-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 05-22010]

Federal Motor Vehicle Safety Standards; Child Restraint Systems

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

ACTION: Interim final rule; request for comments.

SUMMARY: On June 24, 2003, the agency published a final rule mandating, in part, the use of the Hybrid III 6-year-old test dummy in compliance testing under Federal Motor Vehicle Safety Standard (FMVSS) No. 213, Child restraint systems, beginning August 1, 2005. That same rule permitted optional use of the Hybrid III 6-year-old test dummy for compliance testing prior to August 1, 2005. A child restraint manufacturer filed a petition for rulemaking

requesting that the date for mandatory use of the Hybrid III 6-year-old test dummy be delayed. The manufacturer stated that such a delay was necessary because of technical issues that have arisen through the use of this new test dummy.

In response to this petition, we are permitting use of the Hybrid III 6-year-old test dummy or the Hybrid II 6-year-old test dummy for compliance testing under FMVSS No. 213 until August 1, 2008.

DATES: *Effective Date:* The amendment made in this rule is effective August 1, 2005.

Comments: Comments must be received by NHTSA not later than October 3, 2005, and should refer to the docket and notice number of this document.

ADDRESSES: You may submit comments [identified by the DOT DMS Docket Number above] by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1-202-493-2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

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

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

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Dr. George Mouchahoir, Office of Crashworthiness Standards, at (202) 366-4919, facsimile (202) 493-2739.

For legal issues, you may call Mr. Chris Calamita, Office of the Chief Counsel, at (202) 366-2992, facsimile (202) 366-3820.

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

SUPPLEMENTARY INFORMATION: On June 24, 2003, the agency published a final rule making a number of revisions to FMVSS No. 213, *Child Restraint Systems* (49 CFR 571.213) (68 FR 37620). The revisions incorporated four elements into the standard: (a) An updated bench seat used to dynamically test add-on child restraint systems; (b) a sled pulse that provides a wider test corridor; (c) expanded applicability to child restraint systems recommended for use by children weighing up to 65 pounds; and (d) improved child test dummies. The newly incorporated test dummies included the Hybrid III 6-year-old test dummy, conforming to 49 CFR part 572 subpart N. Under the June 2003 final rule, use of the Hybrid III 6-year-old test dummy in compliance testing under FMVSS No. 213 is required beginning August 1, 2005.

The agency incorporated the Hybrid III 6-year-old test dummy because we believe that the performance of child restraint systems will be more thoroughly and precisely assessed by use of this test dummy's enhanced biofidelity and extensive instrumentation. Since the Hybrid III is more biomechanically based, we believe that it provides a more humanlike response than the Hybrid II version of the dummy.

On June 14, 2005, the agency received a petition from Dorel Juvenile Group (Dorel), a child restraint manufacturer, seeking to delay the compliance date for the mandatory use of the Hybrid III 6-year-old test dummy. Although the final rule incorporating the Hybrid III 6-year-old test dummy was finalized in June 2003, Dorel stated that it had anticipated continued compliance of its belt positioning booster seats when tested with the new test dummy. However, Dorel submitted data in support of its petition demonstrating that testing of its belt positioning boosters with the Hybrid III 6-year-old test dummy yielded Head Injury Criterion (HIC) measurements approximately double that when the same seats were tested with the Hybrid II 6-year-old test dummy. As such, Dorel

stated that some of its belt positioning booster seats would fail to comply with the requirements of FMVSS No. 213 as of August 1, 2005. Dorel stated that the high HIC values were a result of chin to chest contact experienced by the Hybrid III 6-year-old test dummy, which was the result of elongation of the Hybrid III neck.¹

In a June 20, 2005 meeting with the agency, Dorel stated that it would be able to redesign its child restraint systems so that they would comply with testing using the Hybrid III 6-year-old dummy, but that they would be unable to do so by August 1, 2005.

In response to this petition, we are making a change to the June 2003 final rule. We are delaying the date for mandatory use of the Hybrid III 6-year-old dummy until August 1, 2008. Prior to August 1, 2008, a manufacturer may comply with testing using the Hybrid II 6-year-old test dummy. Although manufacturers were originally provided two years of lead time for the use of the Hybrid III 6-year-old test dummy, it was an insufficient period for manufacturers to optimize their product designs to the requirements of the standard when tested with this new test dummy.

The agency continues to believe that the Hybrid III 6-year-old test dummy provides a better assessment of a child restraint system's performance. However, the agency is aware of the need to allow manufacturers to obtain and gain experience with using the Hybrid III 6-year-old test dummy for child restraint system compliance purposes. We previously determined that two years should be allowed for manufacturers to gain this experience, but this now appears to have been insufficient.

As previously stated, we incorporated the Hybrid III 6-year-old test dummy because it is considerably more biofidelic than its predecessor, the Hybrid II 6-year-old dummy conforming to 49 CFR part 572 subpart I, and has considerably more extensive instrumentation to measure impact responses such as forces, accelerations, moments, and deflections in conducting tests to evaluate vehicle occupant protection system. Under today's final rule, if a manufacturer does not certify to the testing requirements using the Hybrid III 6-year-old test dummy, it must still certify to testing requirements using the Hybrid II 6-year-old test dummy. Given that restraints currently certified using the Hybrid II 6-year-old test dummy have performed well in the real world, we believe that temporarily

delaying the compliance date for mandatory use of the Hybrid III 6-year-old will not impact safety.

Because the August 1, 2005 compliance date is fast approaching, NHTSA finds good cause to issue this interim final rule effectively delaying the compliance date for the mandatory use of the Hybrid III 6-year-old test dummy until August 1, 2008. Further we find good cause to make it effective on August 1, 2005, in order to prevent a reduction in the number of belt positioning booster seats available to consumers. We are accepting comments on this interim final rule. See, Request for Comments section below.

Regulatory Analyses and Notices

A. Executive Order, 12866 Regulatory Planning and Review

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

- (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;
- (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- (3) Materially alter the 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 under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and only extends the compliance date for certification to testing with the Hybrid III 6-year-old test dummy.

The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of

¹ Dorel's petition and the accompanying data have been placed in the docket for this rulemaking.

this rulemaking action will have on small entities (5 U.S.C. Sec. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). This final rule affects child restraint manufacturers. According to the size standards of the Small Business Association (at 13 CFR 121.601), the small business size standard for manufacturers of "Motor Vehicle Seating and Interior Trim Manufacturing" (NAICS Code 336360) is 500 employees or fewer. A majority of child restraint manufacturers would be classified as a small business under this standard. However, the final rule does not impose any new requirements on manufacturers that produce child restraint systems. This final extends a compliance date in response to a petition from Dorel, a child restraint manufacturer. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

C. Executive Order 13132, Federalism

E.O. 13132 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." E.O. 13132 defines the term "Policies that have federalism implications" 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 E.O. 13132, NHTSA may not issue a regulation that has 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, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will not 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 as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. This action will not result in additional expenditures by State, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), 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 impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a State or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a State, or political subdivision of a State, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

F. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume

65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

G. Environmental Impacts

We have considered the impacts of this final rule under the National Environmental Policy Act. This rulemaking action only extends the compliance date for certification of child restraint systems using the Hybrid III 6-year-old test dummy. This rulemaking does not require any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

Request for Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments. Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments. Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or "Help/Info" to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.² Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at [² Optical character recognition \(OCR\) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.](http://</p>
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dmses.dot.gov/submit/DataQualityGuidelines.pdf.

How Can I Be Sure That My Comments Were Received?

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

How Do I Submit Confidential Business Information?

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

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking action.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

(1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).

(2) On that page, click on "Simple Search."

(3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "Search."

(4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

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

List of Subjects in 49 CFR Part 571

Motor vehicle safety, reporting and recordkeeping requirements, and tires.

■ In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 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 571.213 is amended by revising S7.1.2 introductory text and S7.1.3 to read as follows:

§ 571.213 Standard No. 213, Child restraint systems.

* * * * *

S7.1.2 Child restraints that are manufactured on or after August 1, 2005, are subject to the following provisions and S7.1.3.

* * * * *

S7.1.3 *Voluntary use of alternative dummies.* At the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification of the restraint), child restraint systems manufactured before August 1, 2005 may be tested to the requirements of S5 while using the test dummies specified in S7.1.2 according to the criteria for selecting test dummies specified in that paragraph. At the manufacturer's option (with said option irrevocably selected prior to, or at the time of, certification

of the restraint), child restraints manufactured on or after August 1, 2005, and before August 1, 2008, that are recommended by its manufacturer in accordance with S5.5 for use either by children in a specified mass range that includes any children having a mass greater than 18 kg, or by children in a specified height range that includes any children whose height is greater than 1100 mm may be tested to the requirements of S5 while using the test dummy specified in S7.1.1(d). Child restraints manufactured on or after August 1, 2008, must be tested using the test dummies specified in S7.1.2.

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Issued: July 28, 2005.

Jacqueline Glassman,
Chief Counsel.

[FR Doc. 05-15268 Filed 7-29-05; 10:39 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333-5040-02; I.D. 072905A]

Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; prohibition of retention.

SUMMARY: NMFS is prohibiting retention of "other rockfish" in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of "other rockfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the "other rockfish" 2005 total allowable catch (TAC) in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 29, 2005, until 2400 hrs, A.l.t., December 31, 2005.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North