

snow plows to strike them when operating over the hump. If the waiver is granted, NS would raise the height of the pilot plates or snow plow to allow more clearance and would re-adjust the height whenever it is necessary for a hump assigned locomotive to be moved from Bellevue or Roanoke yards.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (FRA-2005-20384) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

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). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on March 14, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 05-5363 Filed 3-17-05; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number: MARAD 2004-17114]

Availability of a Finding of No Significant Impact

AGENCY: Department of Transportation, Maritime Administration.

ACTION: Notice of the availability of a finding of no significant impact.

SUMMARY: The purpose of this notice is to make available to the public the Finding of No Significant Impact (FONSI) derived from the Environmental Assessment (EA) regarding the Port of Anchorage (Port) Marine Terminal Redevelopment Project. The purpose of the project is to improve and enhance the existing dock and terminal capability at the Port to facilitate the transportation of goods and people within the State of Alaska.

FOR FURTHER INFORMATION CONTACT: Daniel E. Yuska, Jr., Environmental Protection Specialist, Office of Environmental Activities, U.S. Maritime Administration, 400 7th Street, SW., Room 7209, Washington, DC 20590; telephone (202) 366-0714, fax (202) 366-6988.

SUPPLEMENTARY INFORMATION: The Maritime Administration, in cooperation with the Port of Anchorage, completed an EA that studied potential environmental effects associated with the redevelopment of the marine terminal used by the Port. The EA considered potential effects to the natural and human environments including: Air quality; water quality; geology and soils; coastal resources; terrestrial resources; aquatic resources; navigation; hazardous materials; cultural and historic resources; visual and aesthetic resources; and other topics associated with the proposed action. The FONSI is based on the analysis presented in the Marine Terminal Redevelopment EA.

The FONSI and the EA are available for review at Loussac Library in Anchorage or online at <http://www.portofanchorage.org> and <http://dms.dot.gov>.

(Authority: 49 CFR 1.66.)

By Order of the Maritime Administrator.

Dated: March 11, 2005.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05-5335 Filed 3-17-05; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2000-6940]

Anthropomorphic Test Devices; Denial of Petition for Reconsideration Regarding the Hybrid III 5th Percentile Female Test Dummy, Alpha Version

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

ACTION: Denial of petition for reconsideration.

SUMMARY: This notice denies an August 29, 2002, petition for reconsideration submitted by DaimlerChrysler. The petitioner asked the agency to delay the effective date of the Hybrid III 5th Percentile Female Test Dummy, specified in the 49 CFR Part 572, Subpart O final rule, "Response to Petitions for Reconsideration" (67 FR 46400).

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Sean Doyle, Office of Crashworthiness Standards, NVS-111, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-1740. Facsimile: (202) 473-2629. Electronic Mail: Sean.Doyle@nhtsa.dot.gov.

For legal issues: Mr. Christopher Calamita, Office of Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2992. Facsimile: (202) 366-3820. Electronic Mail: Christopher.Calamita@nhtsa.dot.gov.

SUPPLEMENTARY INFORMATION:

Background

DaimlerChrysler petitioned the National Highway Traffic Safety Administration (NHTSA), in a letter dated August 29, 2002, to delay the September 13, 2002, effective date for the dummy specified in the Part 572, Subpart O final rule (67 FR 46400) until all issues related to the neck are resolved.

In the mid 1990's, there had been serious concern regarding air bag related fatalities and injuries to small female drivers seated close to deploying air bags in low speed crashes. Crash data showed that small-stature women often experienced a higher potential for serious injury in low speed crashes, even when properly restrained. To help deal with these concerns, NHTSA published a notice of proposed rulemaking (NPRM) on September 18, 1998, to upgrade Federal Motor Vehicle

Safety Standard (FMVSS) No. 208, "Occupant crash protection" (63 FR 49958). The NPRM proposed that vehicles be equipped with advanced air bags that meet new and more rigorous performance requirements. The NPRM proposed alternative options for complying with the new set of performance requirements to ensure that new air bags were designed to avoid causing injury to a broad array of occupants. After receiving public comments, the agency published a supplemental notice of proposed rulemaking (SNPRM) on November 5, 1999, for FMVSS No. 208 (64 FR 60556) outlining the proposed Nij neck injury criterion. DaimlerChrysler submitted comments on December 23, 1999, (NHTSA Docket No. NHTSA-99-6407) in response to the SNPRM citing its concerns over the need and usefulness of the Nij specification as an adequate neck injury measure in the advanced air bag rule, and questioning the sufficiency of the Hybrid III neck to measure appropriately the injury producing forces and movements as they relate to the human neck.

Complementing the November 5, 1999, proposed rulemaking, the agency incorporated in 49 CFR Part 572 the specifications for the Hybrid III 5th Percentile Female Test Dummy (65 FR 10961) on March 1, 2000. This dummy was incorporated to permit assessment of the potential for injury to small-stature adults and teenagers in frontal crashes and to facilitate the development of technologies that would minimize the risk of injury from deploying air bags, in part, through application of Nij as an injury assessment measure. In response to the March 1, 2000, final rule, DaimlerChrysler submitted a petition for reconsideration on April 14, 2000, again stating its concern with the need for and use of Nij and the adequacy of the Hybrid III 5th Percentile Female Dummy's neck.

After consideration of DaimlerChrysler's and others' comments to the November 1999 SNPRM, the agency published a final rule amending FMVSS No. 208 on May 12, 2000 (65 FR 30680), adopting the proposed neck injury criteria. Since the publication of the advanced air bag final rule, DaimlerChrysler has submitted additional petitions to FMVSS No. 208 on June 26, 2000, and February 1, 2002, reiterating its previous objection regarding Nij and the Hybrid III 5th Percentile Female Test Dummy's neck.

The agency first addressed DaimlerChrysler's petitions for reconsideration concerning the adequacy of the Nij and the Hybrid III 5th Percentile Female Test Dummy's

neck in the response to petitions for reconsideration of the advanced air bag rulemaking published on December 18, 2001 (66 FR 65376). On July 15, 2002, the agency likewise denied the DaimlerChrysler petition for reconsideration (submitted April 14, 2000) of the adoption of the Hybrid III 5th Percentile Female into 49 CFR Part 571, Subpart O (67 FR 46400).

Analysis

In its petition for reconsideration dated August 29, 2002, DaimlerChrysler claimed that it either did not clearly communicate its position in its April 14, 2000, petition for reconsideration of the final rule (Subpart O) or NHTSA misinterpreted what DaimlerChrysler was attempting to convey. In particular DaimlerChrysler stated that:

1. DaimlerChrysler only petitioned to discontinue use of the Nij in conjunction with the Hybrid-III neck and did not petition to discontinue use of the neck;

2. The agency believes that DaimlerChrysler contends that the neck muscles do not contribute to global moments of the neck, when DaimlerChrysler's position is that moments generated due to neck muscles do not contribute to injury; and

3. The agency did not address DaimlerChrysler's claim that the basis of the moment component of the Nij is the local moments, and that the global moments (the moments measured by the Hybrid III [neck]) cannot be used to estimate the local moments.

4. DaimlerChrysler questioned the accuracy of the response of the Hybrid III dummy neck with regards to the moments recorded when there was little head rotation.

After consideration of DaimlerChrysler's August 29, 2002, petition for reconsideration of 49 CFR Part 572, Subpart O final rule, NHTSA concludes that there is no reasonable justification to delay the implementation date of the Hybrid III 5th Percentile Female Test Dummy final rule as the petitioner requested. The issues in this petition for reconsideration were raised by DaimlerChrysler previously, twice in petitions of FMVSS No. 208 (June 26, 2000, Docket No. 00-7013 and February 1, 2002, Docket No. 01-1110) and once in a petition of 49 CFR Part 572 (April 14, 2000, Docket No. 00-6940). The agency fully understood and considered the issues raised by DaimlerChrysler when it denied those three previous petitions. The agency does not believe it is appropriate to challenge the validity of Nij in a petition for reconsideration of a rule implementing or amending 49

CFR Part 572, Subpart O, since the Nij neck injury criteria is specified in FMVSS No. 208 and is not relevant to 49 CFR Part 572.

NHTSA fully understands that DaimlerChrysler only petitioned to discontinue use of the Nij in conjunction with the Hybrid III neck and did not petition to completely discontinue use of the neck. NHTSA acknowledges the likelihood that injury causing moments are those of the ligamentous spine when some moment levels are exceeded, as does the agency acknowledge that the global neck moments, measured by the Hybrid III dummy neck, may include some contribution from the muscle pairs, as well as the local moment at the occipital condyle (OC). However, the agency disagrees that Nij cannot be used with the Hybrid III dummy neck, since the criteria was developed and validated for that particular dummy neck.¹ Furthermore, the Nij was adjusted to account for possible muscle contribution.

DaimlerChrysler also questioned the accuracy of the response of the Hybrid III dummy neck with regards to the moments recorded when there was little head rotation. The agency's analysis of air bag loading patterns with the Hybrid III neck showed that in nearly all cases with high moments at the OC, there was also a corresponding high shear force caused by direct contact between the air bag and the neck. This correlation between a high OC moment and high shear force measured by the upper and lower neck load cells were recorded only when the air bag directly contacted the neck. Moreover, this direct neck contact did not always result in significant head rotation. The agency, therefore, believes the moments being recorded are appropriate because they are partly accounted for by the shear force that is occurring during contact.

Lastly, the Transportation Equity Act (TEA 21) initially specified the implementation of advanced air bags by September 1, 2002. The agency used provisions allowed in the Act to extend the implementation date from September 1, 2002 to September 1, 2003, (January 1, 2003, Docket No. 02-14270). To further ease the transition, a phase-in period was established with the first year of implementation reduced

¹ "Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems—II" and "Supplemental: Development of Improved Injury Criteria for the Assessment of Advanced Automotive Restraint Systems—II" (NHTSA Docket # 1999-6407).

to 20% of the vehicle production.² Consequently, 20% of the vehicle fleet already complies with the advanced air bag requirements, and within the next few months the majority of the vehicle fleet (65% of model year 2005 vehicles) will comply with the advanced air bag requirements. To date, there have been no manufacturers unable to meet the FMVSS No. 208 Nij requirements.

Conclusion

Inasmuch as the DaimlerChrysler's petition did not provide further test data to support its petition, and the Nij limits are practicable and have contributed to the elimination of special risks for small-statured occupants, the agency finds no reason or justification for giving the DaimlerChrysler petition further consideration. Accordingly, the DaimlerChrysler Petition for Reconsideration of August 29, 2002, is hereby denied.

Authority: 49 U.S.C. 30162; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: March 14, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 05-5342 Filed 3-17-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-20649]

Notice of Receipt of Petition for Decision That Nonconforming 2003-2004 Porsche Cayenne Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 2003-2004 Porsche Cayenne multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2003-2004 Porsche Cayenne multipurpose passenger vehicles that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards, are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally

manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is April 18, 2005.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. 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>.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

US SPECS of Aberdeen, Maryland (Registered Importer 03-321) has petitioned NHTSA to decide whether nonconforming 2003-2004 Porsche

Cayenne multipurpose passenger vehicles are eligible for importation into the United States. The vehicles which US SPECS believes are substantially similar are 2003-2004 Porsche Cayenne multipurpose passenger vehicles that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared non-U.S. certified 2003-2004 Porsche Cayenne multipurpose passenger vehicles to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

US SPECS submitted information with its petition intended to demonstrate that non-U.S. certified 2003-2004 Porsche Cayenne multipurpose passenger vehicles as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2003-2004 Porsche Cayenne multipurpose passenger vehicles are identical to their U.S.-certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 119 *New Pneumatic Tires for Vehicles Other than Passenger Cars*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 207 *Seating Systems*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: Replacement or conversion of the speedometer to read in miles per hours.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: Installation, on vehicles that are not already so equipped, of U.S.-model headlamps, front side marker lamps,

² The second year of the phase-in requires 65% of the production to comply with the advanced air bag requirement.