

21, 2006. At the request of Charles Crawford, the Audio Division allots Channel 253A at Lometa, Texas, as that community's second local FM transmission service. To accommodate the Lometa allotment, Channel 235A is substituted for vacant Channel 252A at Richland Springs, Texas. 70 FR 70777 (November 23, 2005). The full text of this Commission decision is available for inspection and copying during regular business hours at the FCC's Reference Information Center, Portals II, 445 Twelfth Street, SW., Room CY-A257, Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY-B402, Washington, DC, 20054, telephone 1-800-378-3160 or <http://www.BCPIWEB.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.

■ As stated in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

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

#### § 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Channel 253A at Lometa and by removing Channel 252A and by adding Channel 235A at Richland Springs.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 572

[Docket Number NHTSA-2006-25258]

#### Denial of Petition Regarding 49 CFR Part 572, Subpart O, Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy

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

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This document denies a petition submitted by First Technology Safety Systems (FTSS) on December 30, 2002. The petition asked the agency to revise drawing dimensions for the Hybrid III 5th Female (HIII-5F) chest jacket to reflect the physical part manufactured by FTSS.

FTSS did not provide any data showing that these slight dimensional differences would affect the dummy's performance, nor did FTSS provide any justification for changing NHTSA's drawing specifications in CFR Section 49, Part 572 Subpart O drawings to FTSS's suggested specifications. Revising the Agency's drawing specifications to FTSS's suggested specifications appears to provide little to no benefit. Furthermore, FTSS did not claim they are unable to meet NHTSA's current drawing specifications. Accordingly, the agency finds no basis to revise the drawings as requested by FTSS.

**FOR FURTHER INFORMATION CONTACT:** For technical issues: Mr. Sean Doyle, NHTSA Office of Crashworthiness Standards. Telephone: (202) 366-1740. Facsimile: (202) 493-2739

For legal issues: Mr. J. Edward Glancy, NHTSA Office of the Chief Counsel. Telephone: (202) 366-2992. Facsimile: (202) 366-3820.

Both officials can be reached by mail at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

#### Issues Raised in the Petition

FTSS, a manufacturer of crash test dummies, petitioned NHTSA to amend the specifications of CFR Section 49, Part 572, Subpart O, "Hybrid III Fifth Percentile Small Adult Female Crash Test Dummy," to correct claimed specification errors on two chest jacket drawings in the NHTSA drawing package. The drawings were published in support of the amended CFR Section 49 Part 572 on March 1, 2000 (65 FR

10968), which added the Hybrid III fifth percentile (HIII-5F) dummy to Part 572. Specifically, FTSS petitioned for "dimensional corrections to drawing number 880105-355-E, Sheets 1 and 2" in order to accurately reflect the physical part. FTSS states that "during the development phase of the HIII-5F dummy (about 1990), there was some dissatisfaction with the routing of the shoulder belt over the chest flesh and particularly the relationship of the belt and the breast representations." FTSS made a manufacturing decision at that time to "lower the breasts for improved belt routing, and the molds were modified accordingly." However, FTSS did not inform NHTSA of their decision to modify the breast location, and therefore NHTSA did not reflect this change during the Part 572 rulemaking. Dummies manufactured by FTSS since that time are inconsistent with the drawings in the CFR Section 49, Part 572 Subpart O for the HIII-5F dummy. According to FTSS, they have manufactured and delivered over 387 HIII-5F chest flesh assemblies as part of a whole dummy or as replacement parts since the HIII-5F dummy's introduction. FTSS has used the same molds for the manufacture of all the chest flesh assemblies since the dummy's introduction, and they claim that all manufactured chest flesh assemblies are geometrically identical.

#### Analysis of Petition

FTSS did not provide any data in their petition showing that these slight height differences in the breast location would affect the dummy's impact performance, but rather stated that the performance *may* change. Nevertheless, NHTSA performed a number of comparative tests between the FTSS's chest flesh assembly and Denton's chest flesh assembly, which follows the specified drawing dimensions. This testing was done to better evaluate FTSS's claim that the dimensional differences between NHTSA's drawings and FTSS's chest flesh assembly "could result in a change in the performance of the dummy." NHTSA also thoroughly reviewed prior agency testing done with both FTSS's and Denton's chest flesh assemblies. The agency records did not find any instances where the petitioned dimensional differences in the breast height location had any significant effects on the HIII-5F dummy's performance as long as the belt restraints were properly positioned as per FMVSS No. 208 (the shoulder belt is allowed to self-position on the torso). Similar conclusions were reached by Transport Canada, which found that when the shoulder belt is allowed to lie

diagonally across the chest without human guidance, as required by FMVSS No. 208, the FTSS and Denton chest flesh assemblies perform statistically the same.

It is debatable whether or not FTSS's dummy improves belt routing, but either way, the Agency considers this information insufficient justification for changing NHTSA's drawing specifications. The Agency must also consider the entire dummy industry and recognizing that there are multiple dummy manufacturers that have been producing the HIII-5F for a significant period of time and continue to produce them, the agency must weigh the benefit of changing a drawing against the adverse impact the change would have on other manufacturers. In this case, revising the Agency's drawing specifications to FTSS's suggested dimensions appears to provide little to no benefit while the adverse impact on other manufacturers could be significant. Consequently, the agency finds no basis to revise the drawings as requested by FTSS.

#### Conclusion

For the reasons discussed above, NHTSA is denying FTSS's petition for dimensional changes to drawing number 880105-355-E, sheets 1 and 2 of CFR Section 49, Part 572, Subpart O.

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

Issued on: August 3, 2006.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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**BILLING CODE** 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 622 and 635

[Docket No. 060425111-6205-02; I.D. 041906B]

RIN 0648-AN09

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 18A

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues this final rule to implement Amendment 18A to the

Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (Amendment 18A) prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule prohibits vessels from retaining reef fish caught under the recreational size and bag/possession limits when commercial quantities of Gulf reef fish are on board; adjusts the number of persons allowed on board when a vessel with both commercial and charter vessel/headboat reef fish permits and a U.S. Coast Guard (USCG) Certificate of Inspection (COI) is fishing commercially; prohibits use of Gulf reef fish, except sand perch or dwarf sand perch, as bait in any commercial or recreational fishery in the exclusive economic zone (EEZ) of the Gulf of Mexico, with a limited exception for crustacean trap fisheries; requires a NMFS-approved vessel monitoring system (VMS) on board vessels with Federal commercial permits for Gulf reef fish, including charter vessels/headboats with such commercial permits; and requires owners and operators of vessels with Federal commercial or charter vessel/headboat permits for Gulf reef fish to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species, and comply with guidelines for proper care and release of incidentally caught sawfish and sea turtles. This final rule also requires annual permit application rather than application every 2 years (biennial). In addition, Amendment 18A revises the total allowable catch (TAC) framework procedure to reflect current practices and terminology. The intended effects of this final rule are to improve enforceability and monitoring in the reef fish fishery in the Gulf of Mexico and to reduce mortality of incidentally caught sea turtles and smalltooth sawfish. Finally, NMFS informs the public of approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this final rule and publishes the OMB control numbers for those collections.

**DATES:** This final rule is effective September 8, 2006, except for the amendments to §§ 622.4 (m)(1) and 622.9, which are effective December 7, 2006, and §§ 622.4(h)(1) and 635.4(m)(1), which are effective September 1, 2006.

**ADDRESSES:** Copies of the final regulatory flexibility analysis (FRFA) may be obtained from Peter Hood, NMFS, Southeast Regional Office, 263 13<sup>th</sup> Avenue South, St. Petersburg, FL 33701; telephone 727-824-5305; fax

727-824-5308; email [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Jason Rueter at the Southeast Regional Office address (above) and to David Rostker, Office of Management and Budget (OMB), by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or by fax to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:**

Peter Hood, telephone 727-824-5305; fax 727-824-5308; e-mail [Peter.Hood@noaa.gov](mailto:Peter.Hood@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The reef fish fishery is managed under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) that was prepared by the Council. The FMP was approved by NMFS and implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

On April 26, 2006, NMFS published a notice of availability of Amendment 18A and requested public comment (71 FR 24635). On May 18, 2006, NMFS published the proposed rule to implement Amendment 18A and requested public comment on the proposed rule (71 FR 28842). NMFS approved Amendment 18A on July 24, 2006. The rationale for the measures in Amendment 18A is provided in the amendment and in the preamble to the proposed rule and is not repeated here.

#### Comments and Responses

Following is a summary of comments received on Amendment 18A and the associated proposed rule along with NMFS' responses. A total of 15 comments were received from individuals and organizations.

*Comment 1:* Not allowing a commercial vessel to retain reef fish species caught under recreational size and bag limits when the vessel has commercial harvests of any reef fish species aboard will do little to help stocks recover.

*Response:* The primary purpose of this management measure is to improve enforceability of the prohibition on sale of reef fish caught under recreational bag limits. Prohibiting bag limits of reef fish on commercial vessels makes it more difficult for fish caught under a bag limit from entering the market through commercial vessel landings. In addition, this measure resolves confusion that occurs when a commercial season for a species is closed while the recreational season is