

**10. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations**

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action addresses a revision of the authorized hazardous waste program in the State of Oregon. EPA has determined that the action is not subject to EO 12898.

**11. Congressional Review Act**

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective February 7, 2011.

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indians—lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: December 1, 2010.

**Dennis J. McLerran,**

*Regional Administrator, EPA Region 10.*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 572**

[Docket No. NHTSA-2010-0147]

**RIN 2127-AK34**

**Anthropomorphic Test Devices; Hybrid III 6-Year-Old Child Test Dummy, Hybrid III 6-Year-Old Weighted Child Test Dummy**

**AGENCY:** National Highway Traffic Safety Administration, Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This final rule makes two changes to the agency's specifications for the Hybrid III six-year-old child dummy, and the Hybrid III six-year-old weighted child test dummy. First, to improve the durability of the dummies' femurs we are changing the design of and material used for the femur assembly. Second, we correct the drawings for the abdomen insert so that the abdominal insert dimensions on the drawings reflect actual parts in the field. The correction responds to a petition for rulemaking submitted by Denton ATD and First Technology Safety Systems.

**DATES:** The effective date of this final rule is June 7, 2011. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 7, 2011.

**Petitions for reconsideration:** Petitions for reconsideration of this final rule must be received not later than January 24, 2011.

**Privacy Act:** Anyone is able to search the electronic form of all submissions 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).

**ADDRESSES:** Petitions for reconsideration of this final rule must refer to the docket and notice number set forth above and be submitted to the Administrator, National Highway Traffic Safety

Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. (A copy of the petition will be placed in the docket.)

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Peter Martin, NHTSA Office of Crashworthiness Standards (telephone 202-366-5668) (fax 202-493-2990). For legal issues, you may call Deirdre Fujita, NHTSA Office of Chief Counsel (telephone 202-366-2992) (fax 202-366-3820). The mailing address for these officials is the National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

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**I. Overview**

This final rule makes two changes to the agency's specifications for the Hybrid III six-year-old child dummy (HIII-6C) set forth in 49 CFR part 572, Subpart N, and for the Hybrid III six-year-old weighted child test dummy (HIII-6CW) in 49 CFR part 572, Subpart S. The notice of proposed rulemaking (NPRM) upon which this final rule is based was published October 21, 2009, 74 FR 53987, Docket No. NHTSA-09-0166.

First, to improve the durability of the dummies' femurs, we are changing the design of and material used for the femur assembly. The primary modifications include the addition of a ¼-inch (6.35 millimeter (mm)) fillet between the femur clamp and the connecting segment (these components are described in detail in section II.b of the NPRM preamble) of the machined femur, removal of material from the connecting segment, and a material change from aluminum bronze to 4340 steel. These changes are made by replacing the drawings of the femur in

the drawing package specified in 49 CFR part 572, Subpart N (“Six-year-old child test dummy”) and in Subpart S (“Six-year-old weighted child test dummy”), the parts lists, and the “Procedures for Assembly, Disassembly, and Inspection” (“PADI”) documents incorporated by reference into those regulations.

The second change corrects the drawings for the abdomen insert so that the abdominal insert dimensions on the drawings reflect actual parts in the field.

The October 21, 2009 NPRM provided a detailed discussion of the femur failures that were occurring with the HIII-6C dummy, the proposed solution to those failures, and how the agency proposed to amend the specifications for the HIII-6C and the HIII-6CW dummies.

NHTSA received no comments on the October 21, 2009 NPRM. We are adopting the changes proposed in the NPRM for the reasons discussed in that document.

## II. Femur Improvements

The present design of the HIII-6C femur is specified in 49 CFR part 572, Subpart N.<sup>1,2</sup> The HIII-6C machined femur, which is one of the femur assembly parts, is illustrated in Figure 1 below. This one-piece part is machined from bar stock and serves to couple the main femur shaft to a smaller shaft protruding from the femur ball (a representation of a human femur head). The portion of the part that is attached to the femur shaft is referred to as the “femur clamp” and the portion that is attached to the ball shaft is referred to

as the “connecting segment.” The femur ball shaft, retaining flange, and femur ball connect the machined femur to the dummy’s pelvis. Similar to a human hip joint, the ball in the HIII-6C femur assembly allows for rotation of the dummy hip joint. The flange is used to attach the femur assembly to the pelvis. The entire femur assembly is found within the lower torso, and the material specification for this assembly, including the machined femur, shaft, flange and ball was originally Aluminum Bronze C-624 AMC0-18. (The femur load cell, the response of which is discussed in the “dynamic evaluation” section below, is located in the distal portion of the upper leg (*i.e.*, farther from the pelvis) and not in the area of the machined femur.)

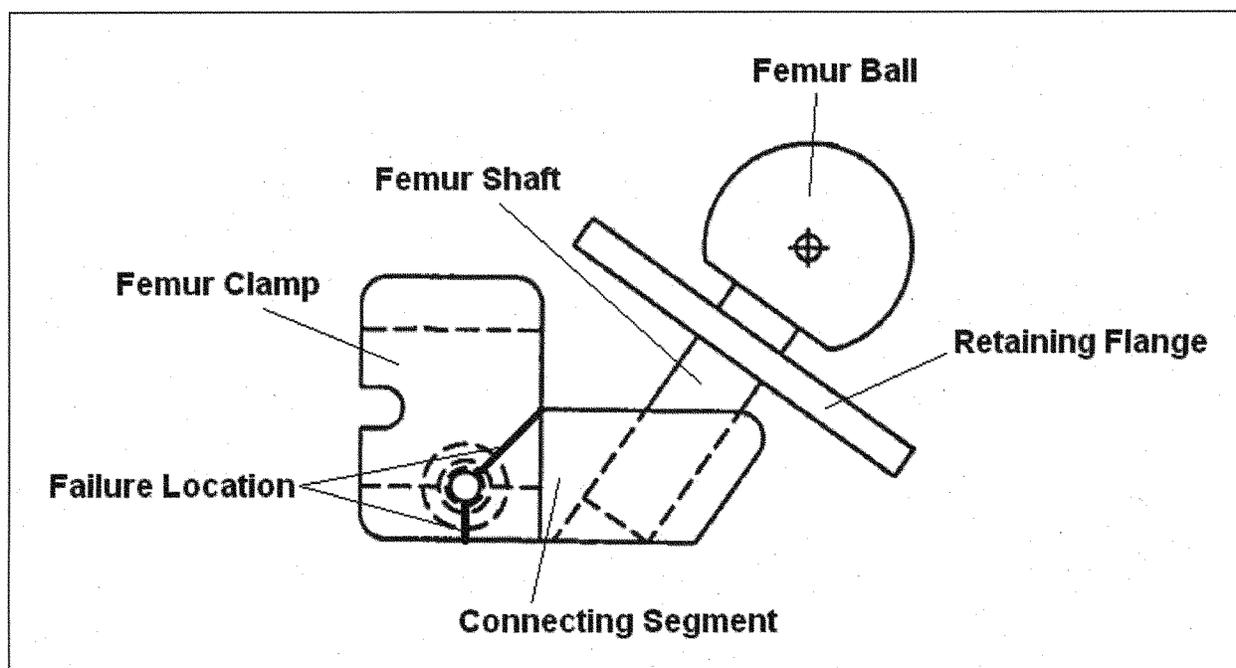


Figure 1: Illustration of femur assembly

Failures of the HIII-6C femur appear to have initiated at a sharp corner between the femur clamp and connecting segment sections of the machined femur. The approximate location of the femur failure is depicted in Figure 1. The fracture was observed from this corner to the bolt hole within the femur clamp, at an angle of approximately 45°. The failure continued through the thin section of material directly beneath the bolt hole,

causing complete separation of the machined femur. Additionally, in one failed component, small indents on the inner diameter of the retaining flange were observed, indicating potential contact between the flange and shaft. Pictures of a fractured part can be found in the technical report docketed with the NPRM (Docket NHTSA-09-0166-0007.1).

### a. Femur Design Changes

The modification made today to improve the femur’s durability increases the strength and durability of the femur assembly by fabricating the machined femur and shaft from 4340 steel, which has a higher yield strength than the original material, Aluminum Bronze C-624 AMC0-18, while keeping the ball and retaining flange as the original aluminum bronze material. A ¼-inch (6.35 mm) fillet is added between the

<sup>1</sup> Complete drawings for the current HIII-6C femur can be found in Docket No. NHTSA-2002-12541.

<sup>2</sup> The HIII-6CW is based on the HIII-6C, with weight added (10 pounds) to represent larger children. The femur assembly is the same for both

the HIII-6CW and the HIII-6C dummies. The discussion set forth in this section applies to the HIII-6CW as well, unless otherwise noted.

femur clamp and the connecting segment to eliminate stress risers that were present on the original femur, and a portion of the connecting segment

material near the femur clamp is removed. The weight of the modified femur is only 0.002 lb (0.001 kilograms (kg)) heavier than the original femur.

Table 1 below compares the weights and material properties of the original femur and the new femur.

TABLE 1—WEIGHT AND MATERIAL PROPERTIES FOR THE ORIGINAL AND NEW HIII-6C FEMUR DESIGN

	Femur design measured weight	Material and yield strength	
Original .....	0.532 lb (0.241 kg) .....	Aluminum Bronze C-624 AMCO-18 .....	48,000 psi
New .....	0.534 lb (0.242 kg) .....	4340 Steel .....	114,000 psi

To implement this change in femur design and material, the following changes are made to the materials describing the HIII-6C in 49 CFR part 572. Drawings 127-3017-1&-2, “6 YR H3-FEMUR MACHINED” is replaced with drawings 127-3017-1S&-2S, which show the new machined femur.<sup>3</sup> The femur assembly drawings (127-3016-1&-2) are also replaced due to the new femur design, with new part numbers 127-3016-1S&-2S. Higher assembly drawings including 127-3000, “LOWER TORSO ASSEMBLY” and the complete assembly drawings (127-0000) are amended to show the modified part. These revisions are noted on drawing SA572-127DRL-2. The PADI is also updated so that it shows the new machined femur in figures, and reports the proper lower torso assembly and total weight for the dummy. Finally, the part numbers for the machined femur and the femur assembly are changed in the Parts/Drawings list, along with the revision letters for higher assembly drawings, as appropriate.

Copies of the HIII-6C drawing package, PADI, and Parts/Drawings list that include the change in femur design can be obtained online at <http://www.regulations.gov>, in the same docket as this final rule.

*b. Analysis of the New Femur Design*

NHTSA has determined that the changes to the femur prevent the femur from failing and do not compromise the utility of the test dummy. This determination is based on an analysis showing the stress is reduced by the addition of the fillet, and on an analysis

of dynamic test results, as discussed below.

1. Stress Analysis of the Fillet Effect

The one-piece HIII-6C machined femur—which couples the main femur shaft to the femur ball shaft—forms a ninety-degree angle where the femur clamp intersects the connecting segment. Originally, the corner radius at this intersection was very sharp. This sharp corner led to high stresses when the femur was loaded. We have estimated that adding a fillet to increase the corner radius will reduce stresses by approximately 1.6 to two times those in the femur without the fillet. It is noted that this is only an estimate, as the loading conditions present in the femur during a FMVSS No. 213 type sled test were highly simplified in order to provide a rough estimate of the fillet benefit. Details about the stress reduction approximation can be found in the technical report accompanying the NPRM (Docket NHTSA-09-0166-0007.1). Because the fillet design results in substantially reduced stress in the femur of the dummy, we believe that adding the fillet and using the 4340 steel material will avoid femur failure.

2. Dynamic Evaluation

NHTSA evaluated the new femur in April 2006 at the MGA testing facility. To assess the effect of the component modification, we tested a HIII-6C with the new femurs (which we refer to as a “modified HIII-6C” or “modified dummy”) in a Britax Marathon child restraint, Britax Boulevard and Britax Decathlon to the FMVSS No. 213 test conditions, and compared the results.<sup>4</sup> To obtain a greater understanding of the

loading experienced by the femur assembly, instrumentation was added to the dummy to allow measurement of triaxial accelerations in the pelvis and forces and moments in the femurs. Additionally, to determine the effect of the new femur, we compared test results from a test in which the femur had failed to those of a test with a modified dummy, under conditions that had previously caused failure, i.e., the modified HIII-6C dummy was tested in the Britax Marathon to the FMVSS No. 213 sled pulse.

In all tests of the new femurs, there were no femur failures. In addition, test data relating to left and right femur moments, FMVSS No. 213 injury measures, dummy kinematics, and other factors concerning the performance of the dummy raised no concerns about the new femur design. The testing indicated that use of the new femur in the HIII-6C and the HIII-6CW will not affect FMVSS testing, except to make the dummies more durable.

i. Comparing Test Results of the Modified HIII-6C Test in the Marathon, Boulevard, and Decathlon Child Restraint Systems

NHTSA measured and compared maximum forces and moments measured in the femur load cells (over both legs) of the modified HIII-6C dummy in the Britax Marathon, Boulevard, and Decathlon. The Marathon and Boulevard showed similar maximum forces, while the Decathlon had a higher maximum femur force. All maximum forces occurred along the Z-axis, and all maximum moments were about the Y-axis.

<sup>3</sup> The femur shaft, drawing 127-3021, with material specification Aluminum Bronze 3/8 rnd C-624 AMCO-18, is replaced with drawing 127-3021S with material specification 4340 Steel.

<sup>4</sup> The Boulevard and Decathlon models were each tested with a modified HIII-6C and with a HIII-

6CW with the modified femur design. No femur failure occurred in any of the tests. For simplicity and because the test results of the HIII-6CW are not comparable to those of the HIII-6C, tests of the HIII-6CW dummy are not generally discussed in this preamble. However, results for all tests of the

HIII-6CW are discussed in the technical report accompanying the NPRM (Docket NHTSA-09-0166-0007.1), including test numbers, maximum head, chest and pelvis accelerations and left and right femur maximum moments and forces.

TABLE 2—MAXIMUM FORCES AND MOMENTS MEASURED IN THE FEMUR LOAD CELLS OF MODIFIED HIII–6C DUMMIES IN A FMVSS NO. 213 COMPLIANCE TESTING ENVIRONMENT

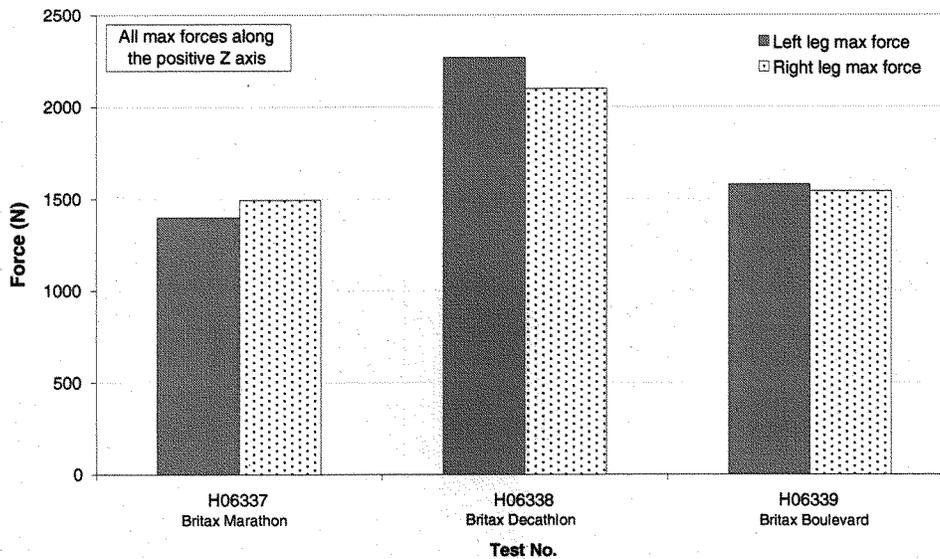
Femur measure	Britax Marathon *	Britax Decathlon *	Britax Boulevard
Max Force (N) .....	1492.9	2264.7	1578.4
Max Moment (Nm) .....	–78	–63.9	–70

\* *Marathon*: Restraint changed from upright to reclined during test. *Decathlon*: Top tether webbing separated at the attachment clip and the restraint changed position from upright to reclined.

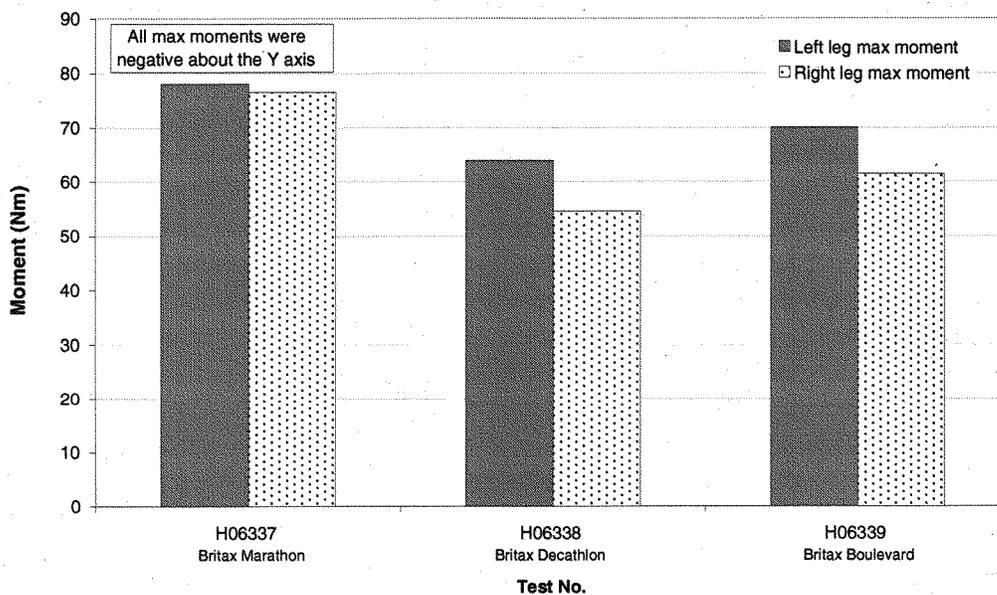
At the time of maximum moment there were visible differences in the degree of knee extension (test video pictures are provided in the technical report accompanying the NPRM, Docket NHTSA–09–0166–0007.1). These visual differences in response are consistent with the differences in force and moment magnitude seen in the tests.

Maximum left and right femur forces from the tests of the modified HIII–6C dummy with the new femur are displayed in Figure 2, while Figure 3 shows the maximum moments measured in the left and right legs during each test. In general, force and moment measurements made in the left and right femurs were similar, though not identical. This may give some

insight into why failures were observed in the left leg, right leg, or both legs in any given test. We believe that the failures were caused by stresses exceeding the material strength of the femur, so the occurrence of one femur failure, rather than both, may be due to the fact that the forces present during the test were unevenly distributed.



**Figure 2:** Magnitude of maximum femur forces measured in FMVSS No. 213 Tests in modified HIII-6C dummies with the new femur design.



**Figure 3:** Magnitude of maximum femur moments measured in FMVSS No. 213 tests in modified HIII-6C dummies with the new femur design.

ii. Comparing the Results of the Britax Marathon Test of the Modified HIII-6C (test H06337) to Those of a Test of an Original HIII-6C Where Femur Failure Occurred (test H06120)

Both tests were performed using the same dummy (S/N 158).<sup>5</sup> In test H06120

<sup>5</sup> Both tests were performed using the same dummy (S/N 158). However, because FMVSS No. 213 does not require measurement of femoral loads, no femoral force data was available for test H06120 with the original femurs. Therefore, comparisons

(with the original femurs), the left femur failed and detached completely. The right knee of this dummy was in a fully extended position, which could have resulted from the change in kinematics due to loss of one leg. In test H06337 (modified dummy), there were no femur

were made between pre- and post-test positioning, head and chest measurements, and dummy position throughout the test, as indicated by the test videos. This is discussed in the technical report accompanying the NPRM.

failures and both legs remained attached to the dummy.<sup>6</sup>

iii. Effect on FMVSS No. 213 Injury Metrics

In these two tests, we compared the maximum head and chest accelerations.

<sup>6</sup> We note that in test H06337 (modified dummy), the child restraint had multiple cracks in its base following the test, and during the test the restraint position shifted from upright to reclined. However, these factors are not likely linked to the performance of the new femur.

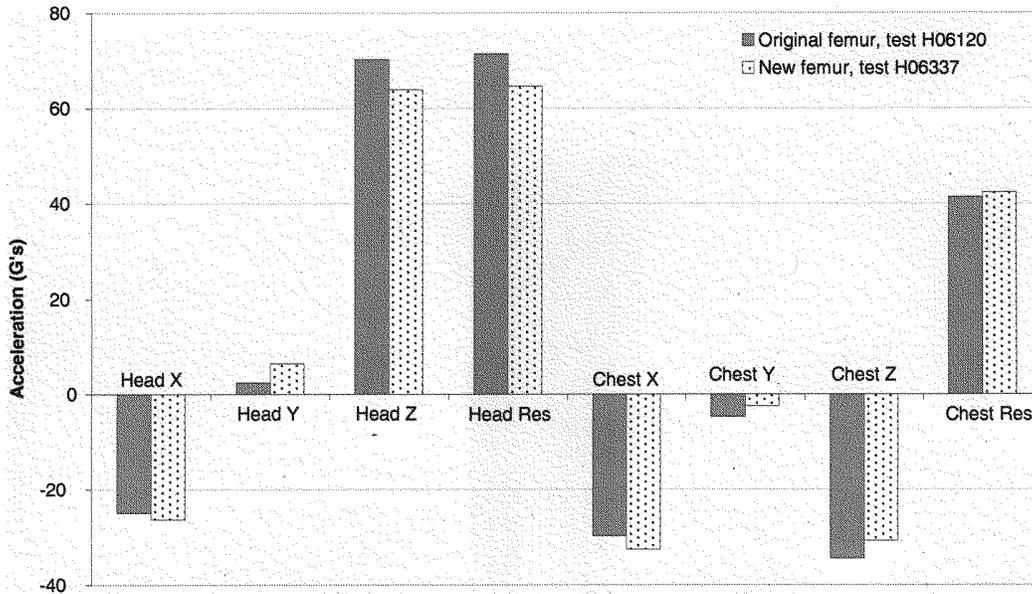
As seen in Figure 4, these measures were similar for both tests, suggesting that the new femur does not affect the dummy head or chest response significantly. Specifically, peak chest resultant acceleration, an FMVSS No. 213 injury criterion, increased only 2.42 percent from 41.4 g with the current Part 572 femur to 42.4 g with the new femur. However, we note that the maximum head Z and resultant

accelerations occurred after the time of femur failure in test H06120. Therefore, it is possible that the acceleration magnitude or response in time was affected by the loss of one limb.

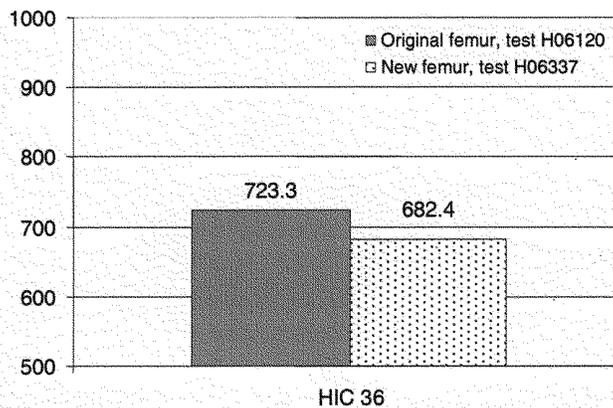
We also compared the 36 millisecond (ms) head injury criterion (HIC) values. These values are displayed in Table 3 and Figure 5, along with the previously-discussed peak chest accelerations (Figure 6). The response measured in

the modified HIII-6C resulted in a 5.65 percent decrease in HIC over the response of the original HIII-6C. These relatively low changes in response suggest that HIC and chest g's are not significantly altered by the femur replacement.

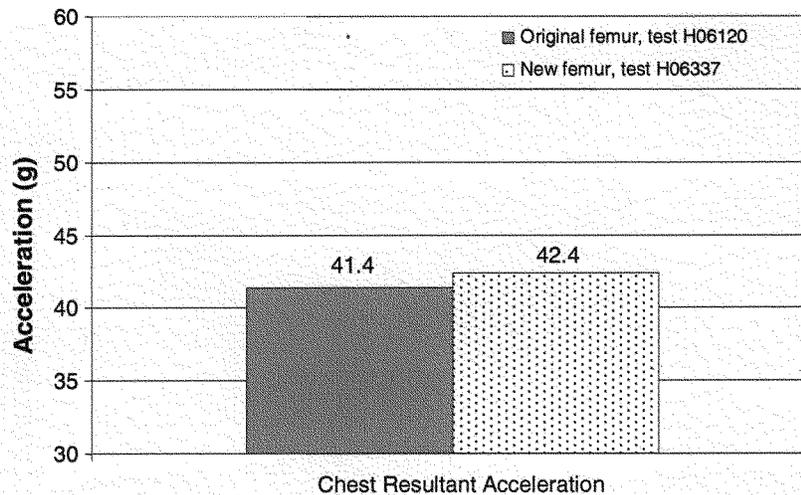
Table 3: HIC 36 and peak chest acceleration values for matched FMVSS No. 213 tests. (These results are presented in Figures 5 and 6, below.)



**Figure 4:** Maximum head and chest accelerations during FMVSS No. 213 tests using a Britax Marathon seat. See notes in the Technical Report accompanying the NPRM (Docket NHTSA-09-0166-0007.1) for information on Head X and Y accelerations.



**Figure 5:** HIC 36 values for tests of the Britax Marathon child seat where the original femur failed (H06120) and for a new femur which did not fail (H06337).



**Figure 6:** Peak chest acceleration values for tests of the Britax Marathon child seat where the original femur failed (H06120) and for a new femur which did not fail (H06337).

iv. Effect on Dummy Kinematics

We have determined that use of the new femur does not change the dummy’s kinematic response. We analyzed test video comparing the kinematics of the dummy in tests H06337 (modified dummy) and H06120 (femur failure). (Photographs from the video are presented in the technical report accompanying the NPRM, Docket NHTSA–09–0166–0007.1.) Until the time of maximum femur force, the position of the dummy in each test is fairly similar. At maximum force, the dummy’s knees in H06337 (modified dummy) are only slightly more extended and lower than the knees in H06120 (femur failure). Although at the approximate time of femur failure in test H06120 the positions of the two dummies are different, they are only slightly so, and the fully extended left knee of the dummy in test H06120 (femur failure) and the additional excursion of the leg (as noted by the position of the knee marker) may be indicative of the failing femur component. Similarly, after femur failure at 100 ms, there are slight differences in dummy position which

could be attributable to the loss of one leg in the test H06120. All in all, there is no indication that the new femur significantly alters dummy response.

v. Dummy Response Biofidelity

Since the new femur has the same geometry as the original femurs where it interfaces with the pelvis, the new femur does not behave any differently than the original femur. As discussed in the previous sections, little difference in head and chest measurements and dummy kinematics was observed in the dummy with the new versus the current Part 572 femur. There is no indication that the slight modification in femur design and material affects dummy biofidelity.

vi. Hip Lock

The new femur was inspected for indications of susceptibility to hip lock. Hip lock is a condition where flexion of the dummy’s hip joint is mechanically limited due to contact between the femur and the retaining ring or other pelvis structure.<sup>7</sup> There was no evidence of excessive wear near the retaining ring/ball joint of the new femurs. Some wear was noticed on the

upper leg of dummy S/N 155 where the femur clamp was fastened to the upper leg weldment. However, because this wear is located at a fastening site, metal-to-metal contact is inevitable and is not indicative of hip lock.

III. Abdominal Insert

This final rule changes Drawing No. 127–8210 of the HIII–6C drawing package, which depicts the abdominal insert for the dummy. It makes a similar change to the HIII–6CW drawing package.<sup>8</sup> This change responds to a petition from FTSS and Denton. Both manufacturers sought to revise the abdomen insert drawing to match the part mold dimensions.

In the NPRM, the agency granted the request but proposed to revise the drawing of the abdominal insert based on dimensions of actual abdominal inserts, rather than dimensions of the mold for the inserts. Nearly all changes were in agreement with the petitioners’ mold-based dimensions.

Table 4 shows the changes this final rule makes to key abdomen dimensions. “Fig. Ref” numbers in the table refer to Figure 7, which shows the original dimensions.

TABLE 4—HIII–6C KEY ABDOMEN DIMENSIONS

Description	Fig. ref.	Adopted spec.
Overall height (in.) .....	1 .....	3.81 +/- .20
Ledge height (in.) .....	2lt .....	1.53 +/- .20

<sup>7</sup> Hip lock in the HIII–50th percentile male femur led to design modifications that prevented “hard” (i.e., metal-to-metal contact) hip lock from occurring (61 FR 67953, Dec. 26, 1996). In that adult dummy, hard hip lock was characterized by spikes in the unfiltered pelvis and chest accelerometer

readings, high and sharply-pointed chest z acceleration traces, non-unimodal chest x and resultant accelerations, and a high tension component in the lumbar z force (Klinich *et al.*, “Evaluation of a Proposed Hybrid III Hip Modification,” Stapp Paper No. 952730, 1995).

<sup>8</sup> The HIII–6CW is the HIII–6C with weight added (10 pounds) to represent larger children. The abdominal insert drawing is the same for both the HIII–6CW and the HIII–6C dummies. Thus, the discussion set forth in this section applies to the HIII–6CW as well.

TABLE 4—HIII-6C KEY ABDOMEN DIMENSIONS—Continued

Description	Fig. ref.	Adopted spec.
Depth excl. plug (in.) .....	3rt .....	1.53 +/- .20
Depth incl. plug (in.) .....	4 .....	2.80 +/- .20
Taper angle of cone (degrees) .....	5 .....	2.80 +/- .20
	6lt .....	121/129
	7rt .....	121/129
Notch Half Width (in.) .....	8 .....	1.50 +/- .20
Notch Depth (in.) .....	9 .....	1.40 +/- .20
Width Bottom of Cone (in.) .....	10 .....	5.40 +/- .40

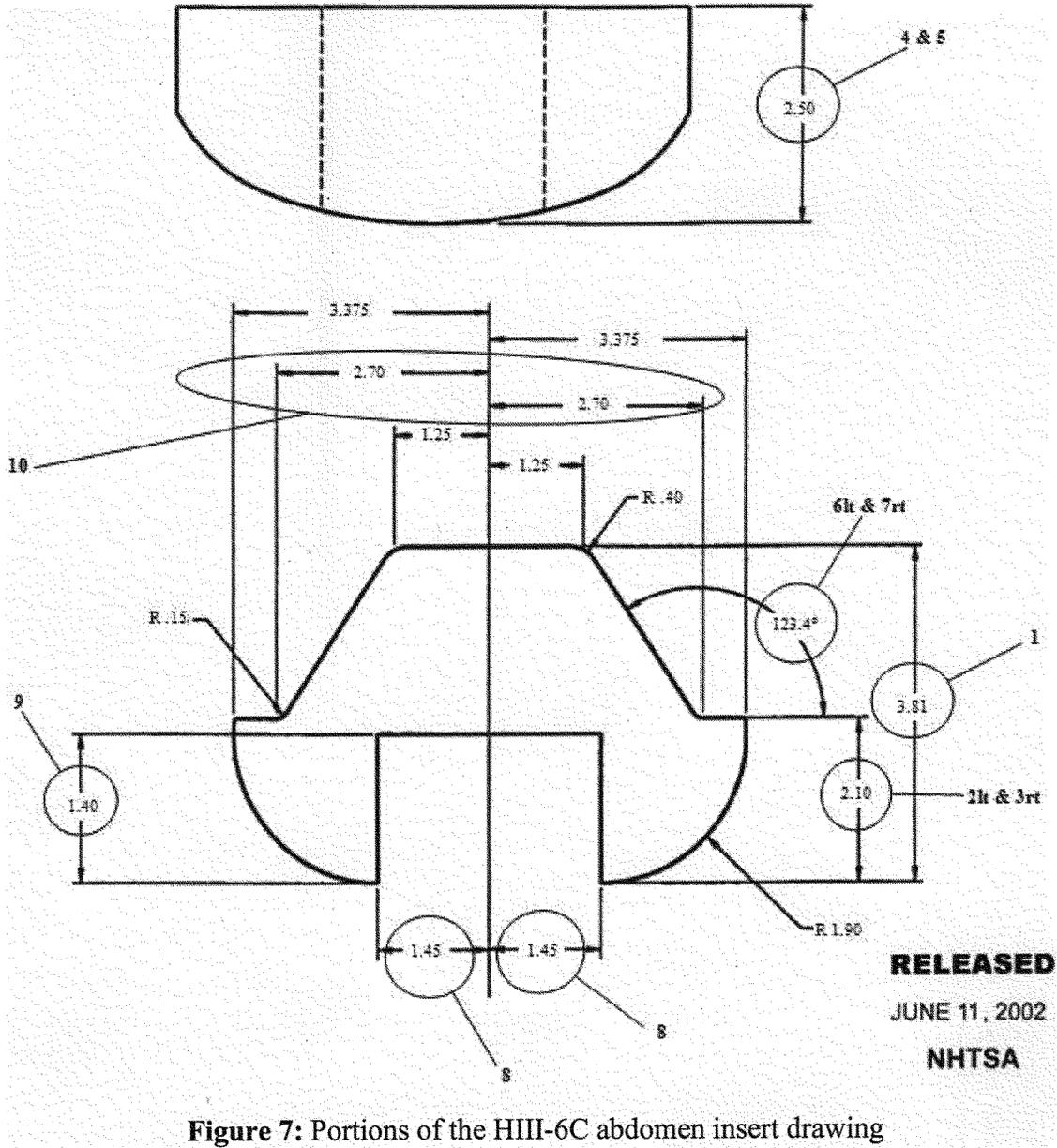


Figure 7: Portions of the HIII-6C abdomen insert drawing

**IV. Effective Date**

The changes to the femur design of the HIII-6C and HIII-6CW are effective 180 days after publication of this final rule. The changes to the abdomen insert drawing are effective on the same date.

Although the NPRM proposed that the corrections to the abdomen insert drawing be effective 45 days after publication of a final rule, the agency has decided to make all the changes to the drawing package effective on the

same date to simplify the incorporation by reference of the changed drawings in the drawing package.

## V. Rulemaking Analyses And Notices

### *Executive Order 12866 and DOT Regulatory Policies and Procedures*

This rulemaking action is not considered a significant regulatory action under Executive Order 12866 or the Department of Transportation's (DOT's) regulatory policies and procedures (44 FR 11034, February 26, 1979).

This rule will only affect the HIII-6C and HIII-6CW test dummies by adding a 1/4-inch fillet between the femur clamp and the connecting segment of the machined femur, removing material from the connecting segment, and changing the material from Aluminum Bronze C-624 AMC0-18 to 4340 steel. We stated in the final rule<sup>9</sup> that adopted the HIII-6C into 49 CFR part 572 that the cost of an uninstrumented HIII-6C dummy is approximately \$30,000 and that instrumentation will add approximately \$25,000 to \$40,000 to the cost, depending on the number of data channels the user chooses to collect. We do not expect the amendments of this final rule to significantly affect the cost of the dummy.

Further, this final rule does not impose any requirements on anyone. NHTSA will only use HIII-6C and HIII-6CW dummies for compliance testing that meet all of the criteria specified in this rule, but the agency does not require manufacturers to test with the Part 572 test dummies. Businesses will only be indirectly affected by this final rule, to the extent that they choose to manufacture or test with the dummy. Because the economic impacts of this final rule are so minimal, no further regulatory evaluation is necessary.

### *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 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), unless the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. 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)).

We have considered the effects of this rulemaking under the Regulatory Flexibility Act. I hereby certify that this final rule will not have a significant economic impact on a substantial number of small entities. Changing the femur design and correcting the abdominal insert drawing will not impose any requirements on anyone. NHTSA does not require anyone to manufacture or redesign the HIII-6C or HIII-6CW or to test vehicles or child restraints with the devices.

### *National Environmental Policy Act*

NHTSA has analyzed this final rule for the purposes of the National Environmental Policy Act and has determined that it will not have any significant impact on the quality of the human environment.

### *Executive Order 13132 (Federalism)*

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the final rule does not have federalism implications because the rule does 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." This rule does not impose any requirements on anyone. Businesses will be affected only if they choose to manufacture or test with the HIII-6C or HIII-6CW dummies.

Further, no consultation is needed to discuss the preemptive effect of today's final rule. NHTSA's safety standards can have preemptive effect in two ways. This final rule would amend 49 CFR part 572 and is not a safety standard.<sup>10</sup>

<sup>10</sup> With respect to the safety standards, the National Traffic and Motor Vehicle Safety Act contains an express preemptive provision: "When a motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter." 49 U.S.C. 30103(b)(1). Second, the Supreme Court has recognized the possibility of implied preemption: State requirements imposed on motor vehicle manufacturers, including sanctions imposed by State tort law, can stand as an obstacle to the accomplishment and execution of a NHTSA safety standard. When such a conflict exists, the Supremacy Clause of the Constitution makes the conflicting State requirements unenforceable. See *Geier v. American Honda Motor Co.*, 529 U.S. 861 (2000).

This Part 572 final rule does not impose any requirements on anyone.

### *Civil Justice Reform*

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, February 7, 1996) requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement. Pursuant to this Order, NHTSA notes as follows.

The issue of preemption is discussed above in connection with E.O. 13132. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceeding before they may file suit in court.

### *Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid control number from the Office of Management and Budget (OMB). This final rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

### *National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or 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. The NTTAA directs NHTSA to provide Congress, through OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards. There are no voluntary

<sup>9</sup> 65 FR 2059; January 13, 2000; Docket NHTSA-99-6714.

consensus standards relevant to this final rule.

#### *Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, Federal 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 (adjusted for inflation with base year of 1995). 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.

This final rule would not impose any unfunded mandates under the UMRA. This final rule does not meet the definition of a Federal mandate because it does not impose requirements on anyone. It amends 49 CFR part 572 by changing the femur design of two test dummies that the agency uses, and corrects a drawing of an abdominal insert for the dummies. This final rule affects only those businesses that choose to manufacture or test with the dummies. It does not result in costs of \$100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector.

#### *Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Has the agency organized the material to suit the public's needs?
- Are the requirements in the rule clearly stated?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
- Would more (but shorter) sections be better?
- Could the agency improve clarity by adding tables, lists, or diagrams?
- What else could the agency do to make this rulemaking easier to understand?

If you have any responses to these questions, please send them to NHTSA.

#### *Regulation Identifier Number*

The Department of Transportation assigns a regulation 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.

#### **List of Subjects in 49 CFR Part 572**

Motor vehicle safety, Incorporation by reference.

■ In consideration of the foregoing, NHTSA amends 49 CFR Part 572 as follows:

#### **PART 572—ANTHROPOMORPHIC TEST DUMMIES**

■ 1. The authority citation for Part 572 continues to read as follows:

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

#### **Subpart N—Six-Year-Old Child Test Dummy, Beta Version**

■ 2. Section 572.120 is amended by revising the introductory paragraph of (a)(1), paragraph (a)(1) through (a)(4), and paragraphs (b) and (c)(1), to read as follows:

##### **§ 572.120 Incorporation by reference.**

(a) \* \* \*

(1) A drawings and inspection package entitled, “Parts List and Drawings, Part 572 Subpart N, Hybrid III Six-Year Old Child Crash Test Dummy (H–III6C, Beta Version), June 2009,” consisting of:

(i) Drawing No. 127–1000, 6-year H3 Head Complete, incorporated by reference in § 572.122,

(ii) Drawing No. 127–1015, Neck Assembly, incorporated by reference in § 572.123,

(iii) Drawing No. 127–2000, Upper Torso Assembly, incorporated by reference in § 572.124,

(iv) Drawing No. 127–3000, Lower Torso Assembly, incorporated by reference in § 572.125,

(v) Drawing No. 127–4000–1 and 4000–2, Leg Assembly, incorporated by reference in § 572.126,

(vi) Drawing No. 127–5000–1 and 5000–2, Arm Assembly, incorporated by reference in §§ 572.121, 572.124, and 572.125 as part of a complete dummy assembly, and,

(vii) Parts List and Drawings, Hybrid III Six-year-old Child Test Dummy (H–III6C, Beta Version), dated June 1, 2009, incorporated by reference in § 572.121;

(2) A procedures manual entitled “Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 6-year-old Child Crash Test Dummy (H–III6C), Beta Version, June 1, 2009,” incorporated by reference in § 572.121;

(3) SAE Recommended Practice J211–1995, “Instrumentation for Impact Tests—Parts 1 and 2, dated March, 1995,” incorporated by reference in § 572.127;

(4) SAE J1733 Information Report, titled “Sign Convention for Vehicle Crash Testing,” dated December 1994, incorporated by reference in § 572.127.

(b) The Director of the Federal Register approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials may be inspected at the Department of Transportation, Docket Operations, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 366–9826, and at the National Archives and Records Administration (NARA), and in electronic format through Regulations.gov. For information on the availability and inspection 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). For information on the availability and inspection of this material at Regulations.gov, call 1–877–378–5457, or go to: <http://www.regulations.gov>.

(c) \* \* \*

(1) The drawings and specifications package, the parts list, and the PADI document referred to in paragraphs (a)(1), and (a)(2) of this section, are available in electronic format through [www.Regulations.gov](http://www.Regulations.gov) and in paper format from Leet-Melbrook, Division of New RT, 18810 Woodfield Road, Gaithersburg, MD 20879, (301) 670–0090.

\* \* \* \* \*

■ 3. Section 572.121 is amended by revising paragraph (a)(2) introductory text (the table is not amended) to read as follows:

##### **§ 572.121 General description.**

(a) \* \* \*

(2) Procedures for Assembly, Disassembly, and Inspection (PADI) of the Hybrid III 6-year-old child crash test dummy (H–III6C), Beta version, dated June 1, 2009, incorporated by reference in § 572.120.

\* \* \* \* \*

**Subpart S—Hybrid III Six-Year-Old Weighted Child Test Dummy**

■ 4. Section 572.160 is amended by revising the introductory paragraph of (a)(1), paragraph (a)(1)(iii), paragraph (a)(1)(v), (a)(2), and (a)(3), to read as follows:

**§ 572.160 Incorporation by reference.**

(a) \* \* \*  
(1) A drawings and specifications package entitled, “Parts List and Drawings, Part 572 Subpart S, Hybrid III 6–Year-Old Child Weighted Crash Test Dummy (H–III6CW),” dated June 2009, incorporated by reference in § 572.161 and consisting of:

(iii) Drawing No. 167–2020, Revision A, Spine Box Weight, incorporated by reference in §§ 572.161, 572.164, and 572.165 as part of a complete dummy assembly;

(v) Drawing No. 167–3010, Revision A, Lumbar Weight Base, incorporated by reference in §§ 572.161 and 572.165 as part of a complete dummy assembly; and

(2) A procedures manual entitled, “Procedures for Assembly, Disassembly, And Inspection (PADI) of the Part 572 Subpart S, Hybrid III 6–Year-Old Child Weighted Crash Test Dummy (H–III6CW), revised June 2009,” incorporated by reference in § 572.161;

(3) The Director of the Federal Register approved the materials incorporated by reference in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of the materials may be inspected at the Department of Transportation, Docket Operations, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, telephone (202) 366–9826, and at the National Archives and Records Administration (NARA), and in electronic format through Regulations.gov. For information on the availability and inspection 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). For information on the availability and inspection of this material at

Regulations.gov, call 1–877–378–5457, or go to: <http://www.regulations.gov>.

\* \* \* \* \*

■ 5. Section 572.161 is amended by revising paragraph (a)(1) and paragraph (a)(3) introductory text (the table is not amended), to read as follows:

**§ 572.161 General description.**

(a) \* \* \*  
(1) “Parts List and Drawings, Part 572 Subpart S, Hybrid III 6–Year-Old Child Weighted Crash Test Dummy (H–III6CW),” dated June 2009 (incorporated by reference, see § 572.160);

(3) “Procedures for Assembly, Disassembly, And Inspection (PADI) of the Part 572 Subpart S, Hybrid III 6–Year-Old Child Weighted Crash Test Dummy (H–III6CW), revised June 2009” (incorporated by reference, see § 572.160).

\* \* \* \* \*

Issued: November 26, 2010.

**David L. Strickland,**  
*Administrator.*

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