For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1,6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add a temporary § 165.T07–0019 to read as follows:

§ 165.T07–0019 Safety Zone; Xterra Swim, Myrtle Beach, SC.

(a) Regulated Area. The rule establishes special local regulations on certain waters of Intracoastal Waterway, Myrtle Beach, South Carolina. The special local regulations will be enforced from 7:30 a.m. until 8:30 a.m. on May 3, 2015. The special local regulations consist of the following two points of position and the North shore: 33°45.076 N, 78°50.790 W to 33°45.323 N, 78°50.214 W.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.*

(1) All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the regulated area. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Effective Date.* This rule is effective and will be enforced from 7:30 a.m. to 8:30 a.m. on Sunday, May 3, 2015.

Dated: February 19, 2015.

B. D. Falk,

Commander, U.S. Coast Guard, Acting Captain of the Port Charleston.

[FR Doc. 2015–04287 Filed 2–27–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2014–0662; FRL–9923–44–Region 5]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Transportation Conformity

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve, under the Clean Air Act, a revision to Ohio's transportation conformity state implementation plan (SIP) that meets EPA and United States Department of Transportation requirements. The inclusion of this SIP update brings Ohio's transportation conformity SIP into compliance with the requirements of the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users.

DATES: Comments must be received on or before April 1, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R05–OAR–2014–0662, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *Email: blakley.pamela@epa.gov.*

3. *Fax:* (312) 692–2450.

4. *Mail:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

5. *Hand Delivery:* Pamela Blakley, Chief, Control Strategies Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. Such deliveries are only accepted during the Regional Office normal hours of operation, and special arrangements should be made for deliveries of boxed information. The Regional Office official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Anthony Maietta, Environmental Protection Specialist, Control Strategies Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–8777, *maietta.anthony@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules section of this **Federal Register**, EPA is approving the state's SIP submittal as a direct final rule without prior proposal because we view this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Dated: February 12, 2015.

Susan Hedman,

Regional Administrator, Region 5.

[FR Doc. 2015–04148 Filed 2–27–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2012–0036]

RIN 2127–AL05

Federal Motor Vehicle Safety Standards; Seat Belt Assembly Anchorages

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

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: This document supplements NHTSA's March 2012 notice of proposed rulemaking (NPRM) to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 210, ''Seat belt assembly anchorages,'' to specify a force application device (FAD) for use as a testing interface to transfer loads onto the seat belt anchorage system during compliance tests of anchorage strength. The agency received a number of comments on the NPRM that raised issues concerning the feasibility of the FAD proposal. After reviewing the comments, NHTSA has decided to propose in this SNPRM an alternative test procedure, *i.e.,* one that would maintain the current FMVSS No. 210 body blocks and adopt procedures ensuring that the placement of the body blocks, at pre-load, is sufficiently specified. The agency requests comments on this alternative strategy and other potential enhancements to the current body block test procedure.

DATES: Comments must be received on or before May 1, 2015.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

Regardless of how you submit your comments, you should state the docket number of this document.

You may call the Docket at 202–366–9324.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Please see the Privacy Act discussion below.

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** notice published on April 11, 2000 (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: *For non-legal issues:* Ms. Carla Rush, Office of Crashworthiness Standards, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone 202–366–4583, fax 202–493–2739).

For legal issues: Mr. John Piazza, Office of the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone 202–366–2992, fax 202–366–3820).

SUPPLEMENTARY INFORMATION:

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I. Background

a. NPRM for New FAD

On March 30, 2012, the agency published in the **Federal Register** an NPRM (77 FR 19155) that proposed to amend FMVSS No. 210 to replace the pelvic body block and the upper torso body block with a new Force Application Device (FAD). The rationale provided for the proposal included the FAD's ease of use, that it is representative of the human form, and, most importantly, that it provides a consistent test configuration and load path to the seat belt assembly anchorages without affecting the stringency of the compliance test.

b. FMVSS No. 210

FMVSS No. 210, ''Seat belt assembly anchorages,'' applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. The standard establishes requirements for seat belt assembly anchorages to ensure the anchorages are properly located for effective occupant restraint and to reduce the likelihood of their failure. As to the latter, the standard requires seat belt anchorages to withstand specified forces to increase the likelihood that the belts will remain attached to the vehicle structure in a crash. Under the standard, seat belt anchorage assemblies for combination lap/shoulder belts must withstand a 13,345 Newton (N) force (3,000 pounds) applied to the lap belt portion of the seat belt assembly simultaneously with a 13,345 N force applied to the shoulder belt portion of the seat belt assembly. The 13,345 N force must be attained in not more than 30 seconds and maintained for 10 seconds.[1] In the current standard, these forces are applied to the shoulder portion of the belt (for a lap/shoulder belt) by an upper torso body block (Figure 3 in FMVSS No. 210) and the lap belt portion of the belt by a pelvic body block [2] (Figures 2A and 2B in FMVSS No. 210).

c. History Surrounding the Development of the FAD

The current standard does not expressly specify the position the body blocks must be in relative to the seat prior to the strength testing. The absence of this information has, in the past, resulted in manufacturers conducting compliance testing differently than NHTSA, as illustrated in an enforcement action brought against a manufacturer in the 1990s for an apparent noncompliance with FMVSS No. 210.[3] In the compliance test at issue in the *Chrysler* case, NHTSA positioned the pelvic body block away from the rear seat back. Chrysler argued that its vehicle met FMVSS No. 210 when tested with the body block placed against the seat back, and that NHTSA's placement of the pelvic body block forward of the seat back was not required by FMVSS No. 210. Ultimately, the U.S. Court of Appeals for the District of Columbia Circuit determined that NHTSA failed to provide adequate notice about the correct placement of the pelvic body block during the test.

In the NPRM proposing the FAD, the agency identified several other challenges associated with the use of the body blocks in addition to the issues

[1] For lap belt-only anchorages, the seat belt anchorage must withstand a force as it is increased to 22,241 N (5,000 pounds) in not more than thirty seconds and withstand that force as it is held for 10 seconds.

[2] The particular pelvic body block used depends on the type of seat. Typically the body block in Figure 2A of FMVSS No. 210 is used. The Figure 2B body block of FMVSS No. 210 is optionally used for center seating positions.

[3] See *United States* v. *Chrysler Corp.,* 158 F.3d 1350 (D.C. Cir. 1998).

with positioning the devices. First, the body blocks typically require two technicians to position them, and positioning may be a somewhat iterative process because the upper torso block can move in a way that causes a loss of tension during set-up. Additionally, due to the range of motion associated with the body blocks (which can move independently of each other), there can be some spooling out of the seat belt webbing during an FMVSS No. 210 test. For some test fixtures utilizing a hydraulic ram with a fixed stroke, the ram can reach its full stroke before a requisite force level is reached.

In order to address the issues identified by the *Chrysler* court and resolve some of the challenges associated with the test set-up and performance of the body blocks, the agency embarked on a program to develop a new FMVSS No. 210 test device. The FAD consists of an upper torso portion and a pelvic portion hinged together to form a one-piece device, and is available in two sizes. The two different size versions of the FADs are called FAD1 and FAD2. The external dimensions of the FAD1 are based on digital data developed by the University of Michigan Transportation Research Institute (UMTRI) as a representation of the 50th percentile adult male.[4] NHTSA developed the specifications for the FAD2, a smaller version of the force application device, to use at designated seating positions that are too narrow in width to accommodate the FAD1, such as some rear center seats in passenger cars and multipurpose passenger vehicles.

II. Overview of NPRM Comments

The agency received 13 comments in response to the NPRM from vehicle manufacturers and groups, suppliers, and a test facility.[5] The commenters stated a number of concerns with the proposed use of the FAD. We believe that many of the commenters' concerns and questions might stem from lack of hands-on experience with the new FAD. While these comments will be responded to in the final notice, they are briefly summarized in the following sections.

a. Design and Performance of the FAD Device

Several commenters raised concerns associated with the performance of their seat belt assemblies during compliance testing if tested with the FADs. The medium to heavy-duty vehicle industry was notably concerned with the lack of testing with the FAD on medium to heavy-duty trucks and how the FAD could potentially affect the performance of their seat belt anchorages during compliance testing. A number of commenters noted the differences in the FAD's range of motion (*i.e.,* the manner in which the FAD moved during testing) and load values (in NHTSA's testing) in comparison to the current body blocks.

The agency also received several comments on the FAD's design. Commenters questioned the durability and strength of the FADs since the agency did not conduct tests to failure, as commenters suggested that vehicle manufacturers do. There were also concerns with respect to the potential for seat belt slippage during FAD testing because of the FAD's polyurethane smoothness. Commenters also believed there was potential for certain FAD parts to cause damage to the seat belt webbing, and expressed concern about an observation that the bridged pull yoke digs into the seat. Others asked why a test device with a human form is superior to the current blocks, and some made note of the increased weight of the FAD versus the current body blocks. Commenters also suggested checking the completeness of the drawing package (*e.g.,* tolerances, indicating where forces should be applied) and requested 3–D data for the FADs.

b. Harmonization

Harmonization with other countries was also a reason some commenters gave for not supporting the use of the FAD. They argued that the use of the FAD would require additional testing on their part and would increase test costs. Several commenters suggested initiating a Global Technical Regulation to facilitate global harmonization.

c. Proposed Test Procedure

Several commenters raised questions or concerns regarding the proposed test procedure for the FADs. For example, there were requests for clarification on: Contact between adjacent FADs and the vehicle interior at pre-load and during the test; the belt slack procedure; the test position for an adjustable turning loop; the seating procedure when the seat centerline is not aligned with the seating reference point; and where exactly the forces need to be applied on the FAD. Commenters also suggested reducing the hold time requirement for the required load. Questions were also raised surrounding the proposed procedure for determining when to replace a FAD1 with a FAD2, and some suggestions were made on this procedure that pertain to only buses. Commenters also questioned the appropriateness of testing side-facing seats with the FADs and requested clarification on the associated pull direction. Additional suggestions were made regarding the proposed test procedure that include the use of a dedicated test belt and the use of a booster seat for the FAD2 based on its shoulder height.

d. Cost and Lead Time

Cost burden and lead time were major sources of concern, particularly for the medium to heavy-duty vehicle industry. Commenters argued that the cost of acquiring the FADs was underestimated. Commenters also stated that they would have to conduct tests to verify that the use of the FAD does not affect the compliance of their vehicles with the FMVSS No. 210 requirements, and if in fact it did affect the performance, they would incur redesign and certification costs. In addition, commenters stated that not harmonizing with the requirements of other countries would also drive up test costs. They suggest these costs far outweigh any cost savings attributed to the ease of use of the FADs. Some suggestions to reduce the burden of the proposal were to make the FAD an optional test device, or allow testing with the current body blocks for vehicles that are certified by their use and only require the use of the FAD when the vehicle undergoes recertification. Others suggested extending the lead time for any changeover to the FAD, and delaying the use of the FAD until it is a globally harmonized test device.

III. Alternative Strategy Under Consideration—Maintaining the Body Blocks and Refining the Test Procedure

The FAD was developed in order to, among other things, provide a consistent test configuration and load path to the seat belt assembly anchorages without affecting the stringency of the testing. Given the comments received on the NPRM, the agency has decided to evaluate the feasibility of maintaining the current body blocks and refining the test procedure such that the standard provides sufficient information about the pre-test positioning of the body blocks so that manufacturers are

[4] Robbins, D., ''Anthropometric Specifications for Mid-Size Male Dummy,'' Volume 2, UMTRI, DOT HS 806 716 (1985).

[5] These included: The Alliance of Automobile Manufacturers, Recreation Vehicle Industry Association, Inc., National Truck Equipment Association, Truck & Engine Manufacturers Association, Hino Motors, Ltd., Navistar, Inc., Daimler Trucks North America, Nissan North America, Inc., American Honda Motor Co., Inc., EvoBus GmbH, Freedman Seating Company, Johnson Controls, Inc., and TÜV Rheinland Kraftfahrt GmbH.

informed of the range of positions that may be tested to determine compliance.

We emphasize that although the agency is considering the option of retaining the body blocks and refining the FMVSS No. 210 test procedure, the agency is still considering replacing the body blocks with the FAD, as proposed in the March 2012 NPRM, or possibly incorporating the FAD as an optional testing tool. The comments received in response to this SNPRM, along with the comments already received in response to the NPRM, as well as the results of the agency's ongoing research and development, will inform the agency's final decision.

a. Preliminary Zone Concept for Placement of the Body Blocks

The agency is considering specifying zones within which the body blocks would be placed for testing purposes, as it has already done in FMVSS No. 222, ''School bus passenger seating and crash protection.'' (See final rule upgrading FMVSS No. 222, 73 FR 62744, October 21, 2008.) As part of the 2008 upgrade to FMVSS No. 222, the agency adopted a positioning procedure for the torso body block used in the quasi-static test for lap/shoulder seat belts on school buses. The procedure establishes a zone in which the body block must be located. Specifically, after the pre-load application is complete, the origin of the torso body block radius [6] at any point across the torso body block thickness must lie within a zone defined by specified boundaries. The forward boundary of this zone is established by a transverse vertical plane of the vehicle located 100 mm longitudinally forward of the seating reference point. The upper and lower boundaries of the zone are 75 mm above and below the horizontal plane located midway between the horizontal plane passing through the school bus torso belt adjusted height (specified in S3 of FMVSS No. 210), and the horizontal plane 100 mm below the seating reference point.

The agency is considering the possibility of utilizing zones such as the above for the initial placement of the current body blocks for FMVSS No. 210 compliance testing. Separate zones may be established for the torso and pelvic body blocks. By refining the current test procedure to include these zones, NHTSA intends for the standard to be clearer as to how the agency will position the current body blocks. The agency does not intend to increase the stringency of the standard per se.

b. Planned Research To Evaluate Alternative Strategy

The agency has initiated research to aid in the development of the zones bounding the initial placement for the current body blocks. The research will evaluate the zone concept across different vehicle types and seat configurations and establish the appropriate zone boundaries to ensure that it is feasible and practicable for all vehicles. This research will involve a range of seat and vehicle types including heavy vehicles. The research is expected to be completed in the winter of 2015.

IV. Request for Public Comments on Alternative Strategy

To assist the agency in evaluating whether and how to amend the current test procedure in order to maintain the use of the body blocks, NHTSA invites comments on the zone concept that is under consideration, as well as other possible solutions. Specifically, we request comments on, but not limited to, how the zones should be established in the vehicle environment, how to verify that the body blocks are within the specified zones under pre-load in the vehicle environment, and any make/model-specific issues that would impact the implementation of the proposed body block positioning procedure for all vehicles that must meet FMVSS No. 210. NHTSA encourages commenters to provide specific information or views on this matter and requests that the rationale for the comments be specific and supported by data, including any relevant analyses. While we do not intend to preclude commenters from identifying potential alternative solutions, we ask that the commenters' recommendations be consistent with the existing standard requirements and test procedure.

V. Public Participation

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.

Comments may also be submitted to the docket electronically by logging into *http://www.regulations.gov.* Follow the online instructions for submitting comments.

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.*

How can I be sure that my comments were received?

If you wish DOT's Docket Management Facility 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, the Docket Management Facility 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 received before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments received after that date. If the docket 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.

[6] The phrase ''origin of the torso body block radius'' is used in FMVSS No. 222. The phrase refers to the center of the flat edge of the torso body block.

How can I read the comments submitted by other people?

You may read the comments at DOT's Docket Management Facility at the address given above under **ADDRESSES**. The hours of the facility are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to *http://www.regulations.gov.* Follow the online instructions for accessing the dockets.

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.

VI. Rulemaking Analyses and Notices

a. Executive Order (E.O.) 12866 (Regulatory Planning and Review), E.O. 13563, and DOT Regulatory Policies and Procedures

The agency has considered the impact of this rulemaking action under E.O. 12866, E.O. 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has also been determined to be not significant under the Department's regulatory policies and procedures.

The cost impact of using the current FMVSS No. 210 body blocks would be minimal to nonexistent, since the status quo would basically be maintained.[7] The agency might develop procedures for installing and positioning the existing body blocks, but NHTSA does not believe that there would be significant incremental costs associated with using the procedures to test for compliance with FMVSS No. 210.

b. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, as amended, requires agencies to evaluate the potential effects of their proposed and final rules on small businesses, small organizations and small governmental jurisdictions. I hereby certify that the approach considered by this SNPRM would not have a significant economic impact on a substantial number of small entities.

The Small Business Administration's (SBA's) size standard regulation at 13 CFR part 121, ''Small business size regulations,'' prescribes small business size standards by North American Industry Classification System (NAICS) codes. NAICS code 336111, *Automobile Manufacturing* prescribes a small business size standard of 1,000 or fewer employees. NAICS code 336399, *All Other Motor Vehicle Parts Manufacturing,* prescribes a small business size standard of 750 or fewer employees. Although the majority of motor vehicle manufacturers would not qualify as a small business, there are a number of vehicle manufacturers that are small businesses. This SNPRM would not have a significant economic impact on these small businesses because the approach considered by this document would basically adopt the status quo used in FMVSS No. 210. The agency might develop procedures for installing and positioning the existing body blocks, but NHTSA does not believe that there would be significant incremental costs associated with using the procedures to test for compliance with FMVSS No. 210.

Small organizations and small governmental units would not be significantly affected by this SNPRM since the potential cost impacts associated with this action would not significantly affect the price of new motor vehicles. The cost impact of using the current FMVSS No. 210 body blocks is minimal to nonexistent, since the status quo would basically be maintained.

c. Executive Order 13132 (Federalism)

NHTSA has examined today's SNPRM 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 rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would 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.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption 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). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved.

However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Orders 13132 and 12988, NHTSA has considered whether this proposed rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature and objectives of today's proposed rule and finds that this proposed rule, like many NHTSA rules, would prescribe only a minimum safety standard. As such, NHTSA does not intend that this proposed rule would preempt state tort law that would

[7] The estimated impact of the proposal to adopt the FAD was discussed in the preamble to the March 30, 2012 NPRM (77 FR at 19159).

effectively impose a higher standard on motor vehicle manufacturers than that established by today's proposed rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard proposed here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

d. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted annually for inflation, with base year of 1995). UMRA also requires an agency issuing a final rule subject to the Act to select the ''least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule.'' If made final, this proposed rule would not result in a Federal mandate that would likely 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 annually for inflation, with base year of 1995).

e. National Environmental Policy Act

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

f. Executive Order 12778 (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 preemptive effect of this proposed rule is discussed above. 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.

g. Paperwork Reduction Act (PRA)

Under the PRA of 1995, 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. In this notice of proposed rulemaking, we are not proposing any ''collections of information'' (as defined at 5 CFR 1320.3(c)).

h. National Technology Transfer and Advancement Act

Under the National Technology Transfer and Advancement Act of 1995 (NTTAA) (Pub. L. 104–113), all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies, such as the International Organization for Standardization (ISO) and the Society of Automotive Engineers (SAE) International. The NTTAA directs us to provide Congress, through OMB, explanations when we decide not to use available and applicable voluntary consensus standards.

The agency identified an ISO technical report (TR 1417–1974) and an SAE International standard (J384, Rev. JUN94) that have testing recommendations for vehicle seat belt anchorages. Both recommend the use of body blocks, similar to those currently specified in FMVSS No. 210, for applying the required test loads. The alternative strategy the agency is now considering in this SNPRM would continue the use of the FMVSS No. 210 body blocks. Accordingly, the alternative strategy employing the current body blocks is consistent with the ISO report and SAE standard. However, NHTSA has tentatively determined that the ISO report and SAE standard, among other matters, do not specify the positioning of the body blocks referenced in both with sufficient specificity to achieve the goals of this rulemaking. Thus, NHTSA has decided to base this SNPRM on the existing FMVSS No. 210 body blocks rather than explore using new ones, and to develop possible test procedures that make clear how the body blocks are to be positioned during FMVSS No. 210 compliance testing.

Authority: 49 U.S.C. 322, 30111, 30115, 30117 and 30166; delegation of authority at 49 CFR 1.95.

Raymond R. Posten,

Associate Administrator for Rulemaking.

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