noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. *See* the information provided in the direct final rule which is located in the rules section of the **Federal Register**.

Dated: July 28, 2003.

William Rice,

Acting Regional Administrator, Region 7.

[FR Doc. 03–20037 Filed 8–5–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–03–15732]

RIN 2127–AI98

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In this document, NHTSA proposes to amend Federal Motor Vehicle Safety Standard No. 208, *Occupant crash protection* (FMVSS No. 208), to establish the same maximum test speed and phase-in schedule for the belted barrier test using the 5th percentile adult female test dummy as is required for belted tests using the 50th percentile adult male test dummy commencing September 1, 2007. The effect of this proposal would be to increase the maximum belted frontal barrier crash test speed for the smaller dummy from 48 km/h (30 mph) to 56 km/h (35 mph). Preliminary testing has shown that at the higher test speed, a belted 5th percentile adult female dummy seated in accordance with FMVSS No. 208 seating procedures may record higher injury measurements than a 50th percentile adult male dummy tested in the same vehicle. Improving performance beyond the 48 km/h (30 mph) test speed for the 5th percentile adult female would require that air bag and seat belt designs be optimized to protect occupants in high speed crashes without increasing the aggressiveness of those systems to a level where they are likely to induce injuries for out-of-position occupants.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than October 6, 2003.

ADDRESSES: You may submit comments (identified by DOT DMS Docket Number 03–15732) by any of the following methods:

- Web site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery : Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

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

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

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Lori Summers, Office of Crashworthiness Standards, Light Duty Vehicle Division by phone at (202) 366–1740, and by fax at (202) 493–2739.

For legal issues, you may contact Christopher Calamita of the NHTSA Office of Chief Counsel by phone at (202) 366–2992 and by fax at (202) 366–3820.

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

SUPPLEMENTARY INFORMATION:

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I. Background

FMVSS No. 208 requires passenger vehicles to be equipped with safety belts and frontal air bags to prevent or mitigate the effects of occupant interaction with the vehicle interior in a crash. While air bags have been very effective in increasing the number of people saved in moderate and high speed frontal crashes, they have occasionally been implicated in fatalities in instances where vehicle occupants were very close to the air bag when it deployed. On May 12, 2000, NHTSA published a final rule to require that future air bags be designed to create less risk of serious air bag-induced injuries than current air bags and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology (''Advanced Air Bag Rule'', 65 FR 30680).

The Advanced Air Bag Rule established two phase-in schedules. In the first phase-in, NHTSA will require vehicle manufacturers to install air bag systems that reduce the risk of air bag-induced injury (particularly to young children and small adult drivers), while improving the frontal crash protection provided by current air bag systems to occupants of different sizes. In the second phase-in, the agency will require manufacturers to further improve upon the existing air bag systems by implementing a belted rigid barrier crash test at impact speeds up to and including 56 km/h (35 mph), rather than 48 km/h (30 mph) as has been required for many years. The Advanced Air Bag

Rule established, on an interim basis, a maximum unbelted test speed for tests using the 5th percentile adult female and 50th percentile adult male dummies of 40 km/h (25 mph). While the rule retained the existing 48 km/h (30 mph) belted test requirement for the 50th percentile adult male test dummy throughout the first phase-in, it added a new belted test for the 5th percentile adult female test dummy at impact speeds up to and including 48 km/h (30 mph). It also established a 56 km/h (35 mph) maximum test speed for the 50th percentile adult male in phase two of the requirements (65 FR 30685).

While the agency has been performing a 56 km/h (35 mph) frontal barrier impact test with 50th percentile adult male dummies in the New Car Assessment Program (NCAP), now for the first time, FMVSS No. 208 has rigid barrier test requirements for belted occupants at a higher test speed than for unbelted occupants.[1] Until the Advanced Air Bag Rule, FMVSS No. 208 specified the same maximum test speed for both belted and unbelted rigid barrier testing. From the early 1970s, when FMVSS No. 208 was first issued, up through the early 1990s, when air bags first began to be widely introduced, seat belt use was quite low, reaching only 51 percent in 1991. Since that time, seat belt use has risen to 75 percent nationally, and is as high as 92 percent in states with primary seat belt laws and strong enforcement programs. By increasing the maximum speed for belted testing requirements, the Advanced Air Bag Rule amended FMVSS No. 208 to better serve the safety needs of the growing number of Americans using seat belts on a regular basis.

In the preamble to the Advanced Air Bag Rule the agency stated that ''we did not propose including the 5th percentile adult female dummy in [the 56 km/h (35 mph) phase-in] requirement because we had sparse information on the practicability of such a requirement. NHTSA will initiate testing to examine this issue and anticipates proposing increasing the test speed for belted tests using the 5th percentile adult female dummy to 56 km/h (35 mph), beginning at the same time that the 50th percentile adult male is required to be used in belted testing at that speed.'' [60 FR 30680, 30690.] This position was reiterated when the agency declined a petition to immediately begin rulemaking to establish a requirement for vehicles to meet a 0–56 km/h (0–35 mph) belted barrier test with the 5th percentile adult female dummy (66 FR 65376; December 18, 2001). However, the agency continued research on the feasibility and practicability of increasing the testing speed for belted testing using the 5th percentile adult female dummy.

Based on the results of our research, we are proposing to increase the maximum belted rigid barrier test speed for the 5th percentile adult female in accordance with the same phase-in schedule already adopted for the 50th percentile adult male test dummy. The proposed amendment would apply to all vehicles required to meet the requirements of the Advanced Air Bag Rule.

II. Tests Conducted To Assess the Feasibility of a 56 km/h (35 mph) Belted Barrier Test Requirement Using the 5th Percentile Adult Female Test Dummy

Preliminary testing conducted by NHTSA and Transport Canada indicates that a belted 5th percentile adult female dummy may be subject to higher injury measures than a belted 50th percentile adult male dummy in comparable frontal barrier crash tests, when both are seated in accordance with the applicable FMVSS No. 208 seating procedures. In 2001, NHTSA conducted a series of ten crashes to demonstrate the feasibility of meeting the performance requirements adopted in the Advanced Air Bag Rule using belted 5th percentile adult female driver and passenger dummies in a 56 km/h (35 mph) rigid barrier test. NHTSA then conducted an additional eight tests through a joint research program with Transport Canada. Mini, light, and medium passenger cars were tested, along with sport utility vehicles, minivans, and a pickup truck.[2] None of the tested vehicles were designed to meet the new test requirements of the Advanced Air Bag Rule (See, NHTSA–2001–10687).

Of the eighteen vehicles tested, twelve were able to meet the driver and right front passenger dummy Injury Assessment Reference Values (IARVs) required under FMVSS No. 208. The six vehicles that exceeded the IARVs for the 5th percentile adult female dummy were found to exceed injury measures in the head, chest, and/or neck regions. When comparable NCAP crash tests were conducted with 50th percentile adult male dummies, none of the adult male dummies exceeded the IARVs.

In a test of a 2001 Dodge Durango, the driver-side test dummy measured injury levels that exceeded the IARVs for HIC, Nij, and neck tension; the passenger dummy exceeded the Nij criteria. Both driver and passenger dummies exceeded the chest acceleration criteria in a test of a 2002 Chevy Trailblazer, with acceleration levels approximately 17 percent higher than the levels measured in the next highest vehicle for both driver and passenger. The driver dummy measured a Nij reading equivalent to the IARV in a test of a 2001 Ford Taurus and two times the IARV in a test of a 1998 Geo Metro. The high injury measurement in the 1998 Geo Metro test was more indicative of cars manufactured in the mid-1990s than of newer models, many of which have been redesigned to have a less aggressive air bag deployment. In all four of these vehicles, NHTSA believes the high injury readings were the result of the deploying air bag interacting with the dummy.

The driver dummy in a 2001 Dodge Grand Caravan test exceeded both Nij and chest acceleration limits. Film analysis of the test indicated that the steering wheel rotated upward during the crash test and the air bag deployment pattern was such that it inflated under the dummy's chin, causing high neck loads. At the same time, the air bag may have failed to prevent dummy contact with the steering wheel through the air bag, resulting in the high chest acceleration measurement. The sixth test involved a 2001 Toyota Echo. In that test, the driver dummy exceeded the HIC criteria. It appears that in this instance the force limiting seat belt system did not yield effectively and allowed the dummy's head to snap forward and exceed the HIC criteria. These tests suggest that the deployment characteristics of some air bag systems and the force limiting capabilities of some seat belt systems will need to be optimized for the smaller occupants represented by the 5th percentile female dummy to provide better protection.

While the remaining twelve vehicles all tested within the IARV limits, the overall average injury values for the 5th percentile adult female driver dummies in these vehicles were somewhat higher than the values for 50th percentile adult male driver dummies tested in the same vehicles. The greatest discrepancy was with the neck injury criteria (Nij). Fourteen of the tested vehicles met the neck IARVs for the 5th percentile adult female driver dummy, but on average the Nij values for the 5th percentile

[1] Vehicles manufactured after March 18, 1997 not certified to the Advanced Air Bag Rule may comply with the standard by means of an unbelted sled test, as opposed to the unbelted rigid barrier test. 49 CFR 571.208, S13. The sled test does not involve an impact with a rigid barrier but uses the same crash pulse for each vehicle and fires air bags artificially without the use of the vehicle sensor system.

[2] The vehicle classifications were based on those adopted by NHTSA in NCAP.

adult female driver dummy were nearly double the Nij values registered for the 50th percentile adult male driver dummies tested in the same vehicle. The higher injury measures may result from the proximity of the female dummy to the steering wheel or instrument panel. The seating procedure for testing with the 5th percentile female dummy places the dummy closer to the steering wheel than the 50th percentile adult male dummy, reducing the distance between the dummy and the deploying air bag. A major factor in air bag-induced fatalities has been the proximity of the occupant to the air bag module at deployment. Therefore, this amendment is intended to ensure that belted small-stature drivers and any belted passengers seated close to the air bag are adequately protected in a high speed crash.

These eighteen tests indicate both a need for and the feasibility of extending the 56 km/h (35 mph) maximum belted test speed to include the 5th percentile adult female dummy. If adopted, the new requirement would improve the equality of belted crash protection for occupants of different sizes by requiring the 5th percentile female and the 50th percentile male belted rigid barrier crash tests to use the same maximum speed. As described above, compliance with this amendment will likely lead to further improvement of air bag and/or seat belt systems.

III. Benefits and Costs Associated With the Proposed Rule

NHTSA estimates that today's proposal, if adopted, could prevent between five and six small occupant fatalities per year and could also reduce two to three moderate to severe injuries (MAIS 2+).[3] Compliance with the proposal would reduce fatalities for drivers by reducing fatal HIC values by 1.4–2.3 percent, fatal Nij values by 3.8 percent, and fatal chest g values by 2.8 percent. When applying these reduction rates to the corresponding target population, this translates to a reduction in driver fatalities from head, neck and chest injuries of 1–2, 1, and 2, respectively. For passengers, compliance would reduce fatalities by reducing fatal HIC values by 0.9–1.5 percent. This translates to a reduction in passenger fatalities by 1. The total reduction in fatalities would be between five and six drivers and passengers combined. Compliance with this proposal would also reduce MAIS 2–5 injuries to drivers by reducing the associated HIC values by 0.2–0.4 percent and the associated chest g values by 0.2 percent. When applying these reduction rates to the corresponding target population, this would result in a reduction in head MAIS 2–5 head and chest injuries of 1–2 and 1 respectively, or a total reduction of MAIS 2–5 injuries of 2–3. A complete discussion of how NHTSA arrived at its estimates may be found in the Preliminary Regulatory Evaluation located in the docket for this rulemaking.

Beyond reducing the rates of injury and fatality to small-stature occupants, increasing the maximum belted test speed for testing with the 5th percentile adult female dummy would expand belted crash protection to occupants of different sizes. The amendment would address the potential hazard to all belted occupants who are very close to both the air bag module and the steering wheel or instrument panel. By phasing in a maximum test speed of 56 km/h (35 mph) for belted testing with the 50th percentile adult male dummy, the Advanced Air Bag Rule should improve occupant protection for belted occupants whose seats are positioned in the mid-track position or further back. Increasing the test speed to 56 km/h (35 mph) for 5th percentile female dummies would oblige occupant protection designers to concurrently focus on improving the safety of small stature belted drivers as well as other individuals who for some reason have the seat positioned closer to the instrument panel or steering wheel.

Compliance with the proposal would result in a nominal additional cost to vehicle manufacturers. The test procedure itself is already required at a lower impact speed in FMVSS No. 208; only the maximum impact speed would be raised. Likewise, agency compliance tests would use the same procedures that will be used for the 48 km/h (30 mph) belted barrier test. Additionally, as indicated by twelve vehicles that met all IARVs in NHTSA's test program, many vehicles already meet the proposed requirement. Measures implemented to meet the 48 km/h (30 mph) crash test requirements for the 5th percentile adult female test dummies may also result in compliance with the proposed 56 km/h (35 mph) requirement with no additional changes.

To the extent additional measures may prove necessary, improving performance beyond the 48 km/h (30 mph) requirement could involve relatively simple changes. Air bag inflation characteristics could be redesigned through changes to the fold pattern, vents, or the air bag algorithm that would effectively modify the timing between primary and secondary stages of deployment. Changes could be made to the electronic control module, which controls the dual stage air bag. Possible changes could include seat track sensors and/or modified seat track lengths to position the full forward seating position further away from the steering assembly. Safety belt pretensioners could be used to remove the slack from the safety belt and provide restraining forces on the occupant earlier in the crash, reducing forward excursion into the steering wheel or deploying air bag. Manufacturers may decide to use a combination of technologies to maximize the performance of the entire occupant protection system.

Based on vehicle production numbers, about 20 percent of new light vehicles would have to change either driver side or passenger side performance to comply with the proposal. Assuming a new light vehicle fleet in 2005 of 15.9 million, 3.32 million vehicles would need to improve driver side performance, with 0.92 million of these vehicles also having to improve passenger side performance.

Manufacturers may be able to comply with this proposal by changing the air bag characteristics as described above. There would be minimal costs associated with this alternative. If manufacturers were to comply with the proposal by modifying the electronic control module, 3.32 million driver side and 0.92 million passenger side air bags would need to be improved. At a unit cost of $3.12 per vehicle, the total cost for this implementation strategy would be $10.36 million.

Of the vehicles that would need improved performance, about 40 percent were equipped with a driver seat track sensor and 60 percent were not. Under a compliance strategy incorporating seat track sensors, 1.32 million vehicles that would not comply with the proposed requirements would already be equipped with seat track sensors. These 1.32 million vehicles would need to modify the driver side air bag inflation characteristics and electronic control module, at a cost of $3.12 per vehicle, or a total of $4.12 million. Two million of the vehicles that would not comply with the proposal would not be equipped with a seat track sensor. These two million vehicles would need to install a driver side seat track sensor and change the air bag characteristics. The cost of a sensor and modification of the air bag

[3] MAIS (Maximum Abbreviated Injury Scale) represents the maximum injury severity at an Abbreviated Injury Scale (AIS) level, regardless of the nature or location of the injury. The AIS ranks individual injuries by body region on a scale of 1 to 6 as follows: 1=minor, 2=moderate, 3=serious, 4=severe, 5=critical, and 6=maximum/currently untreatable.

characteristics would be $8.12 ($5.00 + $3.12) per seat. The cost for the driver side improvement would be $16.24 million. Of these two million vehicles, 0.92 million vehicles would also have to make modifications to the front passenger side. These modifications may be able to be made through altering the characteristics of the air bag. The total cost for the compliance alternative relying on seat track sensors would be $20.36 million.

Manufacturers may also be able to comply with the proposal using pretensioners, with or without adopting other refinements. For vehicles that would not comply with the proposed requirements but already have pretensioners, manufacturers would have to change the air bag electronic control module or other restraint characteristics. For vehicles that do not comply with the proposed requirements and do not have pretensioners, manufacturers may have to install pretensioners for both driver and passenger sides and change the air bag electronic module.

Eighty seven percent of the vehicles that did not comply with the proposed requirements had pretensioners, indicating that pretensioners alone may not be sufficient to meet the proposed requirements. The 2.89 million vehicles equipped with pretensioners that would not comply with the proposal would have to incorporate improved air bag characteristics or adopt some other, additional strategy to improve performance of the overall system. At an incremental cost of $3.12 per vehicle, the cost for these vehicles would be $9.02 million. Roughly 13 percent of the vehicles that would need improved performance had no pretensioners. The addition of pretensioners to these 0.43 million vehicles, at a cost per seat of $16.50 and installation in at both the driver and front passenger position, would equal $14.20 million. In addition, these vehicles would also likely need to improve their air bag characteristics at a cost of $3.12 per vehicle, or $1.34 million for the portion of the fleet that needed new pretensioners. The cost for vehicles that required installation of pretensioners would be $15.54 million. The total estimated cost for compliance based on the pretensioner option would equal $24.56 million ($9.02 million + 15.54 million).

In summary, the overall cost of the proposal would range from minimal costs to $24.56 million, depending on the implementation of technologies. A complete discussion of how NHTSA arrived at these costs may be found in the Preliminary Regulatory Evaluation located in the docket for this rulemaking.

IV. Effective Date of the Proposed Rule

If adopted, this proposal would be implemented according to the same phase-in schedule as for the increase in test speed for the 50th percentile adult male dummy belted rigid barrier test. Implementation of the proposed requirement, if adopted, would be as follows:

—35 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2007 with an allowance of advance credits for vehicles built after September 1, 2006;

—65 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2008 with an allowance of carryover credits from vehicles built after September 1, 2006.

—100 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2009 with an allowance of carryover credits from vehicles built after September 1, 2006.

—All light vehicles manufactured on or after September 1, 2010.

If this proposal is adopted as a final rule, the agency will permit manufacturers that sell two or fewer carlines in the United States at the beginning of the first year of the phase-in (September 1, 2007) the option of omitting the first year of the phase-in. Likewise, manufacturers that produce or assemble fewer than 5,000 vehicles for the U.S. market per year and multi-stage manufacturers and alterers may defer compliance with the new requirement until September 1, 2010. This approach is fully consistent with the existing phase-in for the 0–56 km/h (0–35 mph) belted test using the 50th percentile adult male test dummy.

V. Request for Comments

To aid the agency in obtaining useful comments, we are setting forth in this section a specific list of questions for commenters. For easy reference, the questions are numbered consecutively. NHTSA encourages commenters to provide specific responses to each question for which they may have information or views. In addition, in order to facilitate tabulating the comments by issue, the agency encourages commenters to respond to the questions in sequence, and to identify the number of each question to which they are responding.

1. *Overall safety.* Does the overall proposal achieve an appropriate level of safety with respect to risks from air bags for small stature drivers and passengers?

2. *Possible unintended consequences.* To what extent could the proposed increase in the test speed for the belted frontal barrier crash test using the 5th percentile adult female test dummy result in unintended adverse consequences?

3. *Potential cost.* What are the potential costs for the technology and design changes required to meet the proposed amendment?

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES.**

Comments may also be submitted to the docket electronically by logging onto the Docket Management System website at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to obtain instructions for filing the document electronically. If you are submitting comments electronically as a PDF (Adobe) file, we ask that the documents submitted be scanned using Optical Character Recognition (OCR) process, thus allowing the agency to search and copy certain portions of your submissions.[4]

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at *http://www.whitehouse.gov/omb/fedreg/reproducible.html.* DOT's guidelines may be accessed at *http://dmses.dot.gov/submit/DataQualityGuidelines.pdf.*

[4] Optical character recognition (OCR) is the process of converting an image of text, such as a scanned paper document or electronic fax file, into computer-editable text.

How Can I Be Sure That My Comments Were Received?

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

How Do I Submit Confidential Business Information?

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

Will the Agency Consider Late Comments?

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

How Can I Read the Comments Submitted by Other People?

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

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

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

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

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

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

VI. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

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

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budget impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866. It is not considered to be significant under E.O. 12866 or the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

This document proposes to amend 49 CFR 571.208 by increasing the maximum belted frontal barrier crash test speed from 48 km/h (30 mph) to 56 km/h (35 mph) for the 5th percentile adult female dummy. This proposal would establish the same requirement and phase-in schedule for testing with a 5th percentile adult female dummy as is currently required for the 50th percentile adult male dummy. Preliminary testing has shown that at a maximum frontal barrier crash test speed, a belted 5th percentile adult female dummy may produce higher injury measurements than a 50th percentile adult male dummy tested in the same vehicle. Increasing the maximum belted crash test speed for the 5th percentile female would require manufacturers to optimize safety belt and air bag performance for both the 5th percentile female and 50th percentile male dummies at the same crash test speed. The proposed amendment would not necessarily require any additional vehicle crash testing to be conducted by the manufacturer and the test procedures are already specified in the FMVSSs. Measures to provide protection to occupants the size of the 5th percentile adult female dummy are currently being implemented to meet the Advanced Air Bag Rule crash test requirements up to 48 km/h (30 mph).

As noted above in the section entitled Benefits and Costs Associated with the Proposed Rule, the overall cost of the proposal would range from minimal costs to $24.56 million, depending on the implementation of technologies. A complete discussion of how NHTSA arrived at these costs may be found in the Preliminary Regulatory Evaluation located in the docket for this rulemaking.

B. Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, NHTSA has evaluated the effects of this proposed action on small entities. I hereby certify that this notice of proposed rulemaking would not have a significant impact on a substantial number of small entities.

The following is the agency's statement providing the factual basis for the certification (5 U.S.C. 605(b)). If adopted, the proposal would directly affect motor vehicle manufacturers, second stage or final manufacturers, and alterers. SIC code number 3711, *Motor Vehicles and Passenger Car Bodies,* prescribes a small business size standard of 1,000 or fewer employees. SIC code No. 3714, *Motor Vehicle Part and Accessories,* prescribes a small business size standard of 750 or fewer employees.

The majority of motor vehicle manufacturers would not qualify as a small business. These manufacturers,

along with manufacturers that do qualify as a small business, are already required to comply with the 48 km/h (30 mph) maximum crash test speed requirements using 5th percentile adult female dummies under the Advanced Air Bag Rule of FMVSS No. 208. Measures to provide protection up to 48 km/h (30 mph) are already being implemented, and 12 of 18 vehicles tested currently comply with the proposed amendment (more than five model years prior to the first proposed phase-in). Improving performance to further meet the proposed 56 km/h (35 mph) requirement could be achieved through simple changes in safety belt design or changes in air bag inflation characteristics with low-cost algorithm changes. Furthermore, small volume manufacturers would be given the option of waiting until the end of the phase-in to meet the new requirements.

Most of the intermediate and final stage manufacturers of vehicles built in two or more stages and alterers have 1,000 or fewer employees. But again, these companies already are required to comply with the 48 km/h (30 mph) belted 5th percentile adult female dummy requirement. These companies could either rely on the original equipment manufacturer's certification, or employ similar low cost measures as the large manufacturers. Accordingly, there would be no significant impact on small businesses, small organizations, or small governmental units by these amendments. For these reasons the agency has not prepared a preliminary regulatory flexibility analysis.

C. Executive Order No. 13132

NHTSA has analyzed this proposed rule in accordance with the principles and criteria set forth in Executive Order 13132, Federalism and has determined that this proposal does not have sufficient Federal implications to warrant consultation with State and local officials or the preparation of a Federalism summary impact statement. The proposal would not have any substantial impact on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

D. National Environmental Policy Act

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

E. Paperwork Reduction Act

Under the new procedures established by 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 OMB control number. For the phase-in reporting requirements, NHTSA is submitting to OMB a request for approval of the following collection of information. Public comment is sought on the proposed collection.

Agency: National Highway Traffic Safety Administration (NHTSA).

Title: Part 585—Advanced Air Bag Phase-In Reporting Requirements.

Type of Request: Updated collection.

OMB Clearance Number: 2127–0599.

Form Number: This collection of information will not use any standard forms.

Requested Expiration Date of Approval: Three years from the date of approval.

Summary of the Collection of Information

So that NHTSA could ensure that vehicle manufacturers are certifying their applicable vehicles as meeting the rigid barrier test using the belted 5th percentile adult female test dummy, NHTSA would require vehicle manufacturers to report on compliance of their vehicles with the upgraded frontal barrier crash test for the 5th percentile adult female test dummy. The report would be included with the required reports for the phase-in of the higher test speed for the 50th percentile adult male dummy.

This proposal would be implemented according to the same phase-in schedule as for the increase in test speed for the 50th percentile adult male dummy belted rigid barrier test. Implementation of the proposed requirement, if adopted, would be as follows:

—35 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2007 with an allowance of advance credits for vehicles built after September 1, 2006;

—65 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2008 with an allowance of carryover credits from vehicles built after September 1, 2006.

—100 percent of each manufacturer's light vehicles manufactured during the production year beginning on September 1, 2009 with an allowance of carryover credits from vehicles built after September 1, 2006.

—All light vehicles manufactured on or after September 1, 2010.

If this proposal is adopted as a final rule, the agency would permit manufacturers that sell two or fewer carlines in the United States at the beginning of the first year of the phase-in (September 1, 2007) the option of omitting the first year of the phase-in. Likewise, manufacturers that produce or assemble fewer than 5,000 vehicles for the U.S. market per year and multi-stage manufacturers and alterers could defer compliance with the new requirement until September 1, 2010. This approach is fully consistent with the existing phase-in for the 0–56 km/h (0–35 mph) belted test using the 50th percentile adult male test dummy.

For each year of the phase-in period, manufacturers would be required to provide to NHTSA, within 60 days after August 31 of each ''production year,'' information identifying the vehicles (by make, model, and vehicle identification number (VIN)) that have been certified as complying with the belted barrier test upgrade.

Description of the Need for the Information and Proposed Use of the Information

NHTSA would need this information to ensure that vehicle manufacturers are certifying their applicable vehicles as meeting the new belted barrier test using the 5th percentile female. NHTSA will use this information to determine whether a manufacturer has complied with the amended requirements of FMVSS No. 208 during the phase-in period.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)

NHTSA estimates that 21 vehicle manufacturers would submit the required information. For each report, the manufacturer will provide, in addition to its identity, several numerical items of information. This information would include:

(a) Total number of vehicles manufactured for sale during the preceding production year,

(b) Total number of vehicles manufactured during the production year that meet the new regulatory requirements, and

(c) Information identifying the vehicles (by make, model, and vehicle identification number (VIN)) that have been certified as complying with the belted barrier test upgrade.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting From the Collection of Information

NHTSA estimates that each manufacturer will incur 61 burden hours per year. This is an increase in one additional annual burden hour to the estimated annual burden for the existing OMB clearance, 2127–0599. This estimate is based on the fact that data collection would involve only computer tabulation and that manufacturers would provide the information to NHTSA in an electronic (as opposed to paper) format. We anticipate the data collection to involve the same vehicles as for the upgrade of the belted barrier test using the 50th percentile adult male test dummies.

NHTSA estimates that the recordkeeping burden resulting from the collection of information would be 0 hours because the information will be retained on each manufacturer's existing computer systems for each manufacturer's internal administrative purposes.

NHTSA estimates that the total annual cost burden would be increased by $735 dollars (1 additional hour × 21 manufacturers × $35 cost per hour). There would be no capital or start-up costs as a result of this collection. Manufacturers could collect and tabulate the information by using existing equipment. Thus, there would be no additional costs to respondents or recordkeepers.

NHTSA requests comment on its estimates of the total annual hour and cost burdens resulting from this collection of information. Please submit any comments to the NHTSA Docket Number referenced in the heading of this notice or to: Lori Summers, Office of Rulemaking, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. Ms. Summers' telephone number is: (202) 366–1740. Comments are due within 60 days of the date of publication of this Notice of Proposed Rulemaking in the **Federal Register**.

F. 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.'' If adopted, the amendments would use the technical standards currently in FMVSS No. 208 and would only increase the maximum speed for the frontal barrier crash test using the 5th percentile adult female dummy from 48 km/h (30 mph) to 56 km/h (35 mph). No voluntary consensus standard uses a maximum speed of 56 km/h (35 mph) for a frontal barrier crash test using a 5th percentile adult female dummy.

G. Civil Justice Reform

This proposal would not have any retroactive effect. Under 49 U.S.C. 21403, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 21461 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

H. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 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). This rulemaking would not result in expenditures by State, local or tribal governments, in the aggregate, or by the private sector in excess of $100 million annually.

I. Executive Order 13045

Executive Order 13045 (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental, health, or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in E.O. 12866 and does not involve decisions based on environmental, health, or safety risks that disproportionately affect children. The proposed rule, if made final, would increase the maximum belted frontal crash barrier test speed from 48 km/h (30 mph) to 56 km/h (35 mph) for the 5th percentile adult female dummy.

J. Executive Order 13211

Executive Order 13211 (66 FR 28355, May 18, 2001) applies to any rule that: (1) Is determined to be economically significant as defined under E.O. 12866, and is likely to have a significantly adverse effect on the supply of, distribution of, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. If made final, this rulemaking would increase the maximum belted frontal crash barrier test speed from 48 km/h (30 mph) to 56 km/h (35 mph) for the 5th percentile adult female dummy. Therefore this proposal was not analyzed under E.O. 13211.

K. Data Quality Act

Section 515 of the Fiscal Year (FY) 2001 Treasury and General Government Appropriations Act (Pub. L. 106–554, sec. 515, *codified at* 44 U.S.C. 3516 historical and statutory note), commonly referred to as the Data Quality Act, directed OMB to establish government-wide standards in the form of guidelines designed to maximize the ''quality,'' ''objectivity,'' ''utility,'' and ''integrity'' of information that federal agencies disseminate to the public. The Act also required agencies to develop their own conforming data quality guidelines, based upon the OMB model. OMB issued final guidelines implementing the Data Quality Act (67 FR 8452, Feb. 22, 2002). On October 1, 2002, the Department of Transportation promulgated its own final information quality guidelines that take into account the unique programs and information products of DOT agencies (67 FR 61719). The DOT guidelines were reviewed and approved by OMB prior to promulgation.

NHTSA made information quality a primary focus well before passage of the Data Quality Act, and has made implementation of the new law a priority. NHTSA has reviewed its data collection, generation, and dissemination processes in order to ensure that agency information meets the standards articulated in the OMB and DOT guidelines, and plans to review and update these procedures on an ongoing basis.

NHTSA believes that the information and data used to support this rulemaking adhere to the intent of the Data Quality Act and comply with both the OMB and DOT guidelines. NHTSA has reviewed all relevant procedures for research and analysis in order to ensure that information disseminated by the agency is accurate, reliable, and unbiased in substance, and is presented in a clear, complete, and unbiased manner. Having followed those procedures, NHTSA believes that the information related to this rulemaking meet the requirements of the Data Quality Act guidelines of both OMB and DOT. This expectation regarding information quality has been confirmed by the agency in the course of its pre-dissemination review, per the guidelines.

Individuals may review all of the data related to this rulemaking by accessing NHTSA Docket No. NHTSA–03–15732 through the DOT docket management Web site at *http://dms.dot.gov. See* Section N. of this notice for further instructions.

L. Plain Language

Executive Order 12866 and the President's memorandum of June 1, 1998, require each agency to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

- Have we 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 isn't 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 we improve clarity by adding tables, lists, or diagrams?
- What else could we do to make the rule easier to understand?

If you have any responses to these questions, please include them in your comments on this proposal.

M. Regulation Identifier Number (RIN)

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.

N. Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, and Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR part 571 as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 would continue to read as follows:

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

2. Section 571.208 would be amended by revising S16.1(a) to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S16.1 *General provisions.* * * *

(a) *Belted test.* (1) *Vehicles certified to S14.1 or S14.2.* Place a 49 CFR part 572 subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 48km/h (30 mph), into a fixed rigid barrier that is perpendicular within a tolerance of ±5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

(2) *Vehicles certified to S14.3 or S14.4.* Place a 49 CFR part 572 subpart O 5th percentile adult female test dummy at each front outboard seating position of a vehicle, in accordance with the procedures specified in S16.3 of this standard. Impact the vehicle traveling longitudinally forward at any speed, up to and including 56km/h (35 mph), into a fixed rigid barrier that is perpendicular within a tolerance of ±5 degrees to the line of travel of the vehicle under the applicable conditions of S16.2 of this standard.

* * * * *

Issued on: August 1, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–20054 Filed 8–5–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571, 585, 586, 589, 590, and 596

[Docket No. NHTSA–03–15817; Notice 1]

RIN 2127–AI91

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to require all designated seating positions in rear seats, other than side-facing seats, be equipped with integral lap/shoulder safety belts. This proposal responds, in part, to a Congressional mandate that the agency begin to phase-in requirements for lap/shoulder belts for all rear seating positions, wherever practicable, not later than September 1, 2005.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than October 6, 2003.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number 03–15817] by any of the following methods:

- Web site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. For