

apply to small entities as well as large entities.

6. If the Commission changes the application of the captions default-off rule with regard to situations raised in the comments to this proceeding, such as to 911 calls, there may be costs to IP CTS providers, including small providers, in implementing such a change. As noted above, the Commission initially believes that such costs would be reasonable, and the public interest in ensuring access to 911 would outweigh this minimal burden, and therefore no alternatives are proposed for small entities. The *Further Notice* seeks comment on the costs and benefits of the proposal to require that captions be turned on for all 911 calls as well as the other modifications proposed in the *Further Notice*, including whether to require the disassociation of volume control from the use of captions, whether to permit that captions be defaulted on for answering machines, and whether to permit captions to be defaulted on for IP CTS phones that are available only to registered users. The Commission will consider any comments received that propose alternatives that would reduce the burden of any regulation on IP CTS providers, including specific proposals to reduce the regulatory burden on small entities

F. Federal Rules That May Duplicate, Overlap, or Conflict With Proposed Rules

1. None.

Ordering Clauses

2. Pursuant to sections 1, 4(i), (j), and (o), 225, and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), (j), and (o), 225, and 403, document FCC 13–118 Further Notice of Proposed Rulemaking IS *hereby adopted*.

3. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of document FCC 13–118 Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Gloria J. Miles,

Federal Register Liaison, Office of the Secretary, Office of Managing Director.

[FR Doc. 2013–21273 Filed 8–30–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2011–0052]

RIN 2127–AL41

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

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

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: The agency is proposing to amend the Federal motor vehicle safety standard (FMVSS) on lamps, reflective devices, and associated equipment to allow the license plate mounting surface on motorcycles to be at an angle of up to 30 degrees beyond vertical. Adoption of this proposal would increase manufacturer design flexibility without compromising safety or increasing costs. In addition, it would also make the requirements of the standard more in line with European regulations.

DATES: Comments to this proposal must be received on or before November 4, 2013.

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

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help” or “FAQ.”
- *Mail:* Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Ground Floor, Room W12–140, 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 comments, you should mention the docket number of this document.

You may call the Docket Management Facility at 202–366–9826.

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.

Privacy Act: Anyone is able to search the electronic form of all comments received in 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 (65 FR 19477–78) or you may visit <http://www.dot.gov/privacy.html>.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT:

For technical issues: Mr. Markus Price, Office of Crash Avoidance Standards, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–0098) (Fax: (202) 366–7002).

For legal issues: Mr. Thomas Healy, Office of the Chief Counsel, NHTSA, 1200 New Jersey Avenue SE., West Building, Washington, DC 20590 (Telephone: (202) 366–2992) (Fax: (202) 366–3820).

SUPPLEMENTARY INFORMATION:

I. Background

NHTSA published a NPRM on December 30, 2005¹ to reorganize FMVSS No. 108, *Lamps, reflective devices, and associated equipment*, and improve the clarity of the standard's requirements thereby increasing its utility for regulated parties. NHTSA published a final rule on December 4, 2007,² amending FMVSS No. 108 by reorganizing the regulatory text so that it provides a more straight-forward and logical presentation of the applicable regulatory requirements; incorporating important agency interpretations of the existing requirements; and reducing reliance on third-party documents incorporated by reference. It was the agency's goal during the rewrite process to make no substantive changes to the requirements of the standard.

Included in the third party documents whose requirements were transferred to the regulatory text of the standard was SAE J587 OCT81, *License Plate Lamps (Rear Registration Plate Lamps)*. Among other requirements derived from SAE J587 OCT81, paragraph S6.3.3 of the

¹ 70 FR 77454, (Dec. 30, 2005).

² 72 FR 68234, (Dec. 4, 2007).

final rule required that the rear license plate holder be mounted at an angle ± 15 degrees of a plane perpendicular to that on which the vehicle stands.

In response to the final rule, the agency received petitions for reconsideration from Harley-Davidson Motor Company (Harley-Davidson) (January 18, 2008) and Ford Motor Company (Ford) (January 18, 2008) asking the agency to reconsider the mounting angle requirements for license plate holders. In addition to the petitions for reconsideration filed by Harley-Davidson and Ford, the agency had previously received a petition for rulemaking from the Motorcycle Industry Council (MIC) on March 14, 2005, requesting that the agency modify the license mounting angle requirement to allow license plates to be mounted between 30 degrees upward and 15 degrees downward of a plane perpendicular to that on which the vehicle stands. MIC also submitted an untimely petition for reconsideration of the FMVSS No. 108 final rule on March 19, 2009, requesting that the agency amend the license plate angle mounting requirement. Pursuant to its procedural regulations, the agency has treated that untimely petition as a petition for rulemaking.³

Harley-Davidson and Ford argued that, in their view, license plate holders are not lamps, reflective devices or associated equipment and, therefore, were not regulated under the pre-rewrite version of FMVSS No. 108. Harley-Davidson and Ford stated that since the pre-rewrite version of FMVSS No. 108 did not regulate license plate holders, regulating license plate holders in the final rule imposed a substantive change in the requirements of the standard contrary to the agency's stated policy in the final rule. Additionally, Harley-Davidson and Ford stated that the license plate mounting provisions of SAE J587 OCT81 were intended as instructions for evaluating the photometric performance of license plate lamps, not as a requirement for how license plates must be mounted on a vehicle. Finally, Harley-Davidson requested that if the agency decided that the license plate mounting angle was regulated under FMVSS No. 108, the agency amend the final rule so that the mounting angle requirements are the same as the most recent revision of SAE Standard J587 and the requirements in the European Union which both allow motorcycle license plates to be mounted at an angle 30 degrees upward from vertical.

In its 2005 petition for rulemaking, MIC asked NHTSA to harmonize the license plate mounting angle requirements for motorcycles with European requirements. MIC argued that changing the license plate mounting angle would not adversely affect safety or interfere with law enforcement's ability to read license plates. MIC stated that by allowing a 30 degree upward angle, the license plate lamp can be physically located closer to the plate, retaining the incident angle and providing the same amount of illumination. Locating the license plate lamp closer to the plate would allow the rear of the motorcycle to be designed to be shorter with no effect on the real world illumination. MIC stated that harmonization also has benefits in reducing unnecessary design and manufacturing efforts, as well as reducing unnecessary parts-sourcing and parts-supply complexity, allowing manufacturers to apply these resource savings to other, more important issues.

In separate notices issued on April 26, 2011, NHTSA granted a petition for rulemaking to amend the license plate angle mounting requirement in FMVSS No. 108⁴ and denied the petitions for reconsideration of the 2007 final rule on the same issue.⁵ In the notice denying the petitions for reconsideration, NHTSA set forth the justification for why the agency considers the mounting angle of a license plate to be regulated under FMVSS No. 108. NHTSA is issuing this NPRM as a result of granting the petition for rulemaking to amend the license plate angle mounting requirement in paragraph S6.3.3 of FMVSS No. 108.

II. Agency Proposal

NHTSA is proposing to amend FMVSS No. 108 to change the license plate mounting requirements for motorcycles to allow license plate mounting angles of up to 30 degrees upward from vertical (an installed plate will face above the horizon) if the upper edge of the license plate is not more than 1.2 m (47.25 inches) from the ground. The maximum downward angle (an installed plate will face below the horizon) at which a motorcycle license plate could be mounted would remain 15 degrees as would the maximum upward angle on motorcycles for which the upper edge of the license plate was more than 1.2 m (47.25 inches) from the ground. NHTSA believes that amending the motorcycle license plate mounting

angle requirements to allow mounting angles of up to 30 degrees upward from vertical if the upper edge of the license plate is not more than 1.2 m (47.25 inches) above the ground would reduce costs for manufacturers by allowing them to use the same mounting hardware for the license plate in both the U.S. and Europe. We do not believe that this proposal would compromise safety because the proposed changes to the license plate mounting angle requirement would not affect law enforcement or the public's ability to view the plate.

Amending the motorcycle license plate mounting requirements to make the requirements more in line with European regulations will increase manufacturer design flexibility without decreasing safety. Increasing manufacturer design flexibility and decreasing manufacturer costs in this case will allow manufacturers to better allocate resources which lead to increased compliance and increased safety. The agency is also soliciting comment on amending the mounting angle requirement for all other types of vehicles to allow license plates to be mounted at an angle of up to 30 degrees upward of vertical in order to maintain the consistency across vehicle classes that currently exist. After receiving public comment the agency may decide to allow license plates to be mounted on all vehicles at an angle of up to 30 degrees upward of vertical. The agency may also decide to allow license plates to be mounted at an angle of up to 30 degrees upward of vertical only on all vehicles with a gross vehicle weight rating of 10,000 pounds and less.

NHTSA is also soliciting comment on adopting the license plate mounting angle requirements contained in European Economic Community (EEC) Directive 93/94/EEC. Directive 93/94/EEC is different from the agency's proposal in that it permits a motorcycle license plate to be mounted up to 30 degrees upward from vertical if the upper edge of the license plate is not more than 1.5 m (59.1 inches) from the ground. Directive 93/94/EEC specifies that the upper edge of the license plate must not be more than 1.5 m above the ground when the vehicle is unladen while the agency's proposal does not contain a maximum mounting height for motorcycle license plates. Directive 93/94/EEC applies only to motorcycles and not other vehicles.

In addition to visually observing license plate characters by eye sight, many law enforcement and traffic management organizations use license plate recognition (reading) technology to read license plate characters. NHTSA

⁴ See 76 FR 23254, (April 26, 2011) (granting petition for rulemaking).

⁵ See 76 FR 23255, (April 26, 2011) (denying petitions for reconsideration).

³ 49 CFR 553.35.

invited one license plate reader manufacturer to demonstrate its equipment to NHTSA personnel.⁶ Based on this demonstration and conversations with the manufacturer about the capabilities of the license plate reading system, NHTSA has tentatively concluded that allowing license plates to be mounted at an angle of 30 degree upward from vertical will not affect the ability of license plate recognition technology to read license plate characters. NHTSA seeks comment as to whether allowing motorcycle license plates to be mounted at an angle of 30 degrees upward from vertical will negatively affect the ability of license plate recognition technology to read license plate characters.

III. Costs, Benefits, and the Proposed Compliance Date

Because this proposal is intended to increase manufacturer design flexibility by amending the license plate mounting angle requirements for motorcycles, the agency does not anticipate that there will be any costs associated with this rulemaking action. The agency believes that this rulemaking action will result in minor benefits resulting from cost saving associated with increased design flexibility that would not exceed \$0.05 per motorcycle. Because the agency does not believe that benefits from this rulemaking action will rise to the level that the action will be economically significant, the agency did not conduct a separate economic analysis for this rulemaking.

The agency proposes an effective date of 60 days after the final rule should one be published.

IV. 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.⁷ 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 your comments by any of the following methods:

- *Federal eRulemaking Portal*: go to <http://www.regulations.gov>. Follow the instructions for submitting comments on the electronic docket site by clicking on “Help” or “FAQ.”
- *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.

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.⁸

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 Office of Management and Budget (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>.

How can I be sure that my comments were received?

If you submit your comments by mail and 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**. 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.⁹

In addition, you should submit a copy, from which you have deleted the claimed confidential business information, to the Docket by one of the methods set forth above.

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. Therefore, if interested persons believe that any new information the agency places in the docket affects their comments, they may submit comments after the closing date concerning how the agency should consider that information for the final rule.

If a comment is received 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 materials placed in the docket for this document (e.g., the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

V. Regulatory Notices and Analyses

Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation’s regulatory policies and procedures. This rulemaking document was not reviewed by the Office of Management and Budget under E.O. 12866, “Regulatory Planning and Review.” The proposal contained in this rulemaking document does not result in any increased costs or significant benefits. Therefore, it is not considered to be significant under E.O. 12866 or the Department’s regulatory policies and procedures.

⁶ The demonstration was conducted on March 12, 2008, by Jason T. Laquatra/Vice President of Field Operations ELSAG North America, Law Enforcement Systems, and his associate.

⁷ See 49 CFR 553.21.

⁸ 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.

⁹ See 49 CFR 512.

Executive Order 13609: Promoting International Regulatory Cooperation

The policy statement in section 1 of Executive Order 13609 provides, in part:

The regulatory approaches taken by foreign governments may differ from those taken by U.S. regulatory agencies to address similar issues. In some cases, the differences between the regulatory approaches of U.S. agencies and those of their foreign counterparts might not be necessary and might impair the ability of American businesses to export and compete internationally. In meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation. International regulatory cooperation can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.

This notice proposes to more closely align the U.S. regulatory requirements for mounting motorcycle license plates with those of European countries. The proposed changes will increase manufacturer design flexibility without decreasing safety. Increasing manufacturer design flexibility and decreasing manufacturer costs in this case will allow manufacturers to better allocate resources which lead to increased compliance and increased safety.

NHTSA requests public comment on whether there are any “regulatory approaches taken by foreign governments” concerning the subject matter of this rulemaking, beyond those already mentioned in this notice, which the agency should consider.

National Environmental Policy Act

We have reviewed this proposal for the purposes of the National Environmental Policy Act and determined that it would not have a significant impact on the quality of the human environment.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration’s regulations at 13 CFR part 121 define a small business, in part, as a business entity “which operates primarily within

the United States.” 13 CFR 121.105(a). No regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of the proposed rule under the Regulatory Flexibility Act. I certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposal amends the license plate mounting angle for motorcycles. We do not anticipate that there will be any increased costs as a result of this rulemaking action. Accordingly, we do not anticipate that this proposal would have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

NHTSA has examined today’s proposed rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the 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 Order 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 (*e.g.*, the language and structure of the regulatory text) 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 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.

Executive Order 12988 (Civil Justice Reform)

Pursuant to Executive Order 12988, “Civil Justice Reform,”¹⁰ NHTSA has

¹⁰ 61 FR 4729 (Feb. 7, 1996).

considered whether this rulemaking would have any retroactive effect. This proposed rule does not have any retroactive effect.

Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires Federal agencies to prepare a written assessment of the costs, benefits, and other effects of a proposed or final rule that includes 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 in any one year (adjusted for inflation with base year of 1995).

Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires NHTSA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows NHTSA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation why that alternative was not adopted.

This proposed rule is not anticipated to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector in excess of \$100 million annually. The cost impact of this proposed rule is expected to be \$0. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandate Reform Act.

Paperwork Reduction Act

Under the procedures established by the Paperwork Reduction Act of 1995 (PRA), 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. This proposed rule does not contain any collection of information requirements requiring review under the PRA.

Executive Order 13045

Executive Order 13045¹¹ 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 proposed rule on children, and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

This proposed rule does not pose such a risk for children. The primary effects of this proposal are to amend the license plate mounting angle for motorcycles.

National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.*, the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical.

Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specification and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

While SAE J587 APR 1997, *License Plate Lamps (Rear Registration Plate Lamps)*, contains a mounting angle requirement for motorcycles similar to the agency's proposal, the agency did not believe that it would be appropriate to adopt J587 APR 1997 in its entirety. FMVSS 108 currently requires that when a single lamp is used to illuminate the plate, the lamp and license plate holder shall bear such relation to each other that at no point on the plate will the incident light make an angle of less than 8 degrees to the plane of the plate. SAE J587 APR 1997 version eliminated this requirement. While the agency considered incorporating SAE J587 APR 1997 in its entirety, we concluded that

the deletion of the test requirement to maintain an 8 degree relationship between the lamp and the license plate holder might negatively impact the direction toward which the plate reflects the light provided by the license plate lamp. For this reason the agency has decided to not to use a voluntary consensus standard in this regulatory activity.

Executive Order 13211

Executive Order 13211¹² applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and is likely to have a significant adverse effect on the supply, distribution, 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 the regulatory action meets either criterion, we must evaluate the adverse energy effects of the proposed rule and explain why the proposed regulation is preferable to other potentially effective and reasonably feasible alternatives considered by NHTSA.

This proposal amends the license plate mounting angle for motorcycles. Therefore, this proposed rule will not have any adverse energy effects. Accordingly, this proposed rulemaking action is not designated as a significant energy action.

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.

Plain Language

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

- 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?

¹¹ 62 FR 19885 (Apr. 23, 1997).

¹² 66 FR 28355 (May 18, 2001).

- 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.

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 organization, 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://www.dot.gov/privacy.html>.

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 Chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

- 1. The authority citation for part 571 continues to read as follows:

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

- 2. Section 571.108 is amended by revising S6.6.3 and adding S6.6.3.1 and S6.6.3.2 to read as follows:

§ 571.108 Standard No. 108; Lamps, reflective devices, and associated equipment.

* * * * *

S6.6.3 License plate holder. Each rear license plate holder must be designed and constructed to provide a substantial plane surface on which to mount the plate.

S6.6.3.1 Except as provided in S6.6.3.2, the plane of the license plate mounting surface and the plane on which the vehicle stands must be perpendicular within 15 degrees upward (an installed plate will face above the horizon) and 15 degrees downward (an installed plate will face below the horizon).

S6.6.3.2 For motorcycles on which the license plate is designed to be mounted on the vehicle such that the upper edge of the license plate is 1.2 m or less from the ground, the plane of the license plate mounting surface and the plane on which the vehicle stands must

be perpendicular within 30 degrees upward (an installed plate will face above the horizon) and 15 degrees downward (an installed plate will face below the horizon).

* * * * *

Issued in Washington, DC, on August 22, 2013 under authority delegated in 49 CFR 1.95.

Christopher J. Bonanti,

Associate Administrator for Rulemaking.

[FR Doc. 2013–21370 Filed 8–30–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2012–0088; 4500030113]

RIN 1018–AZ17

Endangered and Threatened Wildlife and Plants; Removing Five Subspecies of Mazama Pocket Gopher From the Candidate List for Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), remove five subspecies of Mazama pocket gopher (Tacoma, Brush Prairie, Shelton, Olympic, and Cathlamet) from the list of candidates for listing as threatened or endangered species under the Endangered Species Act of 1973, as amended. After review of the best available scientific and commercial information, we find that the Tacoma pocket gopher is likely extinct; the Brush Prairie pocket gopher was misidentified as a subspecies of Mazama pocket gopher and was added to the list in error; and listing of the Shelton, Olympic, and Cathlamet pocket gophers is not warranted. However, we invite the submission of any new information concerning the status of, or threats to, the Shelton, Olympic, or Cathlamet pocket gophers or their habitats to our Washington Fish and Wildlife Office (see **ADDRESSES** section) whenever it becomes available. New information will help us monitor these three subspecies of Mazama pocket gopher and encourage their conservation. If an emergency situation develops for any of these three subspecies or any other species, we will act to provide immediate protection. We will continue to monitor these three subspecies of

Mazama pocket gopher as species of concern.

ADDRESSES: This notice and supporting documentation are available on the internet at <http://ecos.fws.gov/ecos/indexPublic.do> and <http://www.regulations.gov> (Docket No. FWS–R1–ES–2012–0088). Supporting documentation for this determination is also available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive SE., Lacey, WA 98503; by telephone at 360–753–9440; or by facsimile at 360–534–9331. **FOR FURTHER INFORMATION CONTACT:** Ken S. Berg, Manager, Washington Fish and Wildlife Office (see **ADDRESSES**, above). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.) (Act), requires that we identify species of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. As defined in section 3 of the Act, an endangered species is any species which is in danger of extinction throughout all or a significant portion of its range, and a threatened species is any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range. Through the Federal rulemaking process, we add species that meet these definitions to the List of Endangered and Threatened Wildlife at 50 CFR 17.11 or the List of Endangered and Threatened Plants at 50 CFR 17.12. As part of this program, we maintain a list of species that we regard as candidates for listing. A candidate species is one for which we have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened, but for which preparation and publication of a proposal is precluded by higher priority listing actions. We may identify a species as a candidate for listing after we have conducted an evaluation of its status on our own initiative, or after we have made a positive finding on a petition to list a species.

We maintain this list of candidates for a variety of reasons: To notify the public that these species are facing threats to their survival; to provide advance knowledge of potential listings that could affect decisions of environmental