

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571****[Docket No. NHTSA 03-15067]****RIN 2127-AI71****Federal Motor Vehicle Safety Standards; Occupant Crash Protection****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Final rule.

SUMMARY: In May 2000, we published a rule to require advanced air bags in light vehicles. The requirements of that rule are being phased in during two stages, the first of which extends from September 1, 2003 to August 31, 2006. In September 2002, in response to petitions for rulemaking, we published a notice of proposed rulemaking (NPRM) to address two of the issues raised by petitioners. All other issues were denied. In January 2003, we issued a final rule that addressed the first of the remaining issues, namely the new phase-in requirements for vehicle manufacturers other than limited line manufacturers. This final rule addresses the issue of how to treat limited line manufacturers during the course of the first phase-in. We have decided to expand the definition of a limited line manufacturer to a manufacturer that produces no more than three vehicle lines. Additionally, NHTSA has decided to provide limited line manufacturers with an additional year to comply with the new advanced air bag requirements. Since the limited line manufacturer option is based on the premise that the manufacturer may need to use the option because it is unable to meet the phase-in requirement, no credit for early compliance will be allowed towards the 100 percent production requirement for the third year (*i.e.*, the final year for limited line manufacturers) of the phase-in.

DATES: *Effective Date:* The amendments made in this rule are effective July 7, 2003.

Petitions: Petitions for reconsideration must be received by June 19, 2003.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration,

400 Seventh Street, SW., Washington, DC, 20590:

For technical issues: Mr. Louis Molino, Office of Crashworthiness Standards, NVS-112, telephone (202) 366-2264, facsimile (202) 493-2739.

For legal issues: Ms. Rebecca MacPherson, Office of the Chief Counsel, NCC-112, telephone (202) 366-2992, facsimile (202) 366-3820.

SUPPLEMENTARY INFORMATION:**Table of Contents**

- I. Background
- II. Porsche's Comments
- III. Agency Decision
- IV. Rulemaking Analyses and Notices

I. Background

On May 12, 2000, we published in the **Federal Register** (65 FR 30680) a rule to require advanced air bags. (Docket No. NHTSA 00-7013; Notice 1.) The rule amended Standard No. 208, *Occupant Crash Protection*, to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology.

The rule will be phased in during two stages. The first stage phase-in requires vehicle manufacturers to focus on minimizing the risk of air bag-related injury, particularly for children and small adults, while preserving the current level of protection. The second phase-in requires vehicle manufacturers to improve the current level of protection provided by air bags by conducting the belted barrier tests for the 50th percentile adult male dummy at a higher test speed.

During the first stage phase-in, from September 1, 2003 to August 31, 2006, increasing percentages of motor vehicles will be required to meet requirements for minimizing air bag risks, primarily by either automatically turning off the air bag when young children are present or deploying the air bag more benignly so that it is much less likely to cause serious or fatal injury to out-of-position occupants.¹

As initially adopted, the rule would have required that the majority of vehicle manufacturers meet the following phase-in requirements: 9/1/03 to 8/31/04—35 percent; 9/1/04 to 8/31/05—65 percent; 9/1/05 to 9/1/06—100 percent, with manufacturers allowed to

use credits for early compliance.

Effective September 1, 2006, all vehicle manufacturers must comply with the phase-one requirements, regardless of whether they are subject to the phase-in; credits for early compliance are not permitted. As discussed in more detail below, the requirements for the first year of the phase-in has subsequently been changed to 20 percent. No changes have been made regarding the second and third years of the phase-in. Nor have any changes been made regarding the second phase-in, which commences September 1, 2007.

In the May 2000 final rule, limited line manufacturers, *i.e.*, those producing no more than two vehicle lines for sale in the United States, were offered the alternative of meeting the phase-in requirements or of opting out of the advanced air bag requirements for the first year of the phase-ins as long as 100 percent of the vehicles produced for the U.S. market were fully compliant in the second year of the phase-ins and thereafter. Final stage manufacturers of vehicles built in two or more stages, and manufacturers that produce no more than 5,000 vehicles per year globally were exempted from the phase-in requirements altogether.²

On August 19, 2002, Porsche submitted a petition for rulemaking, requesting changes to the limited line manufacturer alternative compliance schedule. Porsche currently produces two carlines for the U.S. market, the Boxster and the Carrera 911. However, it plans to introduce a third carline, the Cayenne, for model year 2004. Thus, Porsche will not be able to take advantage of the current limited line manufacturer exemption from the first year of the phase-ins. According to Porsche, small limited-line manufacturers have difficulties finding technology suppliers interested in providing the manufacturers with the systems needed to comply with the advanced air bag requirements. Porsche noted it was in a particularly unique position because it does not have a larger parent company that is willing to assume its production as part of its fleet for the purpose of meeting the phase-in schedule. Porsche requested the agency consider adding an additional "carline" definition specific to S14 of FMVSS No. 208 to provide manufacturers that sell two or fewer carlines in the U.S. the flexibility to comply at the 100 percent

¹ The rule also establishes very general performance requirements for dynamic automatic suppression systems (DASS) and a special expedited petitioning and rulemaking process for considering procedures for testing advanced air bag systems incorporating a DASS.

² The criteria for small volume manufacturers was changed in a final rule published December 18, 2001 (66 FR 65376, Docket No. NHTSA-01-11110). A manufacturer now qualifies for the exemption from the phase-ins if it manufactures no more than 5,000 vehicles for the U.S. market per year.