

needs of manufacturers of only a few carlines. Accordingly, we do not believe expanding the allowable number of carlines by one is inconsistent with the agency's initial intent.

Second, we have decided to exclude a limited line manufacturer from the first two years of the first phase-in, with full compliance required in the third year. Without this relief, a limited line manufacturer would have to achieve 100% compliance by the second year of the phase-in, a point at which other manufacturers need only certify 65% of their fleet. NHTSA has determined that this constitutes too great a burden for limited line manufacturers. Accordingly, we have decided it is appropriate to provide relief for the first two years of the phase-in, after which a limited line manufacturer would be required to ensure that each of its carlines is fully compliant.

Since the limited line manufacturer option is based on a premise that the manufacturer may need to use the option because it is unable to meet the newly relaxed phase-in requirements, no credits for early compliance will be allowed. NHTSA believes that such added relief is not justified, since a limited line manufacturer that was able to take advantage of early credits could probably comply with the relaxed phase-in requirements. As was the case previously, a limited line manufacturer may choose to meet the phase-in requirements applicable to other manufacturers and take advantage of early credits to meet the 100% compliance requirements for the third year.

NHTSA notes that the amended limited line manufacturer option is limited to the first advanced air bag phase-in. There is no reason to believe at this time that Porsche, or any other limited line manufacturer, will have trouble meeting the requirements of the second phase-in. We also note that two of Porsche's three carlines may be equipped with a manual air bag on-off switch under S4.5.4 of FMVSS No. 208. Should Porsche install such a switch, a responsible adult would be able to suppress the passenger air bag whenever a small child was seated in the passenger seat.

IV. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rule was not reviewed under E.O. 12866, "Regulatory Planning and

Review." This action is not "significant" under the Department of Transportation's regulatory policies and procedures.

This rule amends the limited line manufacturer option for the first advanced air bag phase-in. However, the rule does not change the requirements for vehicles equipped with advanced air bags. Readers who are interested in the costs and benefits of advanced air bags are referred to the agency's Final Economic Assessment (FEA) for the May 2000 final rule. The estimated benefits compared to pre-model year 1998 (pre-depowered air bags) in that rule for the suppression technologies were estimated to be 93 fatalities and 151 AIS 3-5 injuries. These benefits can be considered to accrue over the 20-25 year lifetime of one model year's fleet. As noted in the NPRM, the reduction in the phase-in schedule for the model year 2004 fleet from 35 percent to 20 percent could result in the potential loss in benefits over the lifetime of the model year 2004 fleet of 14 lives and 23 AIS 3-5 injuries.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the amendment will not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis was prepared for the May 2000 final rule as part of the FEA. This action will not have a significant economic impact on small businesses because the only change it makes to the May 2000 final rule is to reduce the percentage of vehicles that must comply with that rule during the first and second year of the phase-in. Small organizations and small governmental units will not be significantly affected since the potential cost impacts associated with this amendment should only slightly affect the price of new motor vehicles.

C. National Environmental Policy Act

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

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a

federalism summary impact statement. The rule will have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. 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). While the May 2000 final rule is likely to result in over \$100 million of annual expenditures by the private sector, the only effect of today's amendment will be to reduce the percentage of vehicles that must comply with that rule during the first year of the phase-in. Accordingly, this rule will not mandate any expenditure by State, local or tribal governments, or by the private sector.

F. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 49 U.S.C. 30103, 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. Section 49 U.S.C. 30161 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.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This document does not establish any new information collection requirements.

H. 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