

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Colfax, Channel 267A.

■ 3. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Moody, Channel 256A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 05-14236 Filed 7-19-05; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 90**

[ET Docket No. 04-151, WT Docket No. 05-96, ET Docket No. 02-380, and ET Docket No. 98-237; FCC 05-56]

Wireless Operations in the 3650-3700 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction of effective date.

SUMMARY: On May 11, 2005, the Commission published final rules in the Report and Order and Memorandum Opinion and Order. The Report and Order adopted rules that provided for nationwide, non-exclusive, licensing of terrestrial operations, utilizing technology with a contention-based protocol, in the 3650-3700 MHz band (3650 MHz) band. This document contains a correction to the effective date. The Commission deferred the effective date due to the anticipated need for Office of Management and Budget (OMB) approval under the Paperwork Reduction Act (PRA). The Commission has since determined that OMB approval is not required.

DATES: Sections 90.203(o) and 90.1323 were effective June 10, 2005.

FOR FURTHER INFORMATION CONTACT: Gary Thayer (202) 418-2290, email Gary.Thayer@fcc.gov, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document amending part 90 **Federal Register** of May 11, 2005 (70 FR 24712). This document corrects the **Federal Register** as it appeared. In FR

Doc. 05-9096, published on May 11, 2005 (70 FR 24712), the Commission is correcting the effective date of §§ 90.203(o) and 90.1323, to read as June 10, 2005.

Correction

1. On page 24712, in the third column, the **DATES** section is corrected to read as "Effective date: June 10, 2005."

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 05-14178 Filed 7-19-05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. NHTSA 05-21878]

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Interim final rule; request for comments.

SUMMARY: Our requirements for advanced air bags are being phased in during two stages, the first of which extends over a three-year period from September 1, 2003 to August 31, 2006. The phase-in provides special requirements for limited line manufacturers. These manufacturers are excluded from the first two years of the phase-in but must achieve 100 percent compliance for the third year, *i.e.*, the production year beginning September 1, 2005. To address problems faced by Porsche, we are issuing this interim final rule revising the phase-in for limited line manufacturers so that 95 percent of a manufacturer's vehicles must comply with the advanced air bag requirements during this one-year period instead of 100 percent.

DATES: *Effective Date:* The amendment made in this rule is effective September 1, 2005.

Comments: Comments must be received by NHTSA not later than September 19, 2005, and should refer to the docket and notice number of this document.

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

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

- 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 am and 5 pm, Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Request 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 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Louis Molino, Office of Crashworthiness Standards, at (202) 366-2264, facsimile (202) 493-2739.

For legal issues, you may call Mr. Edward Glancy, Office of the Chief Counsel, at (202) 366-2992, facsimile (202) 366-3820.

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

SUPPLEMENTARY INFORMATION: 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 air bags then installed in production vehicles, 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 is

being phased in during two stages. During the first phase-in, from September 1, 2003, through August 31, 2006, increasing percentages of motor vehicles are required to meet requirements for minimizing air bag risks.

In developing the advanced air bag rule and in subsequent proceedings conducted in response to petitions for reconsideration, we have sought to ensure the prompt development and availability of vehicles equipped with advanced air bags while also recognizing the special needs of various types of manufacturers. As such, we have established several different phase-in requirements. While different requirements apply during the three-year phase-in, effective September 1, 2006, all vehicles must comply with the first phase advanced air bag requirements.

The primary phase-in, which applies to manufacturers producing the vast majority of motor vehicles, is as follows: 9/1/03 to 8/31/04—20 percent of a manufacturer's production; 9/1/04 to 8/31/05—65 percent of a manufacturer's production; 9/1/05 to 8/31/06—100 percent of a manufacturer's production, with manufacturers allowed to use advanced credits.

Limited line manufacturers have the option of being excluded from the first two years of the phase-in but, if they select this option, must achieve 100 percent compliance for the third year, *i.e.*, the production year beginning 9/1/05. They are not permitted to use advanced credits under this option.

Finally, final stage manufacturers of vehicles built in two or more stages, and manufacturers that produce no more than 5,000 vehicles annually for sale in the United States, are excluded from the phase-in altogether.

Porsche, which is electing to use the limited line manufacturer option for the first phase-in, recently contacted the agency concerning a problem it is having in achieving 100 percent compliance for the production year beginning 9/1/05. While NHTSA has been previously been aware of this problem, Porsche provided updated information to the agency in a meeting held in June 2005.

While Porsche will be able to certify all of its regular production vehicles to the advanced air bag requirements, it produces a small number of custom-made vehicles which it has not been able to redesign to meet the advanced air bag requirements. Because of the small number of these vehicles, Porsche has had difficulty in getting air bag suppliers to provide advanced air bag

designs. Air bag suppliers have, of course, been primarily engaged during this time period in working to develop advanced air bags to enable larger vehicle manufacturers to meet the new requirements.

We note that we have previously responded to requests by Porsche for relief related to the advanced air bag phase-in requirements. In a final rule published in the **Federal Register** (68 FR 23614) on May 5, 2003, we provided some additional flexibility for limited line manufacturers, but declined to adopt a request by Porsche that would have relieved it of any responsibility to meet the advanced air bag requirements before September 1, 2006. Porsche had requested that it be treated the same as small volume manufacturers, *i.e.*, manufacturers that produce no more than 5,000 vehicles annually for sale in the United States. While we recognized that Porsche is relatively small related to other manufacturers, we noted that it is still substantially larger than those manufacturers for which the agency determined compliance before September 1, 2006 would pose an unreasonable hardship.

In a document published in the **Federal Register** (69 FR 60316) on October 8, 2004, we denied a petition from Porsche requesting that advanced credits be available to manufacturers selecting the limited line option. We concluded that granting the request would provide manufacturers using the limited line option with relief not justified by their circumstances nor contemplated by the provision for advanced credits.

After considering the latest information provided by Porsche, however, we have decided to reconsider whether some type of additional relief should be provided in light of that company's compliance problems. The basic problem faced by Porsche is that it wishes to continue production for a brief period past September 1, 2005, of a very small number of vehicles which it has not been able to design to meet the advanced air bag requirements. The total number of such vehicles was initially on the order of about 500, but is now approximately 100 or fewer. Porsche indicated that it has made efforts with respect to date of production and allocation of vehicles among different countries, but has not been able to fully eliminate the problem.

As indicated above, throughout the advanced air bag rulemaking process we have sought to ensure the prompt development and availability of vehicles equipped with advanced air bags while also recognizing the special needs of various types of manufacturers. Given

the situation faced by Porsche, we believe that some additional relief is appropriate.

We also note that, in the past, we have in special circumstances made a small adjustment in effective date to enable a manufacturer to continue production of a vehicle not designed to meet a new requirement. On January 10, 1997, in response to a petition from Ford, we published in the **Federal Register** (62 FR 1401) a final rule granting a four-month extension of the date by which vehicles with a gross vehicle weight rating of more than 8,500 pounds and less than 10,000 pounds must comply with the requirements for safety belt fit.

In that situation, due to unexpected developmental problems with a new truck platform, Ford had been unable to begin production by the expected date. It therefore wanted to continue to produce the current truck platform for an additional four months. Ford requested the leadtime extension to avoid having to redesign the existing platform for only a four-month extension. In that rulemaking, we decided that since the safety benefits for the affected trucks was likely to be very small, and the costs accentuated, a four-month extension of leadtime was reasonable. We also noted that, due to the demographics of the occupants of the affected trucks, the benefits from applying the belt fit requirement to those trucks would be less than the benefits of applying it to lower GVWR vehicles.

In the current situation, we note that the number of vehicles Porsche wishes to continue to produce is very small. Moreover, the nature of the vehicles is such that they are less likely to be used to transport young children than most vehicles.

Given that we are in the midst of phasing in the advanced air bag requirements, we believe the most appropriate relief is to revise the phase-in for limited line manufacturers so that 95 percent of a manufacturer's vehicles must comply with the advanced air bag requirements during this one-year period instead of 100 percent. We believe that Porsche is the only vehicle manufacturer that will utilize this relief, and that the actual number of vehicles for which it is utilized will be far less than five percent of its production. In any event, since the amendment only affects limited line manufacturers and only changes the phase-in requirement for a single production year from 100 percent to 95 percent, any impact on the number of vehicles equipped with advanced air bags in the fleet will be minimal.

Because the September 1, 2005 compliance date for limited line manufacturers is fast approaching, NHTSA finds good cause to issue this interim final rule adjusting the phase-in percentage for the September 1, 2005 to August 31, 2006 production year from 100 percent to 95 percent for these manufacturers. Further, we find good cause to make it effective on September 1, 2005. Today's interim final rule makes no substantive change to the standard, but makes a small adjustment in the phase-in percentage for limited line manufacturers for a single production year. We are accepting comments on this interim final rule. See, Request for Comments section below.

Regulatory Analyses and Notices

A. Executive Order, 12866 Regulatory Planning and Review

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 budgetary 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 under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. It does not impose any burden on manufacturers, and only adjusts the advanced air bag phase-in percentage for limited line manufacturers for the September 1, 2005 to August 31, 2006 production year from 100 percent to 95 percent.

The agency believes that this impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, we have considered the impacts of this rulemaking action will have on small entities (5 U.S.C. 601 *et seq.*). I certify that this rulemaking action will not have a significant economic impact upon a substantial number of small entities within the context of the Regulatory Flexibility Act.

This final rule only affects manufacturers of motor vehicles that selected the limited line manufacturer option for the advanced air bag phase-in. None of these manufacturers are small businesses. Small organizations and governmental jurisdictions are unlikely to purchase the motor vehicles affected by this rule and, in any event, this rulemaking will not cause price increases. Accordingly, we have not prepared a Final Regulatory Flexibility Analysis.

C. Executive Order 13132, Federalism

E.O. 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." E.O. 13132 defines the term "Policies that have federalism implications" to include regulations that 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." Under E.O. 13132, NHTSA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

This final rule will 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 as specified in E.O. 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

D. The Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) 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. This action will not result in additional expenditures by state, local or tribal governments or by any members of the private sector. Therefore, the agency has not prepared an economic assessment pursuant to the Unfunded Mandates Reform Act.

E. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (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 final rule does not impose any new collection of information requirements for which a 5 CFR part 1320 clearance must be obtained.

F. Civil Justice Reform

This final rule does not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state or political subdivision may prescribe or continue in effect a standard applicable to the same aspect of performance of a Federal motor vehicle safety standard only if the standard is identical to the Federal standard. However, the United States Government, a state, or political subdivision of a state, may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending, or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings are not required before parties file suit in court.

F. 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>.

G. Environmental Impacts

We have considered the impacts of this final rule under the National

Environmental Policy Act. This rulemaking action only adjusts the advanced air bag phase-in percentage for limited line manufacturers for the September 1, 2005 to August 31, 2006 production year from 100 percent to 95 percent. This rulemaking does not require any change that would have any environmental impacts. Accordingly, no environmental assessment is required.

Request for Comments

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 Web site 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.¹ 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>.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your

¹ 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.

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.

List of Subjects in 49 CFR Part 571

Motor vehicle safety, reporting and record keeping requirements, and tires.

- In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

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 1.50.

- 2. Section 571.208 is amended by revising S14.1(b) to read as follows:

§ 571.208 Standard No. 208, Occupant crash protection.

* * * * *

S14.1 *Vehicles manufactured on or after September 1, 2003, and before September 1, 2006.* * * *

(b) Manufacturers that sell three or fewer carlines, as that term is defined at 49 CFR 585.4, in the United States may, at the option of the manufacturer, meet the requirements of this paragraph instead of paragraph (a) of this section. At least 95 percent of the vehicles manufactured by the manufacturer on or after September 1, 2005 and before September 1, 2006 shall meet the requirements specified in S14.5.1(a), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25 (in addition to the other requirements specified in this standard).

* * * * *