

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### 45 CFR Part 1000

RIN 0970-AC08

#### Office of Community Services; Individual Development Accounts

**AGENCY:** Office of Community Services, Administration for Children and Families, HHS.

**ACTION:** Correcting amendments.

**SUMMARY:** The Administration for Children and Families is correcting the final rule on Accounting for Amounts in Reserve Funds published on September 25, 2001 in the **Federal Register** (66 FR 48970).

**DATES:** Effective April 22, 2002.

**FOR FURTHER INFORMATION CONTACT:** Sheldon Shalit, Office of Community Services, (202) 401-4807, or Richard Saul, Office of Community Services, (202) 401-9341. Hearing impaired individuals may call the Federal Dual Party Relay Service at 800-877-8339 between 8:00 a.m. and 7:00 p.m. eastern time.

#### SUPPLEMENTARY INFORMATION

##### I. Background

On September 25, 2001, the Office of Community Services published the final rule on Accounting for Amounts in Reserve Funds as required by the Assets for Independence Act (the Act), or title IV of Pub. L. 105-285 in the **Federal Register** (66 FR 48970). The final rule creates a new Part 1000 in the Code of Federal Regulations, defines the eligible entities and individuals that may participate in the Individual Development Account (IDA) program. The final rule also stipulates that grantees must comply with Departmental uniform administrative requirements in maintaining IDA reserve funds. The effective date of the rule was September 25, 2001.

##### II. Need for Technical Corrections in 45 CFR Part 1000

In reviewing the final rule, we have identified technical errors resulting from statutory changes made by amendments to the original statute on December 21, 2000, through the Assets for Independence Act Amendments of 2000 (Pub. L. 106-554). The amendments modified definitions and changed allowable program expenditures for administrative costs. The change in allowable expenditures

for administrative costs alters the statutorily-mandated amount grantees must deposit in the reserve fund. We are making these technical, conforming amendments to correct and clarify the regulation.

#### Regulatory Text

We have made the following change to the regulatory text:

- We are revising the definition of Reserve Fund to be consistent with the Act, as amended. In the definition of reserve fund at § 1000.2, the definition refers to the requirements at section 407 of Pub.L. 105-285 that at least 90.5 percent of the Federal grant funds in the Reserve Funds must be used as matching contributions for Individual Development Accounts. This provision was amended by the Assets for Independence Act Amendments (AFIA) (Pub.L. 106-554) to allow grantees to use up to 15 percent of their grant for administrative costs. Therefore, no less than 85 percent of the grant can be used for matching contributions, rather than the 90.5 percent under previous law. Therefore, the definition of Reserve Fund at § 1000.2 is revised to be consistent with the statute.

#### Impact Analysis

No impact analysis is needed for these technical corrections. The impact of the necessary corrections falls within the analysis of the final rule published in the **Federal Register** on September 25, 2001 (66 FR 48970).

#### List of Subjects in 45 CFR Part 1000

Grant Programs/Social Programs.  
(Catalog of Federal Domestic Assistance Programs No. 93.602, Individual Development Account/Assets for Independence)

Dated: April 8, 2002.

**Ann C. Agnew,**

*Executive Secretary to the Department.*

For the reasons set forth in the preamble, 45 CFR part 1000 is amended by making the following technical corrections:

#### PART 1000—Individual Development Account Reserve Funds Established Pursuant to Grants for Assets for Independence

1. The authority citation for Part 1000 continues to read as follows:

**Authority:** 42 U.S.C. 604nt.

2. Section 1000.2 is amended by revising the definition of *Reserve Fund* to read as follows:

#### § 1000.2 Definitions.

*Reserve Fund* means a fund, established by a qualified entity, that

shall include all funds provided to the qualified entity from any public or private source in connection with the demonstration project and the proceeds from any investment made with such funds. The fund shall be maintained in accordance with section 407(c)(3), as amended. No less than 85 percent of the Federal grant funds in the Reserve Fund shall be used as matching contributions for Individual Development Accounts.

[FR Doc. 02-8990 Filed 4-19-02; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

[Docket No. NHTSA-01-10381]

RIN 2127-A169

#### Federal Motor Vehicle Safety Standards; Interior Trunk Release

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

**ACTION:** Final rule; response to petitions for reconsideration.

**SUMMARY:** This document responds to two petitions for reconsideration by Porsche Cars North America, Inc., and Ferrari S.p.A of a new Federal motor vehicle safety standard that requires passenger cars with a trunk to be equipped with a release latch inside the trunk compartment. Porsche requested that the agency exclude the cars having a front trunk with a front-opening lid from the standard. Both petitioners asked that the performance requirements applicable to these cars be revised. In addition, Ferrari asked that manufacturers of these cars be given additional lead time to bring them into compliance. The agency is denying the request to exclude these cars from the standard and the request to grant their manufacturers additional lead time. However, it is granting the request to modify the performance requirements by increasing the speed threshold at which the interior release of a front trunk with a front-opening lid must release only the primary latch.

The petitioners also requested that the agency modify the requirement that manufacturers irrevocably select a compliance option by the time they certify compliance to permit a manufacturer to modify or replace the interior trunk release system during the production period of a model. The agency believes this change is

unnecessary for the purposes for which it is being sought. Finally, the petitioners requested that the agency issue detailed test procedures as soon as possible. NHTSA is developing detailed test procedures and will publish them as soon as possible.

**DATES:** Effective: August 30, 2002. If you wish to petition for reconsideration of this final rule, you must submit your petition so that we receive it not later than June 6, 2002.

**ADDRESSES:** Petitions for reconsideration should refer to the docket number above and be submitted to: Administrator, Room 5220, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For technical and policy questions: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (Telephone: 202-366-6987) (Fax: 202-493-2739).

For legal questions: Dion Casey, Office of Chief Counsel, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (Telephone: 202-366-2992) (Fax: 202-366-3820).

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

Trunk entrapment can occur in two different ways: accidentally, such as when a child playing a game climbs into a trunk and pulls down the lid; and intentionally, such as when a criminal forces a person into a trunk. NHTSA has documented 21 cases of individuals who died from accidental trunk entrapment from 1987 to 1999. Twenty of these cases involved the death of a child six years of age or less. Eleven of these children died in three separate incidents during a three-week period between July and August of 1998 when they locked themselves in the rear trunks of passenger cars.

On October 20, 2000, NHTSA published a final rule establishing a new Federal Motor Vehicle Safety Standard No. 401, Interior Trunk Release, to address the problem of trunk entrapment. (65 FR 63014). Standard No. 401 provides persons who become trapped inside a passenger car trunk with a chance to escape. The standard requires all new passenger cars with a trunk compartment to be equipped with a trunk release inside the compartment. Manufacturers may comply with the standard by installing either a manual release latch, or an automatic release system, i.e., one that detects the presence of a person in the trunk and automatically unlatches the trunk lid.

In response to petitions for reconsideration of that final rule, NHTSA made several amendments to the standard. (66 FR 43113, August 17, 2001). The agency excluded passenger cars with a back door, such as hatchbacks and station wagons, from having to comply with the requirements of the standard. The agency also revised the definitions of "trunk lid" and "trunk compartment" to exclude interior storage compartments and sub-compartments within the trunk compartment from the requirements of the standard.

Finally, the agency addressed issues associated with vehicles with front trunk compartments. Standard No. 113, Hood Latch System, requires front-opening hoods that, in any open position, partially or completely obstruct a driver's forward view through the windshield to be provided with a secondary latch position on the hood latch system or with a second hood latch system. The purpose of Standard No. 113 is to prevent front-opening hoods from flying open and obstructing the driver's view while the vehicle is moving forward. However, notwithstanding Standard No. 113, S4.3 of Standard No. 401 originally required the interior trunk release mechanism to "completely release the trunk lid from all latching positions of the trunk lid latch, notwithstanding the requirements of any other" FMVSS.

Porsche Cars North America, Inc. (Porsche), which manufactures several passenger car models that have front trunks with front-opening lids, submitted a petition for reconsideration. In its petition, Porsche argued that having a trunk release mechanism that unlocks or opens a front-opening trunk lid from all latching positions or latches while the vehicle is in motion results in risk of injuring the driver, passengers, person trapped in the front trunk, and other motorists whether the release functions as intended or inadvertently. Thus, Porsche requested that NHTSA modify S4.3 of Standard No. 401 to indicate that, for front-opening front trunk lids, only the primary latch need be completely released.

Porsche asked that if NHTSA denied this request, the agency provide manufacturers the option of disabling the front trunk's interior release system when the passenger car is in motion. Porsche stated that it currently deactivates the standard electro-mechanical hood release on its passenger cars when they have obtained a speed of 5 km/h  $\pm$  2 km/h.

NHTSA granted Porsche's request to modify S4.3 of Standard No. 401. The agency added a paragraph indicating

that in passenger cars with front-opening trunk lids, the interior trunk release must release the primary, but not the secondary, latch when the passenger car is in motion (at a speed of 3 km/h or more). At all other times, the interior trunk release must completely release all latches. The agency gave manufacturers of vehicles with front trunk compartments an additional year to comply with the standard. These amendments described above took effect on September 1, 2001, except the amendment to S4.3, which takes effect on September 1, 2002.

##### **II. Petitions for Reconsideration and NHTSA's Responses**

NHTSA received petitions for reconsideration of the August 17, 2001 final rule from Porsche and Ferrari S.p.A. (Ferrari). The issues they raised are addressed below.

###### *A. Application*

Porsche requested that the agency exclude passenger cars that have a front trunk with a front-opening lid from Standard No. 401. Porsche stated:

The probability of a child becoming trapped in a front trunk is substantially less than for the typical passenger car with a rear trunk. First, for entrapment to occur one has to be cognizant of the fact that the trunk is located in the front of the car, second the front lid requires considerable skill to open, and third an application of a significant force is required to fully latch the compartment. Most vehicles with front located trunks are high performance vehicles and rarely used as the primary means of transportation. Such cars are generally carefully garaged and kept away from areas where the vehicle could be damaged or misused.

Porsche also noted that the Expert Panel on Trunk Entrapment, which was formed prior to the Standard No. 401 Notice of Proposed Rulemaking (NPRM) to study the problem of trunk entrapment, did not address front trunks and did not receive any data indicating that persons have died as a result of their being accidentally or intentionally locked in front trunk compartments.

NHTSA is denying this request. The agency notes that Porsche made similar arguments in its comments to the Standard No. 401 NPRM. The agency responded to those arguments in the October 20, 2000 final rule as follows: "The fact that the trunk compartment is located at the front of the vehicle does not reduce the need for an entrapped individual, especially a small child, to be able to escape the trunk when entrapped." (65 FR 63018).

The agency has no reports of individuals who became accidentally trapped in front trunks. While this may suggest that individuals are less likely to

become trapped in front trunks, the agency still believes that there is enough of a potential risk of inadvertent entrapment to warrant subjecting vehicles with front trunks to the requirements of Standard No. 401.<sup>1</sup> Moreover, Porsche's arguments do not address the problem of intentional entrapment. An individual who is intentionally trapped in a trunk must be able to escape regardless of whether the trunk is located in the front or rear of the vehicle. For these reasons, the agency is denying Porsche's request to exclude passenger cars that have a front trunk with a front-opening lid from Standard No. 401.

### B. Performance Requirements

#### 1. Releasing Only the Primary Latch

S4.3(b) of Standard No. 401 reads:

For passenger cars with a front trunk compartment that has a front opening hood required to have a secondary latch position, actuation of the release mechanism required by paragraph S4.1 of this standard when the car is in motion (at a speed of 3 km/h or more) must release the primary latch position, but not the secondary latch position. At all other times, actuation of the release mechanism required by paragraph S4.1 of this standard must completely release the trunk lid from all latching positions of the trunk lid latch. The passenger cars described in this paragraph are excluded from the requirements of this standard until September 1, 2002.

Porsche requested that the agency amend S4.3(b) to require the release of only the primary latching position under all conditions, i.e., whether the passenger car is stationary or moving at any speed. Porsche claimed that inadvertent openings cannot be completely eliminated since luggage or other items in the trunk compartment could trip the internal trunk release, causing the front hood to fly up and obstruct the driver's view. Porsche also posed the following potential situation:

[A]fter the latch has been released completely from all latch positions, with the vehicle stationary or moving at a speed of less than 3 km/h, a driver could start or continue driving, although an entrapped child might not be able to escape. For example, while the vehicle is stopped at a red light, an entrapped child releases the internal trunk release, but might be unable to climb out. If the driver continued driving, after the traffic light has turned green, the hood would fly open and obstruct the driver's view.

Porsche stated that requiring the release of only the primary latch under

<sup>1</sup> Porsche notes that the Expert Panel on Trunk Entrapment did not specifically address front trunks. The agency believes that this is because the Panel simply did not differentiate between front and rear trunks.

all conditions would eliminate the consequences of inadvertent openings when the vehicle is in motion while still providing fresh air, a way to release heat from the trunk, and a visual indication that something is amiss. It also would allow the trapped individual to be heard.

The agency notes that Porsche raised similar issues in its petition for reconsideration of the October 20, 2000 final rule. In the August 17, 2001 final rule responding to petitions for reconsideration, the agency stated:

As NHTSA stated in the preamble to the final rule, the agency believes that allowing a trapped person to get out of the trunk is paramount. However, NHTSA recognizes the significant additional risk of completely releasing a front opening hood while the passenger car is in motion. The release of both the primary and secondary latches when the passenger car is in motion could result in the hood flying open and obstructing the driver's forward view through the windshield. In addition, if the driver were to apply the brakes in such a situation, the trapped person could be ejected from the trunk compartment.

(66 FR 43113, 43117).

However, the agency also noted that if it did not require the interior trunk release to completely release the trunk lid under at least some circumstances, victims of intentional entrapment would not be able to escape. The agency stated, "Such victims would not be able to completely release the trunk lid and escape, at least not while the passenger car was in motion." (66 FR 43113, 43117). To address this, the agency required that the trunk lid open completely when the passenger car is stationary or moving at a speed (less than 3 km/h) at which a driver could safely stop if the front trunk lid opened and obstructed his or her view.

The agency believes that the reasons for requiring the interior trunk release to release the front trunk lid from all latching positions when the passenger car is stationary or moving at a speed of less than 3 km/h remain valid. While the situations described by Porsche may be possible, the agency believes that they are extremely unlikely. Accordingly, the agency is denying Porsche's request to amend S4.3 to require the interior release in front trunks to release only the primary latch, regardless of whether the vehicle is stationary or moving at any speed.

#### 2. Speed Threshold and Tolerance

As noted above, S4.3(b) of Standard No. 401 requires the internal trunk release in passenger cars that have a front trunk with a front-opening lid to release only the primary latching

position or latch system<sup>2</sup> when the passenger car is moving at a speed of 3 km/h or greater. When the passenger car is moving at speeds less than 3 km/h, or is stationary, the internal trunk release must release all of the latching positions or latch systems.

Ferrari claimed that this requirement is not technically feasible. Ferrari stated, "Every physical system has a series of tolerances that define a "gray zone" for which the system status cannot reliably be predicted." Ferrari requested that NHTSA add a tolerance (e.g.,  $\pm 2$  km/h) to the speed requirement in S4.3(b).

Ferrari also claimed that the 3 km/h speed threshold was too low and requested that it be increased to 5 km/h.

In setting the speed threshold at 3 km/h, NHTSA accepted Porsche's comment in its petition for reconsideration of the October 20, 2000 final rule that it currently deactivates the standard electromechanical hood release on its passenger cars when they have obtained a speed of 5 km/h  $\pm 2$  km/h. The agency selected 3 km/h as the low end of the speed range provided by Porsche. However, NHTSA realizes that this may be difficult to achieve. The agency also believes that there are no safety implications to raising the speed threshold to 5 km/h. Thus, to ease the engineering burden on manufacturers, the agency is granting Ferrari's request to raise the speed threshold to 5 km/h.

Accordingly, the agency is revising S4.3(b) to read as follows:

(1) For passenger cars with a front trunk compartment that has a front opening trunk lid required to have a secondary latching position or latch system, actuation of the release mechanism required by paragraph S4.1 of this standard must result in the following:

(i) When the passenger car is stationary, the release mechanism must release the trunk lid from all latching positions or latch systems;

(ii) When the passenger car is moving forward at a speed less than 5 km/h, the release mechanism must release the trunk lid from the primary latching position or latch system, and may release the trunk lid from all latching positions or latch systems;

(iii) When the passenger car is moving forward at a speed of 5 km/h or greater, the release mechanism must release the trunk lid from the primary latching position or latch system, but must not release the trunk lid from the secondary latching position or latch system.

(2) The passenger cars described in paragraph S4.3(b)(1) are excluded from the

<sup>2</sup> S4.2 of Standard No. 113, Hood Latch System requires front opening hoods to be provided with a "second latch position" or a "second hood latch system." Thus, in this final rule, the agency will refer to both secondary latching positions and secondary latch systems.

requirements of this standard until September 1, 2002.

Thus, when a passenger car with a front trunk is stationary, the interior trunk release must completely release the trunk lid from all latching positions or latch systems. When the passenger car is moving forward at a speed less than 5 km/h, the interior trunk release must release the primary latching position or latch system, and may release all latching positions or latch systems. When the passenger car is moving forward at a speed of 5 km/h or greater, the interior trunk release must release only the primary latching position or latch system. This is equivalent to a 5 km/h tolerance.

### 3. Irrevocable Election

Standard No. 401 permits a manufacturer to comply by means of either a manual or automatic interior trunk release.<sup>3</sup> Since the requirements for manual and automatic releases are different, S4.1 of the standard requires a manufacturer to select which type of release it intends to use for certification purposes. The selection with respect to any particular vehicle may not later be changed. Similar irrevocable election requirements appear in other Federal Motor Vehicle Safety Standards. S4.1 reads as follows:

Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid. Each trunk release shall conform, at the manufacturer's option, to either S4.2(a) and S4.3, or S4.2(b) and S4.3. The manufacturer shall select the option by the time it certifies the vehicle and may not thereafter select a different option for the vehicle.

Ferrari requested that the agency modify the irrevocable election requirement to specify that a manufacturer may modify or replace the interior trunk release system during the production period of a model. Ferrari requested that the agency revise the last sentence of S4.1 to read: "The manufacturer shall select the option by the time it certifies the vehicle."

NHTSA believes this change is unnecessary. The agency inserted this requirement after it learned that one manufacturer intended to install both a manual and automatic interior trunk release in some of its model lines. In the absence of an irrevocable election requirement, this could have led to enforcement problems with respect to those vehicles. For example, if NHTSA tested the automatic release of one of

these vehicles, and it did not meet the requirements for an automatic release, the agency could consider this a noncompliance. However, the manufacturer could then claim that it intended its manual system to be its means of compliance, making it necessary for the agency to re-test the vehicle. To avoid these problems, the agency added the irrevocable selection requirement.

NHTSA intended this requirement to apply only to vehicles with both a manual and automatic interior trunk release. If a vehicle is equipped with a manual release, the agency will test it to the requirements for a manual release. If it is equipped with an automatic release, the agency will test it to the requirements for an automatic release.

The irrevocable election requirement was not intended to preclude manufacturers from modifying or replacing the interior trunk release system during the production period of the model. For example, if a manufacturer equips a certain model line with a manual interior trunk release, but then during the production period (or model year) of that model line develops a compliant automatic release and decides to equip that model line with it for the rest of that production period, the irrevocable election requirement does not prohibit the manufacturer from doing so. As stated above, the agency will test the trunk release according to the appropriate requirements. It is only when a vehicle is equipped with both a manual and automatic release that the agency will need to know to which requirements (manual or automatic release) the manufacturer has certified the vehicle.

NHTSA believes this explanation addresses the situation raised by Ferrari. Accordingly, the agency believes it is unnecessary to modify S4.1.

### 4. Test Procedures

Ferrari expressed concern about test procedures in the following situations:

(1) Verifying that the interior release for a front trunk completely releases the lid when the vehicle is moving below the speed threshold. Ferrari claimed it is dangerous to use a person in such a situation because the person could be ejected from the trunk.

(2) Testing a vehicle with a trunk compartment big enough for a three-year-old child dummy to fit inside but not big enough for an adult. Ferrari stated it is not possible to use children to verify that the trunk release complies with the standard.

Ferrari requested that the agency issue a recommended certification test procedure as soon as possible.

The agency is developing test procedures and will issue them as soon as possible. However, the agency notes that it is not necessary to place an adult inside the trunk compartment to verify that a manual interior trunk release functions. This can be accomplished by using a remote control.

### C. Lead Time

Ferrari requested that the agency grant manufacturers of passenger cars with a front trunk an additional three years of lead time (until September 1, 2004) to comply with the standard. Ferrari estimated that it would take that long to design, develop, and test a release that would meet the requirements of the standard.

NHTSA does not believe that designing an interior trunk release capable of meeting the requirements of Standard No. 401 as revised herein poses any particular challenges. The agency notes that Porsche has already developed a system that deactivates the standard electromechanical hood release on its passenger cars when they have obtained a speed of 5 km/h  $\pm$  2 km/h. The agency believes that this system can readily be modified to work with an interior trunk release so that it will meet the requirements of the standard. Moreover, the agency has already granted manufacturers of passenger cars with a front trunk an additional year of lead time to meet the requirements of the standard. Further, Porsche, in its petition for reconsideration of the August 17, 2001 final rule, did not request any additional lead time. Accordingly, the agency is denying Ferrari's request for an additional three years of lead time.

## III. 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 Executive 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

<sup>3</sup> An automatic trunk release detects the presence of a person in the trunk and automatically releases the trunk lid.

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 imposes no additional requirements or burdens on manufacturers. This document simply raises the speed threshold at which the interior trunk release in a vehicle equipped with a front-opening front trunk must release only the primary latch from 3 km/h to 5 km/h. Thus, a full regulatory evaluation is not warranted.

#### *B. 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. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities.

As noted above, this final rule imposes no additional requirements or burdens on manufacturers. In the August 17, 2001 final rule responding to petitions for reconsideration, the agency imposed an additional requirement on manufacturers of passenger cars with front trunks. The agency stated that it was aware of only one manufacturer of such passenger cars, Porsche, and that

Porsche did not qualify as a small entity. Thus, the agency concluded that the final rule would not have a significant economic impact on a substantial number of small entities.

In its petition for reconsideration of the August 17, 2001 final rule, Ferrari noted that other manufacturers (Ferrari, Lamborghini, and Lotus) manufacture passenger cars with front trunks. Ferrari stated, "Consequently we cannot agree with your conclusion that the revised final rule will not have a significant impact on a substantial number of small entities."

The agency notes that these manufacturers do not qualify as small businesses under the Small Business Administration's regulations at 13 CFR part 121. Moreover, even if these manufacturers did qualify as small businesses, for purposes of this analysis, three manufacturers would not constitute a substantial number.

Based on this analysis, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

#### *C. National Environmental Policy Act*

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

#### *D. Executive Order 13132 (Federalism)*

Executive Order 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." The Executive Order defines "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 the Executive Order, the agency may not issue a regulation with 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, the agency consults with State and local governments, or the agency consults with State and local officials early in the process of developing the proposed regulation. NHTSA also may not issue a regulation that has Federalism implications and

that preempts State law unless the agency consults with State and local officials early in the process of developing the proposed regulation.

NHTSA has analyzed this rulemaking action in accordance with the principles and criteria set forth in Executive Order 13132. The agency has determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

#### *E. Civil Justice Reform*

This final rule will not have any retroactive effect. Under 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 that 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. 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.

#### *F. Paperwork Reduction Act*

This rule does not have any requirements that are considered to be information collection requirements as defined by the OMB in 5 CFR part 1320.

#### *G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs NHTSA to use voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adapted by voluntary consensus standards bodies, such as the Society of Automotive Engineers (SAE). The NTTAA directs NHTSA to provide Congress, through the OMB, explanations when the agency decides not to use available and applicable voluntary consensus standards.

There are no applicable voluntary consensus standards available at this time. NHTSA will consider any such standards if they become available.

#### 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. This final rule will not have any such impacts on those parties. As noted above, this final rule does not impose any additional burdens or requirements. Consequently, no Unfunded Mandates assessment has been prepared.

#### I. 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 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.

#### List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber Products, tires.

In consideration of the foregoing, NHTSA is amending part 571 as follows:

#### PART 571—[AMENDED]

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

**Authority:** 49 U.S.C. 322, 21411, 21415, 21417, and 21466; delegation of authority at 49 CFR 1.50.

2. In Section 571.401, S4.3 is amended by revising paragraph (b) to read as follows:

#### § 571.401 Standard No. 401; Interior trunk release.

S4.3 \* \* \*

(b)(1) For passenger cars with a front trunk compartment that has a front opening trunk lid required to have a secondary latching position or latch system, actuation of the release mechanism required by paragraph S4.1 of this standard must result in the following:

(i) When the passenger car is stationary, the release mechanism must release the trunk lid from all latching positions or latch systems;

(ii) When the passenger car is moving forward at a speed less than 5 km/h, the release mechanism must release the trunk lid from the primary latching position or latch system, and may release the trunk lid from all latching positions or latch systems;

(iii) When the passenger car is moving forward at a speed of 5 km/h or greater, the release mechanism must release the trunk lid from the primary latching position or latch system, but must not release the trunk lid from the secondary latching position or latch system.

(2) The passenger cars described in paragraph S4.3(b)(1) are excluded from the requirements of this standard until September 1, 2002.

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**Jeffrey W. Runge,**

*Administrator.*

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