All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: July 1, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 99–17166 Filed 7–6–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–99–5607; Notice 2]

Qvale Automotive Group SrL; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

For the reasons given below, we are granting the application by Qvale Automotive Group, SrL of Modena, Italy (''Qvale''), for an exemption until March 31, 2001, from the automatic restraint requirements of Federal Motor Vehicle Safety Standard No. 208 Occupant Crash Protection. Qvale applied for the exemption on the basis that ''compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.'' 49 CFR 555.6(a).

We published a notice of receipt of the application on May 5, 1999 (64 FR 24216), and received no comments in response.

The discussion that follows is based on information contained in Qvale's application.

Why Qvale Needs a Temporary Exemption

Qvale is an Italian corporation, formed in January 1998. It is controlled by an American corporation owned by the Qvale family of San Francisco, California, which was also formed in January 1998. The American corporation does business as DeTomaso Automobiles, Ltd.

DeTomaso Modena SpA, a small manufacturer of automobiles which produces less than 100 motor vehicles a year, developed a convertible passenger car, the Bigua, but was financially unable to produce it. Qvale has obtained the worldwide rights to manufacture and sell the Bigua under the name DeTomaso Mangusta. As of March 1999, Qvale had invested more than $7,000,000 in the Mangusta project, and anticipates an additional investment of $3,000,000 by the time production begins in September 1999.

When the project began in early 1998, Qvale expected that a Ford Mustang air bag system could be easily integrated into the Mangusta, because DeTomaso Modena had anticipated that the U.S. would be the primary market for the car. However, it has developed that significant re-engineering will be required to incorporate an inflatable restraint system that complies with S4.1.5.3 of Standard No. 208. Qvale believes that it will be able to manufacture a conforming car beginning in May 2000, but says that it needs an exemption so that it may sell the Mangusta in the United States, beginning in November 1999, to generate funds under its business plan. It has asked to be exempted through March 31, 2001, to allow for unforeseen problems during development. The applicant intends to retrofit exempted vehicles with air bag systems when they become available. It anticipates sales of 200–250 Mangustas under the exemption.

Why Compliance Would Cause Qvale Substantial Economic Hardship

Neither Qvale nor its American parent has had any income or sales since their inception in January 1998. Qvale had a net loss of $685,000 for 1998, with a negative cash flow of $511,000. If an exemption is not granted and U.S. sales do not begin until May-June 2000, the company anticipates total net losses of approximately $4,800,000 in 1999 with a total negative cash flow of over $3,000,000. Even with an exemption that would permit U.S. sales to begin in November 1999, Qvale expects a net loss for 1999 of $4,124,025 and a negative cash flow of $2,502,025. In fact, even with an exemption, Qvale anticipates net losses through at least 2001 though the cash flow would become positive in 2000 and increase slightly in 2001.

Qvale's U.S. parent has already hired a sales and distribution staff, and would suffer losses of $1,800,000 if it cannot begin sales of the Mangusta in November 1999.

How Qvale Has Tried To Comply With the Standard in Good Faith

Qvale's production plan involves the use of the 4.6L Ford Cobra V–8 engine as well as a significant number of Ford parts including the air bag system. Ford's parts division, Visteon, is the prime subcontractor responsible for the interior and air bags. Isis Automotive, an engineering company in the United Kingdom, has been chosen as the safety engineering project manager.

It was anticipated that the Ford air bag system could be integrated into the Mangusta but the final chassis engineering that had continued during the Fall of 1998 indicated otherwise. Visteon found it necessary to redesign the dashboard, including the passenger side air bag door in order to make the Mangusta commercially viable, but is not able to furnish the redesigned interior parts until the Summer of 1999. Without these parts, an air bag system cannot be properly tested. In addition, the construction of 10 pre-production prototypes necessary for safety testing has been delayed until July 1999 because of problems with the prototype manufacturer (an outside supplier) and ongoing design changes. Finally additional time is needed to organize the supplier and engineering personnel and resources necessary for the air bag system development work (e.g., laboratory testing and sensor calibration).

Because of these factors, Qvale's plans to incorporate an air bag system have been delayed from September 1999 to May or June 2000.

Why Exempting Qvale Would Be Consistent With the Public Interest and Objectives of Motor Vehicle Safety

Qvale believes that the small number of vehicles that will be produced under an exemption will have no discernable effect upon safety. It intends to equip all of its U.S. vehicles with manual three point belts, and will meet the injury criteria specified in S4.1.5.3 when tested with belted dummies. The company will affix a label to the instrument panel informing occupants of the exemption and the need to fasten their safety belts. Qvale plans to re-engineer its air bag system so that it may be installed as a retrofit in exempted vehicles. Mangustas will comply with all other applicable Federal motor vehicle safety standards.

In Qvale's opinion, an exemption would permit the availability in the U.S. of the Mangusta's ''high technology, light weight TRM composite body.'' The success of the project will have a beneficial effect upon Visteon, a division of Ford Motor Company, as well as employment elsewhere in the U.S. of sales and service personnel.

Our Finding That Compliance Would Cause Substantial Economic Hardship to a Manufacturer That Has Tried in Good Faith To Comply With Standard No. 208

It is manifest that Qvale has already invested considerable sums in its attempt to make the Bigua/Mangusta a viable commercial product, taking over the project from DeTomaso Automobili who lacked the financial resources to bring it to market. By the time production is scheduled to begin in September 1999, Qvale will have committed $10,000,000 to the enterprise. While denial of an exemption would not cause the failure of Qvale, it would result in total net losses of $4,800,000 before a car conforming to Standard No. 208 could be produced in 2000, as compared with total net losses of $4,124,025 with an exemption that would permit cars to be sold in the United States as of November 1999. Although an added loss of $700,000 may not appear significant in the overall context of an investment of $10,000,000, we note that Qvale cannot begin to generate any income at all until it is able to sell the Mangusta. Under the best of circumstances, the company anticipates net losses through 2001.

From Qvale's application, we surmise that DeTomaso Automobili intended to equip the Bigua with a Ford Mustang air bag system, but that its own financial difficulties prevented it from fully assessing its suitability to the vehicle's design. Since beginning the project early in 1998, Qvale has reviewed these efforts and determined that ''significant re-engineering'' is required to incorporate a conforming automatic restraint system. With its compliance project partners, Visteon and Isis, Qvale is working towards a conformance date less than a year away, May 2000. To allow for unanticipated difficulties it has asked for an exemption of 10 months past the anticipated date that the Mangusta will comply.

After reviewing these arguments, we find that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with Standard No. 208.

Our Finding That an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

We note with approval Qvale's intent to retrofit exempted vehicles with air bag systems when they become available for the estimated 200–250 Mangustas that will be sold under an exemption. We also note that the Mangusta will comply with all other applicable Federal motor vehicle safety standards.

Qvale is owned by a new American company which is hiring a sales and distribution staff for marketing the Mangusta in the United States. The principal subcontractor responsible for the engine, interior, air bags, and other parts, is also an American corporation.

After reviewing these arguments, we find that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety.

Grant of NHTSA Temporary Exemption No. 99–8

For the reasons expressed above, Qvale Automotive Group, SrL, is hereby granted NHTSA Temporary Exemption No. 99–8, from S4.1.5.3 of 49 CFR 571.208 *Occupant Crash Protection,* expiring April 1, 2001.

Authority: 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50.

Issued on: July 1, 1999.

Ricardo Martinez,

Administrator.

[FR Doc. 99–17236 Filed 7–6–99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–99–5143; Notice No. 99–8]

Advisory Guidance; Transportation of Batteries and Devices That Contain Batteries

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Advisory guidance.

SUMMARY: RSPA has become aware of several incidents that recently occurred where heat generated by batteries or devices that contain batteries have caused smoke and/or the initiation of a fire while the device or article was being transported in commerce. This suggests that some persons engaged in the offering of batteries and such devices for transportation may not be fully aware of the requirements and prohibitions of the Hazardous Materials Regulations (HMR) applicable to such devices. This advisory guidance is to remind anyone offering for transportation or transporting such devices that electrical storage devices or articles that contain batteries are forbidden from transportation unless properly packaged as to be protected from such an occurrence.

FOR FURTHER INFORMATION CONTACT: Eric Nelson, Office of Hazardous Materials Standards, RSPA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: RSPA has been made aware of several incidents in which batteries or other devices that contain batteries have short-circuited or otherwise functioned in such a manner so as to generate heat, smoke, or initiate a fire while being transported in commerce. This advisory guidance is intended to remind persons offering for transportation, or personally transporting any battery or electrical device of their responsibility under the Hazardous Materials Regulations (49 CFR parts 171–180) that any battery or electrical device that could create sparks or generate heat may only be offered for transportation or transported when adequately protected from such an occurrence.

I. Background

In May, 1994, while being delivered to a handling agent by road, a shipment of small lithium batteries destined for Gatwick airport in London, England, was found emitting smoke from a Unit Loading Device. The shipment consisted of batteries, approximately the size of a dime and about 5mm high, which had been tossed loosely in a box. The batteries apparently short-circuited when exposed battery terminal tabs came into contact with other batteries, and subsequently started a fire that significantly damaged the shipment. The UK Civil Aviation Authorities investigated the incident. The shipper was fined £1200 with £300 additional costs being paid.

In February, 1996, 106 packaged lawnmowers with an electrical battery installed were offered to an air carrier for transportation. While in an air cargo facility, and after being transported on two separate flights, smoke was discovered coming from one of the boxes. Air cargo personnel determined that an installed battery was dislodged and short-circuited, causing the wiring, plastic housing, and battery to burn and melt. The air carrier immediately took action to locate the other packages, which were in the process of being transported to other destinations throughout the United States. The air carrier returned three airborne flights and two taxiing aircraft to the airport, and held 11 flights preparing to depart until all 106 packages were accounted for. Approximately 50 of the 106 lawnmower batteries short-circuited, and several burned sufficiently to char