

that this ratio is approximately accurate for all governmental entities. There are twenty-seven (27) incumbent licensees in the 31.0–31.3 GHz band.

Accordingly, we estimate that 96 percent, or 25 to 26 of these licensees, are small entities.

33. We request comment on the description and the number of small entities that are significantly impacted by this proposed rule.

V. Reporting, Recordkeeping, and Other Compliance Requirements

34. The proposals under consideration in this *FNPRM* would not involve any reporting or recordkeeping requirements.

35. Incumbent licensees in the 31.0–31.3 GHz band would have new compliance requirements vis-a-vis LMDS licensees. Our rules provide that licensees therein operate on a non-interference basis, meaning that they have no rights to protection from interference, nor any obligations to not interfere with other similar incumbent operations. The Fourth NPRM proposes that LMDS be designated as a primary protected use of the band, ensuring that LMDS licensees would have interference protection from other authorized users of the band.

VI. Significant Alternatives Considered and Rejected

36. The Commission considered and rejected the alternative of placing all LMDS spectrum in the 28 GHz band, rather than placing a portion of the available spectrum in the 31 GHz band. The Commission concluded that LMDS requires additional spectrum to successfully deploy the variety of services proposed. It also concluded that these proposed services could be successfully implemented with non-contiguous bands of spectrum, whereas the satellite services could not. To the extent LMDS entities are small businesses, as discussed in the Final Regulatory Flexibility Analysis, *infra*, such entities are affected by this decision. However, some small entities commenting on the final band plan concurred with this approach (e.g., CellularVision, RioVision).

37. In addition, the Commission considered and rejected the alternative of proceeding with open eligibility in licensing, for the reasons stated herein. This action is responsive to the many small entities commenting in this proceeding who requested that restrictions be placed upon, or considered for, local exchange carriers and major cable companies, e.g., WebCel.

VII. Federal Rules That Overlap, Duplicate, or Conflict With These Proposed Rules

38. None.

Ordering Clause

39. Authority for issuance of this *Fourth Notice of Proposed Rulemaking* is contained in Sections 4(i), 303(r) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r) and 309(j).

List of Subjects in 47 CFR Part 21

Communications Common Carriers, Federal Communications Commission, Radio.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–19347 Filed 7–26–96; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 96–067; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision to Grant Exemption

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

ACTION: Proposed decision.

SUMMARY: This proposed decision responds to a joint petition filed by Lamborghini and Vector requesting that each company be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 1995 through 1997, and that lower alternative standards be established. In this document, NHTSA proposes that the requested exemption be granted and that alternative standards of 12.8 mpg be established for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997, for Lamborghini and Vector.

DATES: Comments on this proposed decision must be received on or before September 27, 1996.

ADDRESSES: Comments on this proposal must refer to the docket number and notice number in the heading of this notice and be submitted, preferably in ten copies, to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Spinner, Office of Market Incentives, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Ms. Spinner's telephone number is: (202) 366–4802.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to 49 U.S.C. 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) to consider:

- (1) Technological feasibility
- (2) Economic practicability
- (3) The effect of other Federal motor vehicle standards on fuel economy, and
- (4) The need of the Nation to conserve energy.

The statute at 49 U.S.C. 32902(d)(2) permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) A separate standard for each exempted manufacturer; (2) a separate average fuel economy standard applicable to each class of exempted automobiles (classes would be based on design, size, price, or other factors); or (3) a single standard for all exempted manufacturers.

Background Information on Lamborghini and Vector

Vector Aeromotive Corporation (Vector) and Automobili Lamborghini S.p.A. (Lamborghini) are small automobile manufacturers that each produce a single model of high priced, uniquely designed exotic sport vehicles. Lamborghini is an Italian manufacturer of passenger cars, which concentrates exclusively on the production of high quality, high performance, prestige sports cars. Lamborghini currently produces one model, the Diablo. Vector, a domestic low volume manufacturer, also marketing exotic high performance

sports cars, was originally founded as the "Vector Car" Company. The assets of Vector Car in were purchased by the Vector Aeromotive Corporation in 1987, and Vector completed redesign and engineering of its first production car, the Vector W8. During MYs 1991–1993, Vector manufactured a total of 22 Vector W8 passenger automobiles for worldwide sales. It did not produce any vehicles in MY 1995.

Need for a Joint Petition for Lamborghini and Vector

Although they manufacture different automobile lines, Lamborghini and Vector are both controlled by V-Power Corporation. V-Power is the largest shareholder of Vector, owning 57 percent of the stock; the remaining 43 percent of Vector is publicly traded on NASDAQ. V-Power also owns 50 percent of Lamborghini, with the remaining 50 percent held by Micom/Stedco Ltd. For each of MYs 1995 through 1997, Lamborghini's and Vector's combined worldwide production will be less than 10,000 automobiles. As both companies are controlled by V-Power, any alternative CAFE standard would apply to Lamborghini and Vector together, and a single petition should be submitted for a single alternative standard, applicable to the combined fleet of these companies.

NHTSA's regulations on low volume exemptions from CAFE standards state that petitions for exemption are to be submitted "not later than 24 months before the beginning of the affected model year, unless good cause for later submission is shown." (49 CFR 525.6(b).)

NHTSA received a petition from Vector Aeromotive Corporation on May 24, 1995 seeking an exemption for the 1995–1998 model years. On May 31, 1995, Vector withdrew this petition. On August 9, 1995, Vector submitted a joint petition on behalf of itself and Lamborghini seeking exemption from the passenger automobile fuel economy standards for MYs 1995–1997. On March 14, 1996, the petitioner provided amended data for Lamborghini/Vector vehicles for MYs 1996 and 1997, indicating improved fuel economy values.

The Lamborghini/Vector joint petition was filed less than 24 months before the beginning of MY 1997 and was therefore untimely under 49 C.F.R. 526.6(b). This section requires that petitions "be submitted not later than 24 months before the beginning of the affected model year, unless good cause for late submission is shown."

Lamborghini/Vector has provided NHTSA with information regarding the lateness of the joint petition. Lamborghini, which had been acquired by Chrysler in 1988, was sold to MegaTech Ltd. in February 1994. In September 1994, six months after acquisition of Lamborghini, MegaTech Ltd., which owned 100 percent of Lamborghini, distributed 50 percent of Lamborghini's stock to V-Power (owner of Vector) and 50 percent to Micom/Stedco Ltd. (an Indonesian shipping and manufacturing firm).

Chrysler's sale of Lamborghini, which Lamborghini contends occurred without prior notice, placed significant demands on this small company. As Lamborghini was no longer a part of Chrysler, it could not rely on compliance by Chrysler models to permit delayed compliance, as part of a phase-in, with the Environmental Protection Agency/California Air Resources Board (EPA/CARB) Tier I emission certifications. Lamborghini's separation from Chrysler also required that it comply with the phase-in requirements of Federal motor vehicle safety standard No. 214, "Side Impact Protection," before it had anticipated having to do so. These developments, combined with the advent of Lamborghini's relationship with Vector and the subsequent redesign of the Vector W8 to use a Lamborghini engine, placed considerable demands on the limited resources of Lamborghini/Vector. NHTSA notes that prior to the submission of the petition of May 24, 1995, Vector had never before submitted such a petition to the agency. Similarly, Lamborghini had not been eligible to submit an exemption petition since it was acquired by Chrysler in 1988. Preparing a joint petition required considerable interaction between these two previously unrelated companies. Given these circumstances, in conjunction with the significant drain on resources required for compliance with other regulations as noted above, the agency believes that sufficient good cause has been shown by Lamborghini/Vector to allow late filing of the joint petition for exemption for MY's 1995–97.

Methodology Used to Project Maximum Feasible Average Fuel Economy Level for Lamborghini/Vector

Baseline Fuel Economy

To project the level of fuel economy which could be achieved by Lamborghini/Vector in MYs 1995–1997, the agency considered whether there were technical or other improvements that would be feasible for these vehicles,

and whether or not the company currently plans to incorporate such improvements in the vehicles. The agency reviewed the technological feasibility of any changes and their economic practicability.

NHTSA interprets "technological feasibility" as meaning that technology which would be available to Lamborghini/Vector for use on its MY 1995 through 1997 automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements, drive line improvements, and reduced rolling resistance.

The agency interprets "economic practicability" as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its MYs 1995 through 1997 automobiles. In assuming that capability, the agency has always considered market demand as an implicit part of the concept of economic practicability. Consumers need not purchase what they do not want.

In accordance with the concerns of economic practicability, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Lamborghini and Vector automobiles. Since NHTSA assumes that Lamborghini and Vector will continue to build exotic high performance cars, design changes that would remove items traditionally offered on these cars, such as reducing the displacement of their engines, were not considered. Such changes to the basic design would be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

Technology for Fuel Economy Improvement

The nature of Lamborghini and Vector vehicles generally do not result in high fuel economy values. Also, Lamborghini and Vector lag in having the latest developments in fuel efficiency technology because suppliers generally provide components and technology to small manufacturers only after supplying large manufacturers.

Lamborghini/Vector state that the requested alternative fuel economy values represent the best possible CAFE that Lamborghini/Vector can achieve for MYs 1995 through 1997. However, the joint alternative fuel economy values decrease from 12.8 mpg in MY 1995 to

12.6 mpg in MY 1996 (a decrease of 0.2 mpg) and from 12.6 mpg in MY 1996 to 12.5 mpg in MY 1997 (a decrease of 0.1 mpg). The fuel economy will decrease over the three years because Lamborghini/Vector projects that Vector sales will increase over MYs 1996 and 1997 while Lamborghini sales will remain constant. Therefore, fuel economies will decrease because of the projected increased sales of Vectors, which have lower fuel economy values than Lamborghini's.

Despite these qualifications, the following describes how Lamborghini and Vector plan to maximize their respective vehicles' fuel economy by using state of the art materials and technologies for their vehicles.

Lamborghini and Vector vehicles share a common engine designed and produced by Lamborghini. This engine is a 5.7 liter V-12 with a 10:1 compression ratio that produces 492 horsepower at 6,800 revolutions per minute and 428 foot-pounds of torque at 5,200 rpm. Fuel is delivered to the engine through a computer-controlled multipoint fuel injection system. Aluminum alloy is used for all major castings like the engine crankcase, cylinder heads, induction manifold, gearbox, and axle. The Lamborghini V-12 is a highly efficient engine which produces extremely high output for its displacement.

In keeping with the high performance character, Lamborghini and Vector vehicles are designed to provide a structure that is both strong and lightweight. Vector uses a semi-monocoque structure and a steel roll cage with body panels fabricated from carbon-reinforced composite fiber glass. Front suspension consists of independent, unequal length A-arms with concentric coil shock absorbers and anti-dive characteristics. Rear suspension is parallel link, concentric coil springs with anti-squat characteristics. The hydraulic brake system includes vacuum assist, quad cylinder calipers and ventilated discs.

The Lamborghini Diablo chassis uses space frame construction with the unstressed panels, such as the doors and trunk, made of aluminum alloy and plastic composite. Composite and steel beams were recently adopted for the energy absorbing bumpers.

All Lamborghini/Vector vehicles have a rear engine driving rear wheels through five speed manual transmissions. Additionally, Vector W8 vehicles are equipped with ZF transaxle and constant velocity driveshaft joints. Both the Lamborghini Diablo and the Vector W8 rely on wide low aspect ratio

tires to provide maximum traction and performance.

Lamborghini/Vector vehicles achieve a very high level of performance by incorporating an efficient powerplant with a lightweight structure. Much of the technology used to improve fuel economy in other vehicles is already employed by Lamborghini/Vector to enhance performance. Any further improvements in fuel economy in these vehicles through the use of a smaller powerplant or tires with less rolling resistance would be contrary to the essential characteristics of the vehicles and their position in the marketplace.

Model Mix

The Vector W8 and Lamborghini Diablo are similarly sized vehicles sharing a common V-12 engine. Therefore, any opportunity to improve fuel economy by changing model mix would be dependent on introduction of new models or engines. In any event, changing the model mix would have a negligible effect on fuel economy due to the inherently low fuel economy of these ultra high performance coupes.

The Effect of Other Vehicle Standards

The new, California emissions standards apply to Lamborghini and Vector in MY 1995 and the similarly stringent Federal Clean Air Act Amendments apply in MY 1996. Lamborghini/Vector achieved lower fuel economy due to compliance with these standards.

Federal Motor Vehicle Safety Standards and other NHTSA standards also have an adverse effect on fuel economies of Lamborghini and Vector vehicles. These standards include 49 CFR part 581, *Bumper Standard*, Standard No. 214, *Side impact protection*, and Standard No. 208, *Occupant crash protection*. These standards tend to reduce achievable CAFE levels, since they result in increased vehicle weight. Engineering resources are necessarily devoted to meeting the standards, since, in order to remain in the market, Lamborghini/Vector must meet these mandatory standards.

The Need of the Nation To Conserve Energy

The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Lamborghini/Vector to achieve an average fuel economy in MYs 1995 through 1997 above the levels set forth

in this proposed decision. Granting an exemption to Lamborghini/Vector and setting an alternative standard at that level would result in only a negligible increase in fuel consumption and would not affect the need of the Nation to conserve energy. In fact, there would not be any increase since Lamborghini/Vector cannot attain those generally applicable standards. Nevertheless, the agency estimates that the additional fuel consumed by operating the MYs 1995 through 1997 fleets of Lamborghini/Vector vehicles at the combined projected CAFE of 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997 is insignificant compared to the fuel used each day by the entire U.S. motor vehicle fleet for passenger cars in 1994.

Maximum Feasible Average Fuel Economy for Lamborghini/Vector

The agency has tentatively concluded that it would not be technologically feasible and economically practicable for Lamborghini/Vector to improve the fuel economy of their MY 1995 through 1997 fleets above an average of 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997. Federal automobile standards would not adversely affect achievable fuel economy beyond the amount already factored into Lamborghini/Vector's projections, and that the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard.

Proposed Level and Type of Alternative Standard

NHTSA tentatively concludes that the maximum feasible average fuel economy for Lamborghini/Vector is 12.8 mpg in MY 1995, 12.6 mpg in MY 1996, and 12.5 mpg in MY 1997. The agency also tentatively concludes that it would be appropriate to establish a separate standard for Lamborghini/Vector for the following reasons. The agency has already granted petitions submitted by Rolls Royce for alternative standards of 14.6 mpg for MY's 1995-96 and 15.1 mpg for MY 1997. NHTSA has also granted a petition from Mednet, Inc. (successor company to Dutcher Motors) for an alternative standard of 17.0 mpg for MYs 1996-98. Therefore, the agency cannot use the second (class standards) or third (single standard for all exempted manufacturers) approaches for MYs 1995, 1996, and 1997.

Regulatory Impact Analyses

NHTSA has analyzed this proposal and determined that neither Executive Order 12866 nor the Department of

Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the proposal would not establish a "rule," which is defined in the Executive Order as "an agency statement of general applicability and future effect." The proposed exemption is not generally applicable, since it would apply only to Lamborghini Automobili and Vector Aeromotive as discussed in this notice. Under DOT regulatory policies and procedures, the proposed exemption would not be a "significant regulation." If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this proposal sets an alternative standard at the level determined to be the maximum feasible levels for Lamborghini/Vector for MYs 1995 through 1997, no fuel would be saved by establishing a higher alternative standard. NHTSA finds in the Section on "The Need of the Nation to Conserve Energy" that because of the small size of the Lamborghini/Vector fleet, the incremental usage of gasoline by Lamborghini/Vector's customers would not affect the nation's need to conserve gasoline. There would not be any impacts for the public at large.

The agency has also considered the environmental implications of this proposed exemption in accordance with the National Environmental Policy Act and determined that this proposed exemption, if adopted, would not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemptions and alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel used.

Interested persons are invited to submit comments on the proposed decision. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without

regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential business information has been deleted, should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received before the close of business on the comment closing indicated above for the proposal 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. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR part 531 would be amended to read as follows:

PART 531—[AMENDED]

1. The authority citation for part 531 would be revised to read as follows:

Authority: 49 U.S.C. 32902, delegation of authority at 49 CFR 1.50.

2. In § 531.5, the introductory text of paragraph (b) is republished for the convenience of the reader and paragraph (b)(13) would be added to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(13) Automobili Lamborghini S.p.A./Vector Aeromotive Corporation.

Model year	Average fuel economy standard (miles per gallon)
1995	12.8
1996	12.6
1997	12.5

Issued on: July 22, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96-19070 Filed 7-26-96; 8:45 am]

BILLING CODE 4910-59-P

49 CFR Part 571

[Docket No. 74-14; Notice 99]

RIN 2127-AG24

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition from the Ford Motor Company, this document proposes a limited extension of the compliance date of a recent rule improving safety belt fit by requiring that Type 2 safety belts installed for adjustable seats in vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or less either be integrated with the vehicle seat or be equipped with a means of adjustability to improve the fit and increase the comfort of the belt for a variety of different sized occupants. The extension would apply only to trucks with a GVWR of more than 8,500 pounds.

DATES: *Comment Date:* Comments must be received by September 12, 1996.

Proposed Effective Date: If adopted, the proposed amendments would become effective September 1, 1997.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4 p.m., Monday through Friday.)