

(4) The need of the United States to conserve energy.

The statute 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.

Proposed Decision and Public Comment

This final decision was preceded by a proposal announcing the agency's tentative conclusion that Spyker should be exempted from the generally applicable MY 2006 and 2007 passenger automobile average fuel economy of 27.5 mpg and that alternative standards of 18.9 mpg for MYs 2006 and 2007 be established for Spyker. (71 FR 49407; August 23, 2006). The agency received only one comment, from a Ms. Barb Sachau, who argued that all vehicles should get higher gas mileage and that the exemption for Spyker should not be granted unless Spyker's vehicles were able to obtain 100 mpg.

NHTSA has decided not to adopt Ms. Sachau's recommendation. NHTSA's proposed decision presented several reasons why it would not be technologically feasible or economically practicable for Spyker to improve the fuel economy of its MY 2006 and 2007 vehicles above an average of 18.9 mpg. Ms. Sachau did not refute the agency's reasoning or provide a technical evaluation of how a standard of 100 mpg for MYs 2006 and 2007 would be technologically feasible or economically practicable for Spyker. Thus, the agency has no basis to adopt Ms. Sachau's recommendation.

NHTSA Final Determination

Therefore, the agency is adopting the tentative conclusions set forth in the proposed decision as its final conclusions, for the reasons set forth in the proposed decision. Based on these conclusions, the maximum average fuel economy for Spyker is 18.9 mpg for MYs 2006 and 2007. NHTSA has determined that other Federal motor vehicle standards will not affect achievable fuel economy beyond the extent considered in the proposed decision and that the national effort to conserve energy will not be affected by granting this exemption. NHTSA hereby exempts Spyker from the generally applicable MY 2006 and 2007 passenger automobile average fuel economy of 27.5 mpg and establishes an alternative

standard of 18.9 mpg for MYs 2006 and 2007 for Spyker.

Regulatory Impact Analyses

NHTSA has analyzed this decision and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply. Under Executive Order 12866, the decision would not establish a "rule," which is defined in the Executive Order as "an agency statement of general applicability and future effect." Since this decision would apply only to Spyker, as discussed in this notice, it is not a "rule" under the definition. Under DOT regulatory policies and procedures, the decision is not a "significant regulation." If Departmental policies and procedures were applicable, the agency would have determined that this decision is not significant. The principal impact of this decision is that the exempted company will not be required to pay civil penalties if its maximum feasible average fuel economy were achieved, and that purchasers of those vehicles would not have to bear the burden of those civil penalties in the form of higher prices. Since this decision sets an alternative standard at the level determined to be the maximum feasible for Spyker for MYs 2006 and 2007, no fuel would be saved by establishing a higher alternative standard.

NHTSA finds in the Section on "The Need of the United States to Conserve Energy" that because of the small size of the Spyker fleet, that incremental usage of gasoline by Spyker's customers would not affect the United States' need to conserve gasoline. Spyker plans to import a maximum of 112 vehicles to the U.S. market by MY 2007. Given that over 8,350,000 passenger cars were produced for sale in the U.S. market in MY 2006, Spyker's importation of these vehicles would amount to .001% of the U.S. market. Thus, the impact for the public at large is minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act (NEPA) and determined that it does 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 alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than provided, the decision does not affect the amount of fuel used.

List of Subjects in 49 CFR Part 531

Energy conservation, Gasoline, Imports, Motor Vehicles.

■ In consideration of the foregoing, 49 CFR part 531 is amended as follows:

PART 531—[AMENDED]

■ 1. The authority citation for part 531 is revised to read as follows:

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

■ 2. Section 531.5 is amended by adding paragraph (b) (15) to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) * * *

(15) Spyker Automobielen B.V.

AVERAGE FUEL ECONOMY STANDARD

Model year	Miles per gallon
2006	18.9
2007	18.9

Issued on: May 17, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032-7032-01]

RIN 0648-XA40

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the second seasonal apportionment of the 2007 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 17, 2007, through 1200 hrs, A.l.t., July 1, 2007.

FOR FURTHER INFORMATION CONTACT:

Jennifer Hogan, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of the 2007 Pacific halibut bycatch allowance specified for the deep-water species fishery in the GOA is 300 metric tons as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007), for the period 1200 hrs, A.l.t., April 1, 2007, through 1200 hrs, A.l.t., July 1, 2007.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS, has determined that the second seasonal apportionment of the 2007 Pacific halibut bycatch allowance

specified for the trawl deep-water species fishery in the GOA has been reached. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are sablefish, rockfish, deep-water flatfish, rex sole and arrowtooth flounder.

This closure does not apply to fishing by vessels participating in the cooperative fishery in the Rockfish Pilot Program for the Central GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public

interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the deep-water species fishery by vessels using trawl gear in the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 16, 2007.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 17, 2007.

James P. Burgess

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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