

Act)(49 U.S.C. 32902(d)). Section 32902(d) provides that NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards for passenger automobiles if the agency concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and establishes an alternative standard for that manufacturer at its maximum feasible level. Under the Act, 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 maximum feasible average fuel economy, the agency is required by section 32902(f) of the Act 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.

Proposed Decision and Public Comment

This final decision was preceded by a proposal announcing the agency's tentative conclusion that Lamborghini and Vector should be exempted from the generally applicable MY 1995, 1996 and 1997 passenger automobile average fuel economy standard of 27.5 mpg, and that an alternative standard of 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997 be established for Lamborghini and Vector (61 FR 39429; July 29, 1996). The agency did not receive any comments in response to the proposed decision.

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 the conclusions that the maximum feasible average fuel economy level for Lamborghini and Vector is 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997, 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 Lamborghini and Vector from the generally applicable passenger automobile average fuel economy standard for the 1995, 1996 and 1997

model year and establishes an alternative standard of 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997 for Lamborghini and Vector.

Regulatory Impacts

NHTSA has analyzed this decision, and determined that neither Executive Order 12866 nor the Department of Transportation's regulatory policies and procedures apply, because this decision is not a "rule," which term is defined as "an agency statement of general applicability and future effect." This exemption is not generally applicable, since it applies only to Lamborghini and Vector. If the Departmental policies and procedures were applicable, the agency would have determined that this action is not "significant." The principal impact of this exemption is that Lamborghini and Vector will not be required to pay civil penalties if they achieve a CAFE level equivalent to the alternative standard established in this notice. Since this decision sets an alternative standard at the level determined to be Lamborghini and Vector's maximum feasible average fuel economy, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this decision in accordance with the National Environmental Policy Act and determined that this decision will not significantly affect the human environment. Regardless of the fuel economy of a vehicle, it must pass the emissions standards which limit the amount of emissions per mile traveled. Thus, the quality of the air is not affected by this exemption and alternative standard. Further, since Lamborghini and Vector's 1995, 1996 and 1997 model year automobiles cannot achieve better fuel economy than 12.8 mpg for MY 1995, 12.6 mpg for MY 1996, and 12.5 mpg for MY 1997, granting this exemption will not affect the amount of gasoline consumed.

Since the Regulatory Flexibility Act may apply to a decision exempting a manufacturer from a generally applicable standard, I certify that this decision will not have a significant economic impact on a substantial number of small entities. This decision does not impose any burdens on Lamborghini and Vector. It relieves the company from having to pay civil penalties for noncompliance with the generally applicable standard for MY 1995, 1996 and 1997. Since the price of 1995, 1996 and 1997 Lamborghini and Vector automobiles will not be affected

by this decision, the purchasers will not be affected.

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 continues to read as follows:

Authority: 49 U.S.C. 32902; Delegation of authority at 49 CFR 1.50.

2. In section 531.5, the introductory text of paragraph (b) is republished for the convenience of the reader and paragraph (b)(12) is 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:

* * * * *

(10) 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: December 18, 1996.

L. Robert Shelton,
Associate Administrator for Safety Performance Standards.

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Federal Transit Administration

49 CFR Part 659

RIN 2132-AA57

Rail Fixed Guideway Systems; State Safety Oversight

AGENCY: Federal Transit Administration, DOT.

ACTION: Final rule; technical amendments.

SUMMARY: The Federal Transit Administration (FTA) is making technical amendments to the State Safety Oversight rule to correct minor errors. This rule is intended to clarify the existing rule.

EFFECTIVE DATE: December 23, 1996.

FOR FURTHER INFORMATION CONTACT:

Nancy M. Zaczek, Attorney-Advisor for Legislation and Rulemakings, Office of the Chief Counsel, FTA, 400 7th Street S.W., Washington, D.C. 20590. (202)366-4011. Information may also be obtained from Roy Field of the Office of Safety and Security (202) 366-2896. Electronic access to this and other rules may be obtained through FTA's Transit Safety and Security Bulletin Board at 1-800-231-2061 or through the FTA World Wide Web home page at <http://www.fta.bt.gov>; both services are available seven days a week.

SUPPLEMENTARY INFORMATION: FTA is making the following technical amendments to its State Safety Oversight rule.

I. System Safety Program Plans

Section 659.33(a) is amended by adding a dash after the word "must," moving the phrase "require the transit agency to" to paragraph (a)(1), and removing the dash after the word "to." Section 659.33(a) now reads "[e]xcept as provided in § 659.33(b), the oversight agency must—(1)[r]equire the transit agency to implement, beginning on January 1, 1997, a system safety program plan conforming to the oversight agency's system safety program standard; and [2] [a]pprove in writing before January 1, 1997, the transit agency's system safety program plan."

Section 659.33(b) is amended by adding a dash after the word "must" and moving the phrase "require the transit agency to" to paragraph (b)(1), and removing the dash after the word "to." Section 659.33(b) now reads "[t]he oversight agency must—(1) [r]equire the transit agency to implement beginning on January 1, 1998, the security portions of its system safety program plan; and (2) [a]pprove in writing before January 1, 1998, the security portions of the transit agency's system safety program plan."

II. Annual Audits

Section 659.35(a) states that "the oversight agency must require that the transit agency submit, annually, a copy of the annual safety audit report prepared by the transit agency as a result of the Internal Safety Audit Process (APTA [American Public Transit Association] Guidelines, checklist number 9) * * *." FTA has learned through public meetings with State and transit agency officials that there is much confusion concerning this requirement. Many have interpreted this provision to mean that a transit agency must conduct, annually, an audit that complies with checklist #9, which is a very detailed audit that generally is not

conducted annually. This interpretation is incorrect. In this section, FTA is requiring the oversight agency to require the transit agency to audit itself, as check list #9 states, on an on-going basis. Of course, a transit agency will not conduct a complete audit every year; but, it would be appropriate to phase-in a complete audit during the three-year time-period between safety reviews. This section requires that reports be written annually to reflect the kind of audit the transit agency conducted for that year; those reports must be submitted to the oversight agency. In short, the oversight agency in conjunction with the transit agency should decide on the areas that should be audited in a given year and on the content of the audit report. In making these decisions, however, the oversight and transit agencies are required to use the American Public Transit Association's checklist # 9 process.

III. Annual Submissions

In this section FTA has changed the date the annual submissions are due from the oversight agency from January 1 of each year to March 15 of each year; this gives the oversight agency time to collect data and it corresponds to the date that MIS (Management Information Systems) forms are due from recipients, including States, under FTA's drug and alcohol rules.

IV. Regulatory Analyses and Notices

This is not a significant rule under Executive Order 12866 or under the Department's Regulatory Policies and Procedures. There are no significant Federalism implications to warrant the preparation of a Federalism Assessment. The Department certifies that this rule will not have a significant economic impact on a substantial number of small entities; this rule merely corrects minor errors that occurred in the December 27, 1995, publication and is unlikely to significantly increase the costs for employers.

List of Subjects in 49 CFR Part 659

Grant programs—transportation, Incorporation by reference, Reporting and recordkeeping requirements, Safety, Security, and Transportation.

For the reasons set forth in the preamble, FTA amends title 49, Code of Federal Regulations, part 659 as follows:

PART 659—RAIL FIXED GUIDEWAY SYSTEMS; STATE SAFETY OVERSIGHT

1. The authority for part 659 continues to read as follows:

Authority: 49 U.S.C. 5330; 49 CFR 1.51.

2. § 659.33 (a) and (b) are revised to read as follows:

§ 659.33 Specimen system safety program plans.

(a) Except as provided in § 659.33(b), the oversight agency must—

(1) Require the transit agency to implement, beginning on January 1, 1997, a system safety program plan conforming to the oversight agency's system safety program standard; and
(2) Approve in writing before January 1, 1997, the transit agency's system safety program plan.

(b) The oversight agency must—

(1) Require the transit agency to implement beginning on January 1, 1998, the security portion of its system safety program plan; and
(2) Approve in writing before January 1, 1998, the security portions of the transit agency's system safety program plan.

* * * * *

§ 659.45(b) [Amended]

3. In § 659(b) the words "March 15" are substituted for the words "January 1".

Issued: December 16, 1996.

Gordon J. Linton,

Administrator.

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DEPARTMENT OF THE INTERIOR**Fish and Wildlife Service****50 CFR Part 17**

RIN 1018-AC42

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for *Lesquerella Perforata* (Spring Creek Bladderpod)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status for Spring Creek bladderpod pursuant to the Endangered Species Act of 1973, as amended (Act). This rare plant is presently known from only a limited area within Tennessee's Central Basin. It is threatened by habitat alteration; residential, commercial, or industrial development; livestock-grazing; conversion of its limited habitat to pasture; and habitat encroachment by woody vegetation and herbaceous perennials.

DATES: This rule is effective January 22, 1997.