

read EPA-Approved Iowa Source-Specific Permits, and add the entries for IES Utilities and Archer-Daniels-

Midland to the end of the table to read as follows:

§ 52.820 Identification of plan.

\* \* \* \* \*

(d) EPA-approved Iowa source-specific permits.

EPA-APPROVED IOWA SOURCE-SPECIFIC PERMITS

Name of source	Order/permit No.	State effective date	EPA approval date	Comment
* * * * *	* * * * *	* * * * *	* * * * *	* * * * *
IES Utilities, Inc .....	98-AQ-20 .....	11/20/98	3/11/99 64 FR 12090 .....	SO <sub>2</sub> Control Plan for Cedar Rapids, Iowa.
Archer-Daniels-Midland Corporation.	SO <sub>2</sub> Emission Control Plan ....	9/14/98	3/11/99 64 FR 12090 .....	ADM Corn Processing SO <sub>2</sub> Control Plan for Cedar Rapids, Iowa.

[FR Doc. 99-5824 Filed 3-10-99; 8:45 am]  
BILLING CODE 6560-50-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. NHTSA-97-3205, Notice 02]

Passenger Automobile Average Fuel Economy Standards

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

ACTION: Final decision.

**SUMMARY:** This final decision responds to a joint petition filed by Vector Aeromotive Corporation (Vector) and Lamborghini S.p.A. (Lamborghini) requesting that each company be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years (MYs) 1998 and 1999 and that lower alternative standards be established. In this document, NHTSA denies Lamborghini's request for MYs 1998 and 1999 and grants Vector's request only for MY 1998. The agency establishes an alternative standard of 12.1 mpg for MY 1998 for Vector.

**DATES:** Effective Date: This final decision is effective April 12, 1999. This denial applies only to Lamborghini for MYs 1998 and 1999.

**Petitions for reconsideration:** Petitions for reconsideration must be received no later than April 12, 1999.

**ADDRESSES:** Petitions for reconsideration of this rule should refer to the docket and notice number set forth above and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

**FOR FURTHER INFORMATION CONTACT:** The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, D.C. 20590.

For non-legal issues: Ms. Henrietta L. Spinner, Office of Planning and Consumer Programs, Safety Performance Standards, NPS-32, NHTSA, 400 Seventh Street, SW., Washington, D.C. 20590. Telephone: (202) 366-4802, facsimile (202) 366-2739.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC-20, telephone (202) 366-5253, facsimile (202) 366-3820.

**SUPPLEMENTARY INFORMATION:**

**Statutory Background**

Pursuant to section 32902(d) of Chapter 329 "Automobile Fuel Economy" (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 at that 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 United States to conserve energy.

The statute permits NHTSA to establish alternative average fuel economy standards applicable to exempt 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 Vector and Lamborghini should be exempted from the generally applicable MYs 1998 and 1999 passenger automobile average fuel economy standard of 27.5 mpg, and that alternative standards of 12.4 mpg for MYs 1998 and 1999 be established for Vector and Lamborghini (63 FR 5774; February 4, 1998). The agency did not receive any comments in response to the proposal.

**NHTSA Final Determination**

On August 27, 1997, Lamborghini and Vector filed a joint petition seeking an exemption from the generally applicable fuel economy standards for passenger cars for MYs 1998 and 1999 and requested that an alternative fuel economy standard for the two companies be established. At the time this petition was filed, V-Power Corporation controlled Lamborghini and Vector. V-Power was, and remains, the largest shareholder of Vector, owning 57 percent of the stock; with the remaining 43 percent of Vector being publicly held. V-Power also had a controlling interest in Lamborghini owning 50 percent of Lamborghini's stock. As V-Power controlled both companies, any alternative Corporate Average Fuel Economy (CAFE) standard would apply to Lamborghini and Vector together (see 49 U.S.C. 32901(a) (4)), and a single

petition was submitted for a single alternative standard, applicable to the combined fleet of the two manufacturers.

On July 24, 1998, Audi AG (Audi), a wholly owned subsidiary of Volkswagen AG, acquired full ownership of Lamborghini. Together, Audi and Volkswagen have an annual worldwide production of more than 10,000 vehicles. Section 32902(d) of Chapter 329 provides that an alternative standard may only be established for a manufacturer that manufactured (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year two years before the model year for which the application is made. The section further provides that an exemption for a model year applies only if the manufacturer manufactures (whether in the United States or not) fewer than 10,000 passenger automobiles in the model year.

On September 21, 1990, the agency published a notice (55 FR 38822) containing NHTSA's interpretation of the terms manufacture and manufacturer for the purposes of determining eligibility for a low volume exemption under section 32902(d). In considering whether an entity is eligible for a low volume exemption, the agency indicated that it must count all of the cars manufactured by that entity worldwide, and not merely those imported in the United States. Importers who are controlled by larger "parent" manufacturers have, by virtue of the relationship with the "parent," access to technological and material resources that provide them with the ability to manufacture more fuel efficient vehicles. The fact that the "parent" may choose not to import and market cars in the United States does not have any bearing on the availability of these resources.

When Lamborghini and Vector filed their joint petition seeking an exemption in 1997, the annual worldwide production of both companies combined was fewer than 10,000 vehicles. However, Lamborghini was acquired by Audi, which is in turn owned and controlled by Volkswagen, during Lamborghini's 1998 model year. The combined worldwide production of Volkswagen, Audi, and Lamborghini during Lamborghini's 1998 model year was much greater than 10,000 vehicles. As section 32902(d)(1) prohibits establishing alternative fuel economy standards for manufacturers producing more than 10,000 vehicles during the model year for which the exemption is sought, Lamborghini, by virtue of its coming under the ownership of Audi

and Volkswagen, is ineligible for an exemption for the 1998 model year. Similarly, as Lamborghini and its parents, Audi and Volkswagen, will manufacture more than 10,000 vehicles annually in the 1999 model year, the agency is denying Lamborghini's request for an exemption for MY 1999 as well.

The agency notes that Vector, which submitted a joint petition for exemption with Lamborghini, remains under the ownership of V-Power. Vector and its parent company produce fewer than 10,000 vehicles worldwide each year. The company is, therefore, still eligible for an exemption from the generally applicable fuel economy standards. Vector has requested that the agency consider the joint petition filed on behalf of itself and Lamborghini to be a single petition seeking an alternative standard for Vector alone. To assist the agency in considering its decision to set such an alternative standard, Vector provided NHTSA with information regarding its maximum feasible fuel economy for the 1998 model year. NHTSA has determined Vector's maximum feasible fuel economy for that year and establishes an alternative standard of 12.1 mpg for MY 1998, based on Vector's request. When Vector furnishes the agency with additional MY 1999 data and information to support its request for an alternative standard for that year, NHTSA will address its petition in a separate decision. In prior model years, Vector exclusively relied on the Lamborghini engine in its passenger cars. Volkswagen's acquisition of Lamborghini leaves Vector technically uncertain regarding the supplier of engines for its 1999 models. Therefore, at this time, the agency cannot determine Vector's maximum feasible fuel economy for MY 1999.

#### **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." The decision is not generally applicable, since it applies to Automobili Lamborghini S.p.A. and its parent companies and Vector Aeromotive Corporation, as discussed in this notice. Under DOT regulatory policies and procedures, the decision is not a "significant regulation." If the Executive Order and the Departmental policies and procedures were

applicable, the agency would have determined that this decision is neither major nor significant. The principal impact of this decision is that the companies seeking an exemption could be required to pay civil penalties if the average fuel economy of the Volkswagen/Audi/Lamborghini's and Vector's fleets are less than the generally applicable standard. In that event, purchasers of those vehicles may have to bear the burden of those civil penalties in the form of higher prices. Since this rule sets an alternative standard at the level determined to be the maximum feasible level for Vector for MY 1998, 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 Vector's fleet, the incremental usage of gasoline by Vector's customers would not affect the nation's need to conserve gasoline. There would not be any impacts to the public at large.

The agency has also considered the environmental implications of this decision in accordance with the Environmental Policy Act and determined that it does not significantly affect the human environment. Regardless of the fuel economy of the affected 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 denial of Lamborghini's request and the exemption of Vector's request for alternative standards. Further, since the passenger automobiles at issue will be required to meet applicable passenger car fuel economy standards, the decision does not affect the amount of fuel used.

Since the Regulatory Flexibility Act may apply to both decisions denying an exemption to a manufacturer and 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. While the denial of the exemption imposes a burden on Lamborghini, the company and its parent companies are not small businesses. The prices of 1998 and 1999 Lamborghini automobiles are not likely to be affected by this decision as the Lamborghini vehicles are sold in very small numbers and will be included in the fleet of its parent company. The relatively low fuel economy of the small number of Lamborghini vehicles will be outweighed by the comparatively high fuel economy of the large numbers of Volkswagen and Audi vehicles.

Purchasers will therefore not be affected. This decision does not impose any burdens on Vector. It does relieve the company from being subject to an infeasible standard for MY 1998 and from having to pay civil penalties for noncompliance with that standard. Since the price of 1998 Vector automobiles were not affected by this decision, the purchasers are not affected.

**List of Subjects in 49 CFR Part 531**

Energy conservation, Fuel economy, Imports, Motor vehicles.

In consideration of the foregoing, 49 CFR Part 531 is amended as set forth below:

**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. Section 531.5(b) is amended by republishing paragraph (b) introductory text and adding paragraph (b)(13) 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) Vector Aeromotive Corporation.

Model year	Average fuel economy standard (miles per gallon)
1998 .....	12.1

\* \* \* \* \*

Issued on: March 5, 1999.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 660**

[Docket No. 990304061-9061-01; I.D. 022599B]

RIN 0648-AL63

**Fisheries Off West Coast States and in the Western Pacific; Western Pacific Crustacean Fisheries; 1999 Harvest Guideline**

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

**ACTION:** 1999 harvest guideline for the Northwestern Hawaiian Islands (NWHI) crustacean fishery.

**SUMMARY:** NMFS announces a 1999 harvest guideline of 243,100 lobsters (spiny and slipper lobsters combined) for the NWHI crustacean fishery, which opens on July 1, 1999. The harvest guideline applies to the entire NWHI. The intent of this action is to prevent overfishing and achieve the objectives of the Fishery Management Plan for the Crustacean Fisheries of the Western Pacific Region (FMP).

**DATES:** Effective July 1, 1999.

**ADDRESSES:** Copies of background material pertaining to this action may be obtained from Alvin Katekaru, Pacific Islands Area Office (PIAO), Southwest Region, NMFS, 2570 Dole St., Honolulu, HI 96822 or Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

**FOR FURTHER INFORMATION CONTACT:** Alvin Katekaru at 808-973-2985 or Kitty Simonds at 808-522-8220.

**SUPPLEMENTARY INFORMATION:** Under Amendment 9 to the FMP, the Southwest Regional Administrator, NMFS (Regional Administrator), sets the annual harvest guideline for the NWHI crustacean fishery. The guideline is 13 percent of the estimated exploitable lobster population (spiny and slipper lobsters combined). This harvest rate is associated with a 10-percent risk of overfishing. As described in Amendments 7 and 9 to the FMP, the total NWHI population of exploitable lobsters is estimated from commercial logbook lobster catch and effort data. The harvest guideline represents the total allowable mortality of lobsters in the fishery regardless of lobster size or reproductive condition. The Regional Administrator will close the fishery when the harvest guideline is estimated

to be reached. The harvest guideline for the 1999 NWHI lobster fishery is 243,100 lobsters, based on an estimated total exploitable population of about 1,870,000 spiny and slipper lobsters (both species combined).

Under Amendment 9 to the FMP, the Regional Administrator is required to announce a harvest guideline for the entire NWHI. However, the Regional Administrator has a reason to believe that, if the 1999 lobster harvest is not limited for certain fishing banks, the local lobster populations may be at risk of overexploitation. The Council and fishing industry also concur with this assessment. The Council established bank-specific harvest guidelines for the 1998 lobster season to prevent the potential risk of overexploiting the lobster population at Necker Island, Gardner Pinnacles, and Maro Reef.

Those bank-specific guidelines ended on December 31, 1998. On December 2, 1998, the Council voted to recommend permanent bank-specific harvest guidelines for Necker Island, Gardner Pinnacle, Maro Reef, and all other remaining NWHI lobster grounds combined during the 1999 fishing year and subsequent years. NMFS is working with the Council to develop separate proposed and final rules for those bank-specific guidelines.

The PIAO will monitor landings and issue timely reports of the level of cumulative catch information and of the amount of the harvest guideline remaining. Fishermen are advised to contact the PIAO (see **ADDRESSES**) periodically to stay abreast of any changes and of the progress of the fishery toward attaining the harvest guideline. Under the procedures in 50 CFR 660.50(b)(3), NMFS will announce the date upon which the harvest guideline will be reached and the date when the fishery will be closed.

**Classification**

This action is authorized by 50 CFR part 660 and is exempt from review under Executive Order 12866.

The Assistant Administrator for Fisheries (AA), NOAA, finds that, because this document merely announces a harvest guideline resulting from the nondiscretionary application of the objective harvest guideline formula in Amendment 9 to the FMP, no useful purpose would be served by providing prior notice and opportunity for public comment. Accordingly, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive as unnecessary the requirement to provide prior notice and opportunity for public comment.

Because prior notice and opportunity for public comment are not required for