permeability, such as glacial till, lacustrian, or loess deposits. It is assumed that most Class V wells are relatively shallow and, therefore, 50 feet or less of fine grained cover could reduce but not necessarily eliminate the vulnerability of underlying Class II systems.

*Class III (Consolidated or Unconsolidated Aquifers That Are Overlain by More Than 50 Feet of Low Permeability Material; Low Vulnerability)*

Aquifers of this type are the least vulnerable of all the classes because they are naturally protected by a thick layer of fine grained material, such as glacial till or shale. Examples include parts of the Northern Great Plains where the Pierre Shale of Cretaceous age crops out over thousands of square miles and is hundreds of feet thick. In many of the glaciated states, till forms an effective cover over bedrock or buried outwash aquifers, and elsewhere alternating layers of shale, siltstone, and fine grained sandstone insulate and protect the deeper major water bearing zones * * *

*Class U (Undifferentiated Aquifers)*

This classification is used where several lithologic and hydrologic conditions are present within a mappable area. Units are assigned to this class because of constraints of mapping scale, the presence of undelineated members within a formation or group, or the presence of nonuniformly occurring features, such as fracturing. This class is intended to convey a wider range of vulnerability than is usually contained within any other single class.

*Subclass V (Variable Covered Aquifers)*

The modifier ''v'', such as Class IIa-v, is used to describe areas where an undetermined or highly variable thickness of low permeability sediments overlie the major water bearing zone. To provide the largest amount of information, the underlying aquifer was mapped as if the cover were absent, and the ''v'' designation was added to the classification. The ''v'' indicates that a variable thickness of low permeability material covers the aquifer and, since the thickness of the cover, to a large degree, controls vulnerability, this aspect is undefined.

[FR Doc. 99–33614 Filed 12–29–99; 8:45 am]

BILLING CODE 4910–60–P

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## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 531

**[NHTSA–99–6676]**

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

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

**ACTION:** Proposed decision.

**SUMMARY:** This proposed decision responds to a petition filed by DeTomaso Automobiles, Ltd. (DeTomaso) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 2000 and 2001, and that, for DeTomaso, lower alternative standards be established. In this document, NHTSA proposes that the requested exemption be granted to DeTomaso and that alternative standards of 22.0 mpg be established for MY's 2000 and 2001.

**DATES:** Comments on this proposed decision must be received on or before January 31, 2000.

**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:** Mr. Sanjay Patel, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, DC 20590. Mr. Patel's telephone number is: (202) 366–0307.

**SUPPLEMENTARY INFORMATION:**

### Statutory Background

Pursuant to 49 U.S.C. section 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 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.

### Background Information on DeTomaso

DeTomaso Automobiles, Ltd. is a Delaware Corporation under common ownership with DeT. Auto Srl., an Italian corporation that produces DeTomaso automobiles in Italy and distributes them worldwide. These DeTomaso automobiles are produced under a license granted by DeTomaso Modena SpA., an Italian corporation owned by Alejandro DeTomaso. DeT Auto Srl. and DeTomaso Automobiles Ltd. produce fewer than 10,000 cars worldwide each year and are not owned by, or under common control with, any other auto company.

The DeTomaso marque has always provided high performance through technology and weight reduction. DeTomaso vehicles were last exported to the United States in the late 1970's. The number of vehicles imported annually at that time was quite small. DeTomaso traditionally produces fewer than 2000 vehicles each year.

For the 2000 and 2001 model years, DeTomaso's product-line for the U.S. market consists of the DeTomaso Mangusta, a two-seat convertible sports car powered by a 4.6 liter Ford V–8. This model will be the only vehicle imported by DeTomaso and the company projects that it will import 300 vehicles for MY 2000 and 500 vehicles for MY 2001. These projected sales volumes are consistent with its status as a low volume importer.

### The DeTomaso Petition

NHTSA's regulations on low volume exemptions from CAFE standards state that petitions for exemption are 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 joint petition from DeTomaso Automobiles Ltd. (DeTomaso) on June 20, 1998, seeking exemption from the passenger automobile fuel economy standards for MYs 2000–2001. This joint petition was filed less than 24 months before the beginning of MYs 2000 and 2001 and was therefore untimely under 49 C.F.R. 526.6(b). DeTomaso indicates that its decision to enter the U.S. market for MY

2000 was not made until early 1999 after it reached an agreement with Ford that allowed DeTomaso to use a U.S. built and certified powerplant and drivetrain in the Mangusta.

Under the circumstances, NHTSA concludes that DeTomaso took reasonable measures to submit a petition in as timely a manner as possible. The agency notes that DeTomaso's ability to enter the U.S. market apparently hinged on obtaining a U.S. powerplant for the Mangusta. This, according to DeTomaso, was not possible or feasible until it reached an agreement with Ford to provide the required engine. Therefore, the agency has determined that good cause exists for the late submission of the petition.

**Methodology Used to Project Maximum Feasible Average Fuel Economy Level for DeTomaso**

*Baseline Fuel Economy*

To project the level of fuel economy which could be achieved by DeTomaso in the 2000 and 2001 model years, NHTSA considered whether there were technical or other improvements that would be feasible for these vehicles, and whether 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 DeTomaso for use on its 2000 and 2001 model year 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 2000 and 2001 model year 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 DeTomaso automobiles. Since NHTSA assumes that DeTomaso will continue to build high performance cars, design changes that would remove items traditionally offered on these cars 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 DeTomaso vehicles generally do not result in high fuel economy values. Also, DeTomaso lags in having the latest developments in fuel efficiency technology because suppliers generally provide components and technology to small manufacturers only after supplying large manufacturers.

DeTomaso states that the requested alternative fuel economy values represent the best possible CAFE that DeTomaso can achieve for the 2000 and 2001 model years. For MYs 2000 and 2001, DeTomaso stated that the fuel economy value of 22.0 mpg represents the best possible CAFE that it can achieve. DeTomaso has produced small lightweight innovative sports vehicles for more than 40 years. Performance is achieved through obtaining maximum output per unit of engine displacement and the use of lightweight aerodynamic body designs. The vehicle's compact dimensions provide efficient performance coupled with a strong and relatively light-weight aerodynamic body construction.

The current DeTomaso Mangusta engine, the Ford Cobra 4.6 litre V–8 is a relatively new design. The engine uses four valves per cylinder to obtain both maximum output and efficiency and relies on a sophisticated engine management system and fuel injection to increase efficiency and reduce emissions. The engine provides a high power/torque package that is a very efficient balance of fuel economy versus engine power.

Because of DeTomaso's financial constraints and its limited resources, the manufacturer must use an engine and transmission that is produced by Ford. Therefore, DeTomaso's ability to obtain further fuel economy improvements from engine and drivetrain modifications is quite limited. The Mangusta chassis/body configuration is small, aerodynamic and lightweight, so further fuel economy improvements through changes to the chassis and body also appear to be limited.

*Model Mix*

DeTomaso is a small vehicle manufacturer that produces a modest range of high performance exotic sport vehicles. There is little opportunity to improve fuel economy by changing model mix since DeTomaso will make only one basic model in each model year.

**Effect of Other Federal Motor Vehicle Standards**

The new, stringent California emission standards and the similarly stringent Federal Clean Air Act Amendments will apply to DeTomaso in MYs 2000 and 2001. DeTomaso will likely achieve lower fuel economy due to compliance with these standards. In addition, a portion of its limited engineering resources will have to be expended to comply with these more stringent emissions standards including, but not limited to, evaporative emission standards.

Federal motor vehicle safety standards (FMVSS) and regulations also have an adverse effect on the fuel economy of DeTomaso vehicles. These standards include 49 CFR Part 581 (energy absorbing bumpers), FMVSS 202 (head restraints), FMVSS 207(seating systems), FMVSS 208 (occupant crash protection), FMVSS 214 (side door strength), and FMVSS 216 (roof crush resistance). These standards tend to reduce achievable fuel economy values, since they result in increased vehicle weight.

DeTomaso is a small company and engineering resources are limited. Priority must be given to meeting mandatory standards to remain in the marketplace.

*The Need of the United States 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 DeTomaso to achieve an average fuel economy in MYs 2000 and 2001 above the levels set forth in this proposed decision. Granting an exemption to DeTomaso 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 United States to conserve energy. In fact, there would not be any increase since DeTomaso cannot attain those generally applicable standards. Nevertheless, the agency estimates that the additional fuel consumed by operating the MYs 2000 and 2001 fleets of DeTomaso vehicles at the CAFE of 22.0 mpg (compared to an hypothetical 27.5 mpg fleet) is 25,803 barrels of fuel. This value averages about 3.54 barrels/

day over the 20-year period that these vehicles will be an active part of the fleet. Obviously, this is insignificant compared to the fuel used daily by the entire motor vehicle fleet which amounts to 4.81 million barrels per day for passenger cars in the United States in 1994.

**Maximum Feasible Average Fuel Economy for DeTomaso**

The agency has tentatively concluded that it would not be technologically feasible and economically practicable for DeTomaso to improve the fuel economy of its MY 2000 and 2001 fleet above an average of 22.0 mpg for MY 2000 and MY 2001. Federal automobile standards would not adversely affect achievable fuel economy beyond the amount already factored into DeTomaso' projections, and that the national effort to conserve energy would not be affected by granting the requested exemption and establishing an alternative standard.

Consequently, the agency tentatively concludes that the maximum feasible average fuel economy for DeTomaso is 22.0 for MYs 2000 and 2001.

Chapter 329 permits NHTSA to establish an alternative average fuel economy standard applicable to exempted manufacturers in one of three ways:(1) A separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price or other factors, may be established for the automobiles of exempted manufacturers, with a separate fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers. The agency tentatively concludes that it would be appropriate to establish a separate standard for DeTomaso.

While the agency has the option of establishing a single standard for all exempted manufacturers, we note that previous exemptions have been granted to manufacturers of high-performance cars, luxury cars and specialized vehicles for the transportation of persons with physical impairments. The agency's experience in establishing exemptions indicates that selection of a single standard would be inappropriate. Such a standard would have little impact on energy conservation while doing little to ease the burdens faced by small manufacturers who cannot meet the fuel economy standards applicable to larger manufacturers. Similarly, the agency is not proposing to establish alternative standards based on different classes of vehicles. Again, the agency's experience has been that vehicles manufactured by low volume manufacturers may differ widely in size, price, design or other factors. Based on the information available at this time, we do not believe it would be appropriate to establish class-based alternative standards.

**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 DeTomaso Automobiles Ltd., 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 DeTomaso for MYs 2000 and 2001, 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 DeTomaso fleet, that incremental usage of gasoline by DeTomaso's customers would not affect the United States'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 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 under 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 section 531.5, the introductory test of paragraph (b) is republished for the convenience of the reader and paragraph (b)(13) would be revised 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) DeTomaso Cars Ltd.

AVERAGE FUEL ECONOMY STANDARD

| Model year | (Miles per gallon) |
|---|---|
| 2000 | 22.0 |
| 2001 | 22.0 |

Issued on: December 23, 1999.

**Stephen R. Kratzke,**

*Acting Associate Administrator for Safety Performance Standards.*

[FR Doc. 99–33803 Filed 12–29–99; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF COMMERCE

## National Oceanic and Atmospheric Administration

## 50 CFR Part 223

**[Docket No. 991207324–9324–01; I.D. No 081699C]**

**RIN 0648–AK94**

## Endangered and Threatened Species; Proposed Rule Governing Take of Threatened Snake River, Central California Coast, South/Central California Coast, Lower Columbia River, Central Valley California, Middle Columbia River, and Upper Willamette River Evolutionarily Significant Units (ESUs) of West Coast Steelhead

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

**ACTION:** Proposed rule; request for comments and notice of public hearings.

**SUMMARY:** Under section 4(d) of the Endangered Species Act (ESA), the Secretary of Commerce (Secretary) is required to adopt such regulations as he deems necessary and advisable for the conservation of species listed as threatened. This proposed ESA 4(d) rule represents the regulations NMFS believes necessary and advisable to conserve the seven listed threatened steelhead ESUs. Note that this rules applies only to the identified steelhead species. Effects resulting from implementation of activities on other listed species (e.g., bull trout) must be addressed through ESA section 7 and section 10 processes as appropriate. The rule would apply the take prohibitions enumerated in section 9(a)(1) of the ESA in most circumstances to seven threatened steelhead ESUs. NMFS does not find it necessary or advisable to apply the take prohibitions to specified categories of activities that contribute to conserving listed salmonids or are governed by a program that adequately limits impacts on listed salmonids. The proposed rule describes 13 such limits on the application of the take prohibitions.

**DATES:** Comments on this rule must be received at the appropriate address (see **ADDRESSES**), no later than 5:00 p.m., eastern standard time, on February 22, 2000. Public hearings on this proposed action have been scheduled. See **SUPPLEMENTARY INFORMATION** for dates and times of public hearings.

**ADDRESSES:** Comments on this proposed rule or requests for information should be sent to Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737. Comments will not be accepted if submitted via e-mail or Internet. See **SUPPLEMENTARY INFORMATION** for locations of public hearings. Parties interested in receiving notification of the availability of new or amended Fishery Management and Evaluation Plans (FMEPs) or Hatchery and Genetic Management Plans (HGMPs) should contact Chief, Hatchery/Inland Fisheries Branch, NMFS, Northwest Region, 525 NE Oregon Street, Suite 510, Portland, OR 97232–2737, or Assistant Regional Administrator, Sustainable Fisheries Division, NMFS, Southwest Region, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213. Parties interested in receiving notification of the availability of draft Watershed Conservation Plan Guidelines or draft changes to Oregon Department of Transportation's (ODOTs) 1999 Maintenance of Water Quality and Habitat Guide should contact Branch Chief, Protected Resources Division, NMFS, Northwest Region, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737.

**FOR FURTHER INFORMATION CONTACT:** Garth Griffin at 503–231–2005; Craig Wingert at 562–980–4021.

**SUPPLEMENTARY INFORMATION:**

### Background

On August 18, 1997, NMFS published a final rule listing the Snake River Basin (SRB), Central California Coast (CCC), and South/Central California Coast (SCCC) steelhead ESUs as threatened species under the ESA (62 FR 43937). On March 19, 1998, NMFS published a final rule listing the Lower Columbia River (LCR) and Central Valley, California (CVC) steelhead ESUs as threatened species under the ESA (63 FR 13347). On March 25, 1999, NMFS published a rule listing the Middle Columbia River (MCR) and Upper Willamette River (UWR) steelhead ESUs as threatened (64 FR 14517). Those final listing documents describe the background of the steelhead listing actions and provide summaries of NMFS' conclusions regarding the status of the listed steelhead ESUs.

Section 4(d) of the ESA provides that whenever a species is listed as threatened, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of the species. Such protective regulations may include any or all of the prohibitions that apply automatically to protect endangered species under ESA section 9(a). Those section 9(a) prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or to attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any wildlife species listed as endangered, unless with written authorization for incidental take. It is also illegal under ESA section 9 to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Section 11 of the ESA provides for civil and criminal penalties for violation of section 9 or of regulations issued under the ESA.

Whether take prohibitions or other protective regulations are necessary and advisable is in large part dependent upon the biological status of the species and potential impacts of various activities on the species. These species have survived for thousands of years through cycles in ocean conditions and weather. NMFS concludes that threatened steelhead are at risk of extinction primarily because their populations have been reduced by human ''take.'' West Coast steelhead populations have been depleted by take resulting from harvest, past and ongoing destruction of freshwater and estuarine habitat, poor hatchery practices,