

number of this document (NHTSA–2010–0116) in your comments.

Your primary comments must not be more than 15 pages long (49 CFR 553.21). However, you may attach additional documents to your primary comments. There is no limit on the length of the attachments.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) or you may visit <http://www.regulations.gov>.

Please send two paper copies of your comments to Docket Management, fax them, or use the Federal eRulemaking Portal. The mailing address is U.S. Department of Transportation, Docket Management Facility, M–30, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The fax number is 1–202–493–2251. To use the Federal eRulemaking Portal, go to <http://www.regulations.gov> and follow the online instructions for submitting comments.

We also request, but do not require you to send a copy to Bob Sivinski, Statistician, Evaluation Division, NVS–431, National Highway Traffic Safety Administration, Room W53–440, 1200 New Jersey Avenue, SE., Washington, DC 20590 (or e-mail them to [robert.sivinski@dot.gov](mailto:robert.sivinski@dot.gov)). He can check if your comments have been received at the Docket and he can expedite their review by NHTSA.

#### How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

#### How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, send three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Include a cover letter supplying the

information specified in our confidential business information regulation (49 CFR part 512).

In addition, send two copies from which you have deleted the claimed confidential business information to U.S. Department of Transportation, Docket Management Facility, M–30, West Building, Ground Floor, Rm. W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, or submit them via the Federal eRulemaking Portal.

#### Will the agency consider late comments?

In our response, we will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

#### How can I read the comments submitted by other people?

You may read the materials placed in the docket for this document (*e.g.*, the comments submitted in response to this document by other interested persons) at any time by going to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets. You may also read the materials at the Docket Management Facility by going to the street address given above under **ADDRESSES**. The Docket Management Facility is open between 9 a.m. and 5 p.m. Eastern Time, Monday through Friday, except Federal holidays.

**Authority:** 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

**James F. Simons,**

*Director, Office of Regulatory Analysis and Evaluation.*

[FR Doc. 2011–20234 Filed 8–9–11; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2011–0114]

#### Spyker Automobielen B.V.; Receipt of Application for Temporary Exemption from FMVSS No. 126

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

**ACTION:** Notice of receipt of petition for a temporary exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 126, *Electronic Stability Control Systems*.

**SUMMARY:** In accordance with the procedures in 49 CFR Part 555, Spyker Automobielen B.V. (Spyker) has applied for a temporary exemption for its C line of vehicles from the requirements of FMVSS No. 126, the standard for electronic stability control systems. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

NHTSA is publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and has made no judgment on the merits of the application.

**DATES:** You should submit your comments not later than August 25, 2011.

#### FOR FURTHER INFORMATION CONTACT:

Thomas Healy, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building 4th Floor, Room W41–212, Washington, DC 20590. *Telephone:* (202) 366–2992; *Fax:* (202) 366–3820.

*Comments:* We invite you to submit comments on the application described above. You may submit comments identified by the docket number at the heading of this notice by any of the following methods:

- *Web Site:* <http://www.regulations.gov>

Follow the instructions for submitting comments on the electronic docket site by clicking on “Help and Information” or “Help/Info.”

- *Fax:* 1–202–493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal holidays.

• *Federal eRulemaking Portal*: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions*: All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

*Docket*: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal holidays. *Telephone*: (202) 366-9826.

*Privacy Act*: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

*Confidential Business Information*: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR Part 512).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Overview of Petition for Economic Hardship Exemption**

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*,

Spyker has submitted a petition (dated November 19, 2010) asking the agency for a temporary exemption from the requirements of FMVSS No. 126, *Electronic Stability Control Systems*, for its C line of vehicles. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

NHTSA established part 555 to implement the statutory provisions concerning temporary exemptions. Vehicle manufacturers may apply for temporary exemptions from Federal motor vehicle safety standards on several bases, one of which is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

A petitioner must provide specified information in submitting a petition for exemption. Foremost among these requirements are that the petitioner must set forth the basis of the application under 49 CFR 555.6, and the reasons why the exemption would be in the public interest and, as applicable, consistent with the objectives of the National Traffic and Motor Vehicle Safety Act (Safety Act), 49 U.S.C. Chapter 301. In a petition for economic hardship, the petitioner must explain in detail "how compliance or failure to obtain an exemption would cause substantial economic hardship." 49 CFR 555.6(a)(1). The petition must also describe the efforts of the petitioner to comply with the standard at issue.

The agency closely examines and considers the information provided by manufacturers in support of these factors, and, in addition, pursuant to 49 U.S.C. 30113(b)(3)(A), determines whether an exemption is in the public interest and consistent with the Safety Act. Spyker requests a temporary exemption until September 1, 2013. Copies of Spyker's petition<sup>1</sup> are available for review and have been placed in the docket for this notice.

<sup>1</sup> Spyker has requested confidential treatment under 49 CFR Part 512 for certain business and financial information submitted as part of its petition for temporary exemption. Accordingly, the information placed in the docket does not contain the information that is the subject of this request.

#### **II. Electronic Stability Control Systems Requirements**

NHTSA published a final rule requiring that vehicles with a gross vehicle weight rating of 4,536 kilograms (kg) (10,000 pounds) and less be equipped with electronic stability control (ESC) in April of 2007. The rule seeks to reduce the risk of rollover crashes by assisting the driver in maintaining control of his or her vehicle in situations in which the vehicle begins to lose directional stability at the rear wheels (spin out) or directional control at the front wheels (plow out).

Preventing single-vehicle loss-of-control crashes is the most effective way to reduce deaths resulting from rollover crashes. NHTSA's crash data study shows that ESC systems reduce fatal single-vehicle crashes of passenger cars by 36 percent and fatal single-vehicle crashes of LTVs (light trucks and vans, including pickup trucks, SUVs, minivans, and full-size vans) by 63 percent.<sup>2</sup> The agency further estimates that ESC has the potential to prevent 70 percent of the fatal passenger car rollovers and 88 percent of the fatal LTV rollovers that would otherwise occur in single-vehicle crashes.<sup>3</sup>

ESC utilizes automatic computer-controlled braking of the individual wheels of the vehicle in order to assist the driver in maintaining vehicle control. An anti-lock brake system (ABS) is a prerequisite for an ESC system because ESC uses many of the same components as ABS. Thus, the cost of complying with FMVSS No. 126 is less for vehicle models already equipped with ABS. The ESC requirement becomes effective as to Spyker September 1, 2011.

#### **III. Spyker's Petition**

Spyker bases its request for exemption on the argument that compliance with FMVSS No. 126 "would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith." 49 U.S.C. 30113(b)(3)(B)(i). Spyker requests that the exemption period begin on September 1, 2011 and extend 24 months until September 1, 2013.

##### *A. Eligibility*

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed

<sup>2</sup> Dang, J., *Statistical Analysis of the Effectiveness of Electronic Stability Control (ESC) Systems—Final Report*, DOT HS 810 794, U.S. Department of Transportation, Washington, DC (July 2007). Available at Docket No. NHTSA-2007-28629, item 2.

<sup>3</sup> *Id.*

10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113(d)). In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not state that a manufacturer has substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of "manufacturer" (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

Spyker Automobielen B.V. is a small volume manufacturer of luxury sports cars. Since 2005, Spyker Automobielen B.V. has manufactured less than 100 vehicles annually worldwide, and the company projects that it will manufacture 103 vehicles in 2011. However, the petition states that Spyker Automobielen B.V. is a wholly owned subsidiary of Spyker Cars NV, a publicly traded Netherlands corporation. Spyker Cars NV also owns Saab Automobile AG, a large Swedish car manufacturer. Spyker asserts that Spyker Automobielen B.V. is financially and operationally independent from Saab Automobile AG and that, based on past NHTSA determinations regarding the issue of sponsorship, Spyker Automobielen B.V. remains eligible for a temporary exemption based on economic hardship.

Since filing its petition, Spyker has informed the agency that Spyker Cars NV plans to sell Spyker Automobielen B.V. to CPP Global Holdings, a private holding company in the United Kingdom. Because of the relationship between Spyker Automobielen B.V., Spyker Cars NV, and Saab Automobile AG, and, in light of the plans to sell Spyker Automobielen B.V. to CPP Global Holdings, NHTSA will closely examine whether Spyker is eligible for a financial hardship exemption. NHTSA specifically requests comments on the issue of Spyker's eligibility.

#### B. Substantial Economic Hardship

Spyker states that it is suffering financial hardship because of lower than anticipated sales volumes due to

the recent world wide economic recession. Specifically, Spyker suffered a net operating loss of approximately 132,000,000 Euros (\$171,600,000)<sup>4</sup> from 2004 to 2009. Spyker projected a further loss in 2010 of 12,000,000 Euros (\$15,600,000). Based on 2011–2013 financial projections, Spyker estimates that, if its petition were denied, it would bear a loss over three years of more than 41,000,000 Euros (\$53,300,000) as opposed to an 8,000,000 Euros (\$10,400,000) loss should the petition be granted, representing a difference of 33,000,000 Euros (\$42,900,000). Spyker also states that the loss of sales in the U.S. that would result if the exemption petition were denied could not be made up in the rest of the world because the U.S. is the largest and most important market for the vehicle. Spyker argues that such consequences demonstrate "substantial economic hardship" within the meaning of 49 U.S.C. 30113(b)(3)(B)(i).

#### C. Good Faith Efforts To Comply

Spyker states that in 2008 it began working with Bosch Engineering, GmbH (Bosch) to develop an ESC system for the Spyker C line and D line models. Spyker states that in order to develop an ESC system, it first had to develop a new ABS system. In an effort to achieve compliance with FMVSS No. 126, Spyker has developed a vehicle to test its new ABS system and created a new ABS software package. Under its original testing schedule, Spyker planned to complete development of the ABS/ESC system before the September 1, 2011 compliance date of FMVSS No. 126. However, due to the drop in sales resulting from the global economic recession, Spyker did not have funds available to continue ESC development as planned.

Spyker states that its inability to commence testing in 2010 delayed its development schedule for ESC because it will have to wait an additional year for winter conditions necessary to test ESC.<sup>5</sup> Spyker states that it has spent 781,000 Euros (\$1,015,300) developing an ESC system thus far. Spyker states that it will likely not have sufficient funds to continue work on its ESC system until the end of 2011. Spyker states that it will be able to have a test vehicle completed by the end of 2012 and an ESC system fully developed by 2013.

<sup>4</sup> All dollar values are based on an exchange rate of 1 Euro = \$1.30.

<sup>5</sup> Spyker states that it does not have the available financial resources to travel to other parts of the world to conduct winter testing and thus must wait for winter in Europe to complete ESC testing.

#### D. Public Interest

The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically:

1. Spyker states that the exempted vehicles will comply with all FMVSSs other than the advanced airbag requirements of FMVSS No. 208, *Occupant crash protection*, and the standard that is the subject of this exemption request.<sup>6</sup>

2. The petitioner states that an exemption will benefit U.S. employment and U.S. companies because Spyker vehicles are distributed by a U.S. company, Spyker of North America, and are sold and serviced in the U.S. through a network of 18 dealers. Spyker argues that the denial of this exemption will negatively impact these companies.

3. Spyker argues that if the exemption is not granted, U.S. consumer choice would be harmed and that the agency has long maintained that the Safety Act seeks, if possible, to avoid limiting consumer choice.

4. The petitioner argues that given their exotic design and high-performance nature, the C line vehicles are not expected to be used extensively, nor are they expected to carry children with any significant frequency.

#### IV. Issuance of Notice of Final Action

Upon receiving a petition, NHTSA conducts an initial review of the petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested petition. The agency has tentatively concluded that the petition is complete and that the petitioner is eligible to apply for the requested exemption. The agency has not made any judgment on the merits of the application and is placing a non-confidential copy of the petition in the docket.

We are providing a 15-day comment period in an effort to provide a decision with respect to the petition before the September 1, 2011 compliance date for FMVSS No. 126. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

<sup>6</sup> Spyker also submitted a request for an extension of its previously granted exemption from compliance with the advanced air bag requirements of FMVSS No. 208 on October 13, 2010.

Issued on: August 5, 2011.

**Christopher J. Bonanti,**

*Associate Administrator for Rulemaking.*

[FR Doc. 2011-20283 Filed 8-9-11; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-146895-05; TD 9412]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning election to expense certain refineries.

**DATES:** Written comments should be received on or before October 11, 2011 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-6665, or through the Internet at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Election To Expense Certain Refineries.

*OMB Number:* 1545-2103.

*Regulation Project Number:* REG-146895-05 (TD 9412).

*Abstract:* This document contains temporary regulations relating to the election to expense qualified refinery property under section 179C of the Internal Revenue Code, and affects taxpayers who own refineries located in the United States. These temporary regulations reflect changes to the law made by the Energy Policy Act of 2005. The text of these temporary regulations also serves as the text of the proposed Regulations.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 12.

*Estimated Time per Respondent:* 10 Hours.

*Estimated Total Annual Burden Hours:* 120.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: August 3, 2011.

**Yvette Lawrence,**

*IRS Reports Clearance Officer.*

[FR Doc. 2011-20220 Filed 8-9-11; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-209826-96]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning application of the grantor trust rules to nonexempt employees' trusts.

**DATES:** Written comments should be received on or before October 11, 2011 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Yvette Lawrence, Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Allan Hopkins at Internal Revenue Service, Room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-6665, or through the Internet at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Application of the Grantor Trust Rules to Nonexempt Employees' Trusts.

*OMB Number:* 1545-1498.

*Regulation Project Number:* REG-209826-96.

*Abstract:* This regulation provides rules for the application of the grantor trust rules to certain nonexempt employees' trusts. Under Section 1.671-1(h)(3)(iii) of the regulation, the overfunded amount for certain foreign employees' trusts will be reduced to the extent the taxpayer demonstrates to the Commissioner, and indicates on a statement attached to a timely filed Form 5471, that the overfunded amount is attributable to a reasonable funding exception. The IRS needs this information to determine accurately the portion of the trust that is properly treated as owned by the employer.

*Current Actions:* There is no change to this existing regulation.

*Type of Review:* Extension of currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 1,000.

*Estimated Time per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 1,000.