• Given the extensive industrial and commercial development in the corridor, historic resources evaluation and a high potential to encounter historic archaeological resources; and

• Potential impacts to nearby sensitive receptors to air and noise emissions.

V. FTA Procedures

A Draft EIS/EIR for eBART will be prepared following FTA policy and all federal laws, regulations, and executive orders affecting project development, including but not limited to the regulations of the Council on Environmental Quality and FTA implementing guidance implementing NEPA (40 CFR parts 1500–1508, and 23 CFR part 771), the Clean Air Act, section 404 of the Clean Water Act, Executive Order 12898 regarding environmental justice, the National Historic Preservation Act, the Endangered Species Act, and section 4(f) of the Department of Transportation Act to the maximum extent practicable during the NEPA process.

After its publication, the Draft EIS/EIR will be available for review and comment by interested public members and local, state, and federal agencies, and public hearings will be held on the Draft EIS/EIR. The Final EIS/EIR will consider the comments received during the Draft EIS/EIR public review and will identify the preferred alternative. Additional opportunities for public involvement have been and will continue to be provided throughout all phases of project development. FTA and BART must approve the Final EIS/EIR prior to making any decisions regarding the project.

Issued on: June 29, 2005.

Leslie T. Rogers,

Regional Administrator.

[FR Doc. 05–13268 Filed 7–5–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–20455, Notice 2]

Spyker Automobielen B.V.; Grant of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standards No. 108, and 208; and Part 581 Bumper Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Grant of Application for a Temporary Exemption from Federal Motor Vehicle Safety Standard No. 208, and Part 581 Bumper Standard. Partial Grant of Application for a Temporary Exemption from Federal Motor Vehicle Safety Standard No. 108.

SUMMARY: This notice grants the Spyker Automobielen B.V. (''Spyker'') application for a temporary exemption from the requirements of S4.1.5.3 and S14 of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant crash protection,* and Part 581 *Bumper Standard.* This notice also partially grants the Spyker application for a temporary exemption from FMVSS No. 108, *Lamps, reflective devices, and associated equipment.* The exemptions apply to the Spyker C8 vehicle line. In accordance with 49 CFR Part 555, the basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.[1] While the exemption from FMVSS No. 208 and Part 581 will be effective for a period of three years, the exemption from FMVSS No. 108 is limited to the first 10 Spyker C8 vehicles imported and sold in the United States.

The National Highway Traffic Safety Administration (NHTSA) published a notice of receipt of the application on March 29, 2005, and afforded an opportunity for comment.[2]

DATES: The exemption from FMVSS No. 208, and Part 581, *Bumper standard,* is effective from June 15, 2005 until June 15, 2008. The exemption from FMVSS No. 108 applies to not more than 10 Spyker C8 vehicles sold in the United States.

FOR FURTHER INFORMATION CONTACT: George Feygin in the Office of Chief Counsel, NCC–112, (Phone: 202–366–2992; Fax 202–366–3820; E-Mail: *George.Feygin@nhtsa.dot.gov).*

I. Background

Spyker is a small publicly traded Dutch vehicle manufacturer established in 2002. Spyker manufactures hand-built high-performance automobiles similar to vehicles manufactured by Ferrari, Lamborghini, Saleen, and other high-performance vehicle manufacturers.[3] Spyker has manufactured approximately 50 model C8 vehicles, and has back orders approaching 80 vehicles.[4]

To date, Spyker has been unable to develop compliant bumpers and air bags for the C8 and has requested a three-year exemption from the applicable air bag and bumper requirements in order to develop compliant bumpers and air bags. The petitioner anticipates that the funding necessary for these compliance efforts will come from immediate sales of Spyker C8 in the United States. These sales would amount to approximately 50 model C8 vehicles per year.

If the exemption is granted, Spyker has indicated that it would be able to sell fully compliant vehicles by 2008. If the exemption is denied, Spyker has indicated that the company would be in danger of going out of business.

II. Why Spyker Needs a Temporary Exemption

Spyker indicates that it has invested significant resources into making the C8 compliant with applicable Federal regulations. However, because of the limited resources as well as the fluctuating value of the U.S. dollar, the petitioner argues that it cannot bring the C8 into compliance with FMVSS No. 208 and Part 581 without generating immediate U.S. sales revenue. The petitioner indicates that it is experiencing substantial economic hardship. Specifically, the company's consolidated balance sheet shows a net loss of €1,245,000 (≈ $1,527,868)[5] in 2002; a net loss of €4,216,000 (≈ $5,173,889) in 2003; and a net loss of €4,912,000 (≈ $6,028,022) in 2004. This represents a cumulative net loss for a period of 3 years of €10,373,000 (≈ $12,729,778). Since Spyker is a publicly traded company, their financial information is available to the public.[6]

In short, the petitioner indicates that the cost of making the C8 compliant with FMVSS No. 208 and Part 581 is beyond the company's current capabilities. Spyker thus requests a three-year exemption in order to develop compliant bumpers and advanced air bags. The petitioner anticipates the funding necessary for these compliance efforts will come from immediate sales of the C8 in the United States.

[1] To view the petition and other supporting documents, please go to: *http://dms.dot.gov/search/searchFormSimple.cfm* (Docket No. NHTSA–2005–20455).

[2] *See* 70 FR 15987.

[3] For more information on Spyker, see *http://www.spykercars.com/.*

[4] *http://www.spykercars.com/meta/investors/pdf/Financieel/first_halfjaar_report_2004.pdf.*

[5] All dollar values are based on an exchange rate of € = $1.23 as of 6/5/2005.

[6] See *http://www.spykercars.com/meta/investors/pdf/Financieel/Annual_Report_2004.pdf* and *http://www.spykercars.com/meta/investors/pdf/Financieel/spyker_anual_report_2003.pdf.*

III. Why Compliance Would Cause Substantial Economic Hardship, and How Spyker Has Tried in Good Faith To Comply with the Applicable Requirements

The petitioner contends that it cannot attain profitability unless it receives a temporary exemption for the C8. Specifically, Spyker offers the following projections as a consequence of grant or denial of their petition:

Net profit	2005	2006	2007
If exemption is granted	≈(−$3,500,000)	≈$500,000	≈$6,000,000
If exemption is denied	≈(−$6,000,000)	≈(−$6,000,000)	≈(−$6,000,000)

In short, a grant of the petition would amount to ≈ $3 million in potential revenue that would be used to develop a fully complaint vehicle. Spyker indicates that absent this revenue stream, the company would be precluded from developing a fully compliant vehicle and its long term-viability would be in question.

In an effort to develop a fully compliant vehicle, Spyker turned to other companies for technical assistance. Spyker's supplementary petition indicates that its compliance efforts are being directed by Lotus Engineering.[7] However, the petitioner states that the Spyker's current assets cannot support air bag development, and that testing expenses, as well as re-engineering and re-design delays would bankrupt the company.

Spyker indicates that it has experienced great difficulty in finding suppliers willing to provide air bag systems to an ultra low-volume manufacturer. For example, the company has been in discussions with Siemens Restraint Systems and TNO in order to develop and produce air bags. However, these efforts have not yet produced the necessary results. The petitioner indicates that it now plans on concentrating its efforts on designing advanced air bags that become mandatory in 2006.

Spyker indicates that it failed to design compliant bumpers for the C8. The petitioner argues that the only viable method for bringing the C8 into compliance with Part 581 is to re-engineer the front end of the vehicle. The petitioner states that it cannot bear these costs at this time. However, Spyker indicates that if it were able to sell C8 in the U.S. for the next 3 years, it would be able to redesign the vehicle such that it would incorporate complaint bumpers.

Finally, in a supplement to their petition, Spyker has indicated that their vehicle may not comply with S7 of the requirements of FMVSS No. 108.[8] Subsequent to filing this supplement, however, Spyker indicated that it would be able to meet the headlighting requirements of FMVSS No. 108 for all but the first ten vehicles imported into the U.S. On May 16, 2005, George Feygin from the NHTSA Office of Chief Counsel met with Victor R. Muller, the Chief Executive Officer of Spyker. At the meeting, Mr. Muller explained that Spyker was able to resolve the lighting issue, and all but the first 10 C8 vehicles will have compliant lighting. Mr. Muller further indicated that retrofit headlamps would be made available for the first ten vehicles imported into U.S.

IV. Why an Exemption Would Be in the Public Interest

The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest. Specifically:

1. The petitioner argues that Part 581 is not a safety standard, but a standard designed to reduce costs associated with minor impacts.

2. With respect to air bags, the petitioner argues that the vehicles are designed with a ''frontal crush structure and occupant protection cell for use as a race vehicle.'' Specifically, the occupants are positioned in a protective ''cell'' with the main chassis structure surrounding them. Further, The C8 will meet the injury criteria specified in FMVSS 208 S4.2.3 when tested with belted dummies.

3. The vehicle would be equipped with labels reminding drivers to buckle up. Specifically, in addition to the labels required on exempted vehicles under 49 CFR Part 555, Spyker would place an additional label on the instrument panel informing occupants of the exemption and the need to buckle up.

4. Spyker's engineering analysis shows that at impact speeds of less than 5 mph, there is no damage to the C8's safety equipment (other than license plate lights).

5. The likelihood of minor damage is very low. The vehicle costs in excess of $200,000, and it is reasonable to assume that it would not be subject to normal ''wear-and-tear'' associated with typical bumper impacts.

6. Spyker does not anticipate selling more than 200 vehicles for a period of 3 years covered by the requested exemption. Thus, the impact of the exemption is expected to be minimal.

7. Spyker argues that granting the exemption would be consistent with the Agency's previous decisions.[9]

8. Spyker argues that granting the exemption would increase choices available to the U.S. driving population in the high-performance vehicle segment.

9. Spyker argues that granting the exemption would increase jobs in the U.S. associated with sales and maintenance of the C8.

10. Finally, because of its price and exclusivity, the petitioner anticipates that the C8 would not be used extensively.

V. Comments Regarding the Spyker Petition

The agency received two comments from David H. Nguyen and David Smith in response to the notice of the application.

Mr. Nguyen indicated support for granting the petition for the following reasons. First, because of the limited number of cars that would be sold and the limited exemption period, the overall safety impact will be negligible. Second, most buyers of exotic automobiles such as those produced by Spyker do not use their vehicles on a daily basis for transportation due to practical considerations such as comfort and utility. As a result, the C8 would be driven considerably less than the average vehicle. Mr. Nguyen estimated that, based on Fatality Analysis Reporting System (FARS) data, the exemption would not result in any additional fatalities. Third, Mr. Nguyen suggested that the C8, which is already being sold in Europe, is reasonably safe because it complies with the European

[7] *See* Docket No. NHTSA–2005–20455–8.

[8] See Docket No. NHTSA–2005–20455–9.

[9] *See* 69 FR 5658 (February 5, 2004); 69 FR 3192 (January 22, 2004); 64 FR 6736 (February 10, 1999).

Union safety requirements. Finally, Mr. Nguyen stated that there is strong societal interest in having unique vehicles available for sale and use in the U.S.

Mr. Smith indicated that he was against granting of the exemption. First, Mr. Smith suggested that Spyker cars are already being offered for sale in the U.S. Second, Mr. Smith expressed concerns that if Spyker is indeed experiencing economic harm, it would be unable to meet potential obligations related to recalls and early warning notifications. Third, Mr. Smith noted that Spyker has failed to provide proof that the C8 complies with other applicable requirements.

VI. The Agency's Findings

Spyker is typical of small volume manufacturers who have received temporary exemptions in the past on hardship grounds. With limited resources, the petitioner developed a high-priced automobile for a specialty market. In evaluating Spyker's current situation, the agency finds that to require immediate compliance with FMVSS No. 208 and the bumper standard would cause petitioner substantial economic hardship, and could even result in the company going out of business.

The agency concludes that the Spyker application for a temporary exemption demonstrates that the company has made a good faith effort to bring the C8 into compliance with applicable air bag and bumper requirements. Spyker has also demonstrated the requisite financial hardship.

Traditionally, the agency has found that the public interest is served by affording consumers a wider variety of motor vehicles. In this instance, denial of the petition is likely to put Spyker out of business in the U.S. and cause the company to lose approximately $3,000,000 in potential profits.

The term of this exemption will be limited to three years and the agency anticipates that the C8 will be sold in very limited quantities. In total, we anticipate that Spyker will sell not more than 150 vehicles. We anticipate that with the help of revenues derived from U.S. sales, Spyker will be able to introduce a fully compliant vehicle by the time this exemption expires.

While we disagree with Mr. Nguyen's suggestion that compliance with the European Union motor vehicle safety standards means that a vehicle need not meet applicable FMVSSs, we agree that this exemption will have negligible impact on motor vehicles safety because of the limited number of vehicles sold and because each vehicle is likely to travel on public roads only infrequently.

In respect to Mr. Smith's comments, we first note that a temporary exemption does not excuse vehicle manufacturers from applicable notification and remedy requirements. This is the case with all manufacturers that have previously obtained temporary exemptions on financial hardship grounds. Second, we note that Spyker is not required to show proof that it complies with other applicable requirements. Instead, under 49 U.S.C. Chapter 301, the manufacturers are required to self-certify that their vehicles and equipment meet applicable requirements. Finally, the agency is aware that several Spyker vehicles were temporarily imported in the U.S. for display purposes and for EPA certification. Along with Immigration and Customs Enforcement, the agency has taken appropriate steps to insure that no Spyker vehicles were sold in the U.S. prior to issuing our decision on the petition.

Because the Spyker C8 will be manufactured in limited quantities and because each vehicle is likely to be operated only on a limited basis, the agency finds that this exemption will likely have a negligible impact on the overall safety of U.S. highways. The agency notes that the vehicle subject to this petition complies with all applicable Federal motor vehicle safety standards.

In consideration of the foregoing, it is hereby found that compliance with the requirements of S4.1.5.3 and S14 of FMVSS No. 208, *Occupant crash protection,* and 49 CFR Part 581 *Bumper Standard* would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. It is further found that the granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), Spyker C8 is granted NHTSA Temporary Exemption No. EX 05–2, from S4.1.5.3 and S14 of § 571.208 and 49 CFR part 581, *Bumper Standard.* The exemption shall remain in effect until June 15, 2008. In accordance with 49 U.S.C. 30113(b)(3)(B)(i), not more than 10 Spyker C8 vehicles are exempted from S7 of § 571.108.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8.

Issued on: June 29, 2005.

Jeffrey W. Runge,

Administrator.

[FR Doc. 05–13250 Filed 7–5–05; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34713]

BG & CM Railroad—Acquisition and Operation Exemption—Great Northwest Railroad, Inc

BG & CM Railroad (BG & CM), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 76.2 miles of rail line owned by Great Northwest Railroad, Inc. (GNR) in Nez Perce, Clearwater, and Lewis Counties, ID as follows: (1) From milepost 132.7 east of Lewiston to milepost 61.9 (end of line), at or near Kooskia; (2) from milepost 0.0 at Spalding to milepost 1.0 near Spalding;[1] and (3) from milepost 0.0 at Orofino to milepost 3.5 at Konkolville.

BG & CM certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier, and that its annual revenues will not exceed $5 million.

The transaction was expected to be consummated on June 13, 2005, the effective date of the exemption (7 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34713, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Charles H. Montange, 426 NW 162nd St., Seattle, WA 98177.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 28, 2005.

[1] Pursuant to *BG & CM Railroad, Inc.—Exemption from 49 U.S.C. Subtitle IV,* STB Finance Docket No. 34399, served Oct. 17, 2003, *clarified Camas Prairie Railnet, Inc.—Abandonment—in Lewis, Nez Perce, and Idaho Counties, ID (Between Spalding and Grangeville, ID),* STB Docket No. AB–564 (STB served May 3, 2004), BG & CM previously acquired and operated an extension of this segment (milepost 1.0 near Spalding to the end of the line at milepost 66.8 near Grangeville) as a contract carrier. BG & CM's status as a contract rather than a common carrier between milepost 1.0 and milepost 66.8 will not change as a result of this filing.