

subdivision of a state may prescribe a standard for a motor vehicle or motor vehicle equipment obtained for its own use that imposes a higher performance requirement than that required by the Federal standard. Section 30161 of Title 49, U.S. Code sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. A petition for reconsideration or other administrative proceedings is not required before parties may file suit in court.

Comments

Interested persons are invited to submit comments on the amendments proposed herein. It is requested but not required that any such comments be submitted in duplicate (original and 1 copy).

Comments must not exceed 15 pages in length (49 CFR 553.21). This limitation is intended to encourage commenters to detail their primary arguments in concise fashion. Necessary attachments, however, may be appended to those comments without regard to the 15-page limit.

If a commenter wishes to submit certain information under a claim of confidentiality, 3 copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address noted above, and 1 copy from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information called for in 49 CFR Part 512, *Confidential Business Information*.

All comments received on or before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available to the public for examination in the docket at the above address both before and after the closing date. To the extent possible, comments received after the closing date will 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 today's proposal will be available for public inspection in the docket. NHTSA will continue to file relevant information in the docket after the comment closing date, and it is recommended that interested persons continue to monitor the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rule 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 575

Consumer information, Labeling, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 575 would be amended as follows:

PART 575—CONSUMER INFORMATION REGULATIONS

1. The authority citation for part 575 would continue to read as follows:

Authority: 49 U.S.C. §§ 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 575.104 would be amended by revising paragraph (e)(2)(ix)(C) and by revising paragraph (e)(2)(ix)(F) to read as follows:

§ 575.104 Uniform tire quality grading standards.

- * * * * *
- (e) * * *
- (2) * * *
- (ix) * * *

(C) Determine the course severity adjustment factor by assigning a base course wear rate to the course monitoring tires (see note to this paragraph) and dividing the rate by the average wear rate for the four course monitoring tires.

Note to paragraph (e)(2)(ix): The base wear rate for the course monitoring tires will be obtained by the government by running fresh ASTM E1136 course monitoring tires for 6,400 miles over the San Angelo, Texas, UTQGS test route 4 times per year, then using the average wear rate from the last 4 quarterly tests for the base course wear rate calculation. Each new base course wear rate will be filed in the DOT Docket Management section. This value will be furnished to the tester by the government at the time of the test. The course monitoring tires used in a test convoy must be no more than 6 months old at the commencement of the test and no more than 3 months different from each other in production dates at the commencement of the test. If course monitoring tires more than 6 months old are used in the test, their calculated average wear rate must be reduced by 10 percent.

* * * * *

(F) Compute the grade (P) of the NHTSA nominal treadwear value for each candidate tire by using the following formula:

$$P = \text{Projected mileage} \times \text{base wear rate}_n / 402$$

Where base wear rate_n = new base wear rate, i.e., average treadwear of the last 4 quarterly course monitoring tire tests conducted by NHTSA.

Round off the percentage to the nearest lower 20-point increment.

* * * * *

Issued on May 21, 1998.

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

[FR Doc. 98-14109 Filed 6-4-98; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

RIN 2127-AH26

[Docket No. NHTSA 98-3781; Notice 1]

Schedule of Fees Authorized by 49 U.S.C. 30141

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes fees for Fiscal Year 1999 and until further notice, as authorized by 49 U.S.C. 30141, relating to the registration of importers and the importation of motor vehicles not certified as conforming to the Federal motor vehicle safety standards (FMVSS).

NHTSA proposes that the fee for the registration of a new importer be reduced from \$501 to \$491, and the fee for annual renewal of registration be increased from \$332 to \$350. These fees include the costs of maintaining the registered importer program. The fee required to reimburse the U.S. Customs Service for bond processing costs would increase by \$0.25, from \$5.15 to \$5.40 per bond.

The fee payable for a petition seeking a determination that a nonconforming vehicle is capable of conversion to meet the FMVSS would remain at \$199 if the petition claims that the nonconforming vehicle is substantially similar to conforming vehicles. With respect to vehicles that have no substantially similar counterpart, the petition fee would remain at \$721. In addition, the fee payable by the importer of each vehicle that benefits from an eligibility determination would be reduced from \$134 to \$125, regardless of whether the determination is made pursuant to a petition or by NHTSA on its own

initiative (this does not apply to vehicles imported from Canada admitted under VSA 80–83).

Finally, the new fee adopted in 1997 under which a registered importer must pay a processing cost of \$14 for review of each conformity package that it submits would be increased to \$16. However, if the HS–7 Declaration form for the vehicle is filed electronically with the U.S. Customs Service through the Automated Broker Interface, and the Registered Importer has an e-mail address and pays by credit card, the fee would be reduced to \$13 per vehicle.

DATES: Comments are due on the proposed rule July 20, 1998. The effective date of the final rule would be October 1, 1998.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, Office of Safety Assurance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Introduction

On June 24, 1996, at 61 FR 32411, NHTSA published the latest in a series of notices which discussed in full the rulemaking history of 49 CFR part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, P.L. 100–562, since recodified as 49 U.S.C. 30141–47. The reader is referred to that notice for background information relating to this rulemaking action. The fees authorized by the statute were initially established to become effective January 31, 1990, and have been in effect and occasionally modified since then.

The fees applicable in any fiscal year are to be established before the beginning of such year. This document proposes fees that would become effective on October 1, 1998, the beginning of FY99. The statute authorizes fees to cover the costs of the importer registration program, to cover the cost of making import eligibility determinations, and to cover the cost of processing the bonds furnished to the Customs Service. NHTSA last amended the fee schedule in 1996; it has applied in Fiscal Years 1997–98.

As a general statement applicable to consideration of all fees, they are based on actual time and costs associated with the task, which reflect the slight increase in hourly costs in the past two fiscal years attributable to the approximately 2.3 percent raise in salaries of employees on the General Schedule that became effective on January 1 each year in the years 1997 and 1998, and the combined locality raises of 1.232 percent.

Requirements of the Fee Regulation

Section 594.6—Annual Fee for Administration of the Importer Registration Program

Section 30141(a)(3) of Title 49 U.S.C. provides that registered importers must pay “the annual fee the Secretary of Transportation establishes * * * to pay for the costs of carrying out the registration program for importers * * *.” This fee is payable both by new applicants and by registered importers seeking to renew their registration.

In accordance with the statutory directive, NHTSA reviewed the existing fees and their bases in an attempt to establish fees which would be sufficient to recover the costs of carrying out the registration program for importers for at least the next fiscal year. The initial component of the Registration Program Fee is the portion of the fee attributable to processing and acting upon registration applications. The agency has determined that this portion of the fee should be decreased from \$301 to \$290 for new applications, and increased from \$132 to \$149 for renewals. The higher cost of \$290 over \$149 for a new application is warranted because the average cost of processing a new application is substantially greater than that of an application for renewal, and the adjustments proposed reflect the agency’s recent experience in time spent reviewing both new and renewal applications.

The agency must also recover costs attributable to maintenance of the registration program which arise from the agency’s need to review a registrant’s annual statement and to verify the continuing validity of information already submitted. These costs also include anticipated costs attributable to possible revocation or suspension of registrations.

Based upon the agency’s review of the costs associated with this program, the portion of the fee attributable to the registration program is approximately \$201 per registered importer, an increase of \$1. When this \$201 is added to the \$290 representing the registration application component, the cost to an applicant equals \$491, which is the fee proposed by NHTSA. It represents a decrease of \$10 from the existing fee. When the \$201 is added to the \$149 representing the renewal component, the cost to a renewing registered importer is \$350, which represents an increase of \$18.

Sec. 594.6(h) recounts indirect costs that were previously estimated at \$7.07 per man-hour. This should be raised to \$12.12, based on the agency costs discussed above.

Sections 594.7, 594.8—Fees To Cover Agency Costs in Making Importation Eligibility Determinations

Section 30141(a)(3) also requires registered importers to pay “other fees the Secretary of Transportation establishes to pay for the costs of * * * (B) making the decisions under this subchapter.” This includes decisions on whether the vehicle sought to be imported is substantially similar to a motor vehicle originally manufactured for import into and sale in the United States, and certified as meeting the FMVSS, and whether it is capable of being readily altered to meet those standards. Alternatively, where there is no substantially similar U.S. motor vehicle, the decision is whether the safety features of the vehicle comply with or are capable of being altered to comply with the FMVSS. These decisions are made in response to petitions submitted by registered importers or manufacturers, or pursuant to the Administrator’s initiative.

The fee for a vehicle imported under an eligibility decision made pursuant to a petition is payable in part by the petitioner and in part by other importers. The fee to be charged for each vehicle is the estimated pro rata share of the costs in making all the eligibility determinations in a fiscal year.

Inflation and the small raises under the General Schedule also must be taken into count in the computation of costs. However, NHTSA has been able to reduce its processing costs through combining several decisions in a single **Federal Register** notice as well as achieving efficiencies through improved word processing techniques. Accordingly, NHTSA does not propose a change in the fee of \$199 presently required to accompany a “substantially similar” petition, or the fee of \$721 for petitions for vehicles that are not substantially similar and that have no certified counterpart. In the event that a petitioner requests an inspection of a vehicle, the fee will remain at \$550 for each of those types of petitions.

The importer of each vehicle determined to be eligible for importation pursuant to a petition currently must pay \$134 upon its importation, the same fee applicable to those whose vehicles covered by an eligibility determination on the agency’s initiative (other than vehicles imported from Canada that are covered by code VSA 80–83, for which no eligibility determination fee is assessed). It is proposed that this fee be reduced by \$9 to \$125 per vehicle, based upon a decrease in administrative costs

expended on this aspect of the registered importer program.

Section 594.9—Fee To Recover the Costs of Processing the Bond

Section 30141(a)(3) also requires a registered importer to pay "any other fees the Secretary of Transportation establishes * * * to pay for the costs of (A) processing bonds provided to the Secretary of the Treasury" upon the importation of a nonconforming vehicle to ensure that the vehicle will be brought into compliance within a reasonable time or if the vehicle is not brought into compliance within such time, that it is exported, without cost to the United States, or abandoned to the United States.

The statute contemplates that NHTSA will make a reasonable determination of the cost to the United States Customs Service of processing the bond. In essence, the cost to Customs is based upon an estimate of the time that a GS 9, Step 5 employee spends on each entry, which Customs judged to be 20 minutes.

Because of the modest salary and locality raises in the General Schedule that were effective at the beginning of 1997 and 1998, NHTSA proposes that the current processing fee be increased by \$0.25, from \$5.15 per bond to \$5.40.

Section 594.10—Fee for review and Processing of Conformity Certificate

This is a new fee, adopted pursuant to Sec. 30141(a)(3), which became effective on October 29, 1997. It requires each registered importer to pay \$14 per vehicle to cover the cost of the agency's review of any certificate of conformity furnished to the Administrator pursuant to Sec. 591.7(e) (62 FR 50882).

Based upon an analysis of the direct and indirect costs for the review and processing of these certificates in the months since the fee was adopted, NHTSA has found that the costs averaged \$16 per vehicle and it is therefore proposing that the fee be increased by \$2, to \$16 per certificate. However, if a registered importer enters a vehicle with the U.S. Customs Service through the Automated Broker Interface, has an e-mail address to receive communications from NHTSA, and pays the fee by credit card, NHTSA has estimated that the reduction in cost to the agency would be approximately \$3, and this would be passed on to the Registered Importer by reducing the fee to \$13 per vehicle.

Effective Date

The proposed effective date of the final rule is October 1, 1998.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12886. Further, NHTSA has determined that the action is not significant under Department of Transportation regulatory policies and procedures. Based on the level of the fees and the volume of affected vehicles, NHTSA currently anticipates that the costs of the final rule will be so minimal as not to warrant preparation of a full regulatory evaluation. The action does not involve any substantial public interest or controversy. There will be no substantial effect upon State and local governments. There will be no substantial impact upon a major transportation safety program. Both the number of registered importers and determinations are estimated to be comparatively small. A regulatory evaluation analyzing the economic impact of the final rule adopted on September 29, 1989, was prepared, and is available for review in the docket.

B. Regulatory Flexibility Act

The agency has also considered the effects of this action in relation to the Regulatory Flexibility Act (5 U.S.C. Sec. 601 *et seq.*). I certify that this action will not have a substantial economic impact upon a substantial number of small entities.

The following is NHTSA's statement providing the factual basis for the certification (5 U.S.C. Sec. 605(b)). The proposed amendment would primarily affect entities that currently modify nonconforming vehicles and which are small businesses within the meaning of the Regulatory Flexibility Act; however, the agency has no reason to believe that a substantial number of these companies cannot pay the fees proposed by this action which are only modestly increased (and in some instances decreased) from those now being paid by these entities, and which can be recouped through their customers. The cost to owners or purchasers of altering nonconforming vehicles to conform with the FMVSS may be expected to increase (or decrease) to the extent necessary to reimburse the registered importer for the fees payable to the agency for the cost of carrying out the registration program and making eligibility decisions, and to compensate Customs for its bond processing costs.

Governmental jurisdictions will not be affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 12612 (Federalism)

The agency has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 "Federalism" and determined that the action does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

D. National Environmental Policy Act

NHTSA has analyzed this action for purposes of the National Environmental Policy Act. The action will not have a significant effect upon the environment because it is anticipated that the annual volume of motor vehicles imported through registered importers will not vary significantly from that existing before promulgation of the rule.

E. Civil Justice

This proposed rule will not have any retroactive effect. Under 49 U.S.C. 30103(b), whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard. Section 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, 49 CFR part 594 would be amended as follows:

PART 594—SCHEDULE OF FEES AUTHORIZED BY 49 U.S.C. 30141

1. The authority citation for part 594 would continue to read as follows:

Authority: 49 U.S.C. 30141, 30166; delegation of authority at 49 CFR 1.50.

2. Section 594.6 would be amended by:

- a. Revising the year "1996" in paragraph (d) to read "1998,";
- b. Revising the introductory text of paragraph (a);
- c. Revising paragraph (b);
- d. Revising paragraph (f)(6);
- e. Revising the final sentence of paragraph (h); and
- f. Revising paragraph (i), to read as follows:

§ 594.6 Annual fee for administration of the registration program.

(a) Each person filing an application to be granted the status of a Registered

Importer pursuant to part 592 of this chapter on or after October 1, 1998, shall pay an annual fee of \$491, as calculated below, based upon the direct and indirect costs attributable to:

* * * * *

(b) That portion of the initial annual fee attributable to the processing of the application for applications filed on and after October 1, 1998, is \$290. The sum of \$290, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(f) * * *

(6) Verifying through inspection or otherwise that a Registered Importer is able technically and financially to carry out its responsibilities pursuant to 49 U.S.C. 30118 *et seq.*

* * * * *

(h) * * * This cost is \$12.12 per man-hour for the period beginning October 1, 1998.

(i) Based upon the elements, and indirect costs of paragraphs (f), (g), and (h) of this section, the component of the initial annual fee attributable to administration of the registration

program, covering the period beginning October 1, 1998, is \$201. When added to the costs of registration of \$290, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are \$491. The annual renewal registration fee for the period beginning October 1, 1996, is \$350.

3. Section 594.8 would be amended by revising the first sentence in paragraph (b) and in paragraph (c) to read as follows:

§ 594.8 Fee for importing a vehicle pursuant to a determination by the Administrator.

* * * * *

(b) If a determination has been made pursuant to a petition, the fee for each vehicle is \$125. * * *

(c) If a determination has been made pursuant to the Administrator's initiative, the fee for each vehicle is \$125. * * *

4. Section 594.9(c) would be revised to read as follows:

§ 594.9 Fee for reimbursement of bond processing costs.

* * * * *

(c) The bond processing fee for each vehicle imported on and after October 1, 1998, for which a certificate of conformity is furnished, is \$5.40.

5. Section 594.10(d) would be revised to read as follows:

§ 594.19 Fee for review and processing of conformity certificate.

* * * * *

(d) The review and processing fee for each certificate of conformity submitted on and after October 1, 1998, is \$16.

However, if the vehicle covered by the certificate has been entered electronically with the U.S. Customs Service through the Automated Broker Interface and the registered importer submitting the certificate has an e-mail address, the fee for the certificate is \$13, provided that the fee is paid by a credit card issued to the registered importer.

Issued on: May 22, 1998.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

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