

trucks for general transportation has had a significant effect on fuel consumption.

E. Domestic and Import Fleet Fuel Economy Averages

Domestic and import passenger car fleet average fuel economies have improved since MY 1978, although the increase is far more dramatic for the domestic fleet. In MY 1999, the domestic passenger car fleet average fuel economy was 28.2 mpg. The import passenger car fleet average fuel economy was 28.4 mpg. Compared with MY 1978, this reflects an increase of 9.5 mpg for domestic cars and 1.1 mpg for import cars.

Since MY 1980, the average fuel economy for the total light truck fleet and the domestic light truck manufacturers has shown overall improvement, however, both have remained below the fuel economy level for the imported light truck fleet. The import light truck average fuel economy

has decreased significantly since its highest level of 27.4 mpg for MY 1981 to 22.2 mpg for MY 1996, the last year the agency divided the light truck fleet into domestic and import.

The disparity between the average CAFEs of the import and domestic manufacturers has declined in recent years as domestic manufacturers have maintained relatively stable CAFE values while the import manufacturers moved to larger vehicles, and more four-wheel drive light trucks, thus lowering their CAFE values.

Section III: 1999 Activities

A. Light Truck CAFE Standards

On April 7, 1999, NHTSA published a final rule establishing a combined standard of 20.7 mpg for light trucks for MY 2001. The Department of Transportation and Related Agencies Appropriations Act for Fiscal Year 1999, Pub. L. 105-66, precluded the agency

from setting the MY 2001 standard at a level other than the level for MY 2000.

B. Enforcement

49 U.S.C. 32912(b) imposes a civil penalty of \$5.50 for each tenth of a mpg by which a manufacturer's CAFE level falls short of the standard, multiplied by the total number of passenger automobiles or light trucks produced by the manufacturer in that model year. Credits earned for exceeding the standard in any of the three model years immediately prior to or subsequent to the model years in question can be used to offset the penalty.

Table III-1 shows CAFE fines paid by manufacturers in calendar year 1999. In calendar year 1999, manufacturers paid civil penalties totaling \$16,275,722 for failing to comply with the fuel economy standards of 27.5 mpg for passenger cars and 20.7 mpg for light trucks in MYs 1997 and 1998.

TABLE III-1.—CAFE FINES COLLECTED DURING CALENDAR YEAR 1999

Model year	Manufacturer	Amount fined	Date paid
1997	Land Rover	\$68	01/99
	Volkswagen	176,220	04/99
	Lotus	36,890	05/99
1998	Fiat	527,450	04/99
	Mercedes-Benz	1,683,525	07/99
	BMW of North America	13,851,569	12/99

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-99-6857, Notice 2]

Intac Automotive Products, Inc.; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety

Intac Automotive Products, Inc., (Intac) has determined that certain brake fluid containers manufactured by its supplier, Gold Eagle, are not in compliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 116, "Motor Vehicle Brake Fluids", and has filed appropriate reports pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Intac has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on February 18, 2000, in the **Federal Register** (65 FR 8472). NHTSA received no comments on this application.

Paragraph S5.2.2.2 of FMVSS No. 116 requires that certain information, including a serial number identifying the packaged lot and date of packaging specified in S5.2.2.2(d), be clearly marked on each brake fluid container or label permanently affixed to the container. Paragraph S5.2.2.2 further requires that this information be legible after being subjected to the test procedures in S6.14, *Container information*. S6.14 requires that each container be immersed in the same brake fluid contained therein for 15 minutes and dried within 5 minutes of its removal from the brake fluid.

Intac filed a Part 573 report informing the agency that, on November 4, 1997, it manufactured approximately 9,000 containers of brake fluid which it shipped to Petrochemical, Inc., for Mazda. On April 6, 1999, Intac manufactured approximately 30,500 containers of brake fluid which it shipped to Nissan and, on August 12,

1999, it manufactured approximately 16,800 containers of brake fluid which it shipped to Petrochemical, Inc., for Subaru. According to Intac, some of these brake fluid containers have labels that do not comply with the requirements of S5.2.2.2 of FMVSS No. 116. Additionally, to the best of Intac's knowledge, all of that company's brake fluid containers with labels that are potentially noncompliant with these requirements were manufactured on the aforementioned dates. For some of these containers, the packaged lot and date code information on the label (S5.2.2.2(d)) were not legible after the container was subjected to the test procedures in S6.14. The containers and labels were manufactured by the Gold Eagle Company, which also packaged the brake fluid in the containers under contract to Intac. Intac believes this noncompliance to be inconsequential to motor vehicle safety.

Intac supported its application for inconsequential noncompliance by stating that all the substantive safety warnings concerning proper storage and use of the contents of the referenced brake fluid containers were legible after durability testing in accordance with

S6.14. Intac also stated that the purpose of the serial number identifying the packaged lot and date of packaging is to facilitate determination of the extent of defective brake fluid should such be discovered. According to Intac, there is no serious risk to motor vehicle safety if the packaged lot and date information is lost. If packaged lot and date information were not visible on container labels, and defective brake fluid was suspected, the manufacturer would have to recall a larger number of containers than the number of the containers that would be recalled if this information was available. Intac informed the agency that the company has not manufactured brake fluid that has been determined to be in noncompliance with the brake fluid performance requirements in FMVSS No. 116, nor has the company manufactured brake fluid that has been recalled because of a safety defect.

Intac also stated that the containers of brake fluid in question were sold to Nissan and Petrochemical, Inc. The containers sold to Petrochemical were distributed to Mazda and Subaru. The product sold to Nissan and Petrochemical was distributed to dealerships and authorized repair facilities and it is unlikely that private consumers obtained these products through retail outlets for personal use.

According to Intac, the dealerships and authorized repair facilities that received the brake fluid tend to consume the product quickly once the containers are opened. Therefore, there was little likelihood that the lot and date information on the container label would become illegible through contact with brake fluid before the contents of a container was used.

Intac further stated that it was able to secure most of the noncompliant inventory after contacting Nissan and Petrochemical, Inc., so that most of the noncompliant brake fluid containers would be returned to Intac for correction.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the safety related information provided on the brake fluid container label. According to Intac, all substantive information

regarding the safe use of the contents of the brake fluid containers was legible on the labels after testing in accordance with S6.14, and the brake fluid packaged in these containers complies with all relevant FMVSS No. 116 performance requirements. The primary purpose of the packaged lot and date code is to identify brake fluid that may not comply with the performance requirements of FMVSS No. 116 so as to facilitate a recall campaign. Intac has agreed that a campaign to recall noncompliant brake fluid would include all containers with illegible packaged lot and date codes in addition to the containers with relevant legible packaged lot and date code information. Accordingly, a container label with illegible packaged lot and date information would not have a consequential effect on motor vehicle safety. Additionally, Intac stated that it has not produced brake fluid that does not meet the performance requirements in FMVSS No. 116, nor has any of its brake fluid been recalled because of a safety defect. Intac further stated that most of the containers manufactured with potentially noncompliant warning labels were retrieved from Petrochemical, Inc. and Nissan prior to use.

Intac has reviewed the brake fluid container manufacturing process, determined the cause of this noncompliance, and modified the process to eliminate this noncompliance in the future.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

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Stephen R. Kratzke,
Associate Administrator for Safety Performance Standards.
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DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Delegation Order—Delegation of Certain of the Director’s Authorities in 27 CFR Part 275

1. *Purpose.* This order delegates certain of the authorities of the Director to subordinate ATF officers and prescribes the subordinate ATF officers with whom persons file documents which are not ATF forms. Specifically, this order specifies the appropriate ATF officers that are designated in Treasury Decision ATF-422, which revised sections of Part 275 of Title 27 of the Code of Federal Regulations (CFR).

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to tobacco products and cigarette papers and tubes. We have determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

3. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-1 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701-9, this ATF order delegates certain authorities to take final action prescribed in certain sections of Part 275 of Title 27 CFR to subordinate officers. Also, this ATF order prescribes the subordinate officers with whom applications, notices, and reports required by certain sections of Part 275 of Title 27 CFR, which are not ATF forms, are filed. The attached table identifies the regulatory sections, documents and authorized ATF officers. The authorities in the table may not be redelegated. An ATF organization chart showing the directorates and the positions involved in this delegation order has been attached.

Bradley A. Buckles,
Director.

TABLE OF AUTHORITIES, DOCUMENTS TO BE FILED, AND AUTHORIZED OFFICIALS

Regulatory section	Officer(s) authorized to act or receive document
§ 275.25	Inspector or Specialist.
§ 275.85	Section Chief, National Revenue Center (NRC).
§ 275.86	Unit Supervisor, NRC, to whom ATF F 2145(5200.11) is sent, and Specialist to certify ATF F 2145(5200.11).
§ 275.106	Unit Supervisor, NRC, to whom copy of ATF F 3075(5200.9) is sent.