

VEHICLES MANUFACTURED FOR OTHER THAN THE CANADIAN MARKET—Continued

Manufacturer	VSP	VSA	VCP	Model type	Model ID	Model year
Toyota	324			MR2		1990–1991
Toyota	326			Previa		1991–1992
Toyota	302			Previa		1993–1997
Toyota	328			RAV4		1996
Toyota	200			Van		1987–1988
Triumph MC	263			Bonneville		1976
Triumph MC	311			Thunderbird		1995–1999
Volkswagen	237			Beetle Convertible		1976–1979
Volkswagen	237			Beetle Sedan		1976–1977
Volkswagen	306			Eurovan		1993–1994
Volkswagen	159			Golf		1987
Volkswagen	80			Golf		1988
Volkswagen	92			Golf		1993
Volkswagen	73			Golf Rally		1988
Volkswagen	149			GTI (Canadian)		1991
Volkswagen	274			Jetta		1994–1996
Volkswagen	148			Passat 4 door Sedan		1992
Volkswagen		42		Scirocco		1986
Volkswagen	284			Transporter		1988–1989
Volkswagen	251			Transporter		1990
Volvo	43			262C		1981
Volvo	87			740 Sedan		1988
Volvo	286			850 Turbo		1995–1998
Volvo	95			940 GL		1993
Volvo	132			945 GL		1994
Volvo	176			960 Sedan and Wagon		1994
Volvo	335			S70		1998–2000
Yamaha MC	113			FJ1200		1991
Yamaha MC	171			RD-350		1983
Yamaha MC	301			Virago		1990–1998

Issued on September 11, 2000.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. NHTSA 2000–7629; Notice 2]

RIN 2127–A111

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

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

ACTION: Final rule.

SUMMARY: This document adopts fees for Fiscal Year 2001 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).

We are increasing the fee for the registration of a new importer from \$491 to \$584, and the annual fee authorized

by statute from \$350 to \$416. These fees include the costs of maintaining the registered importer (RI) program. The fee required to reimburse the U.S. Customs Service for conformance bond processing costs will increase from \$5.40 to \$5.75 per bond.

The fee payable for a petition seeking a determination that a nonconforming vehicle is capable of conversion to meet the FMVSS will be reduced from \$199 to \$175 if the nonconforming vehicle is substantially similar to conforming vehicles. With respect to vehicles that have no substantially similar counterpart, the petition fee increases from \$721 to \$800. In addition, the fee payable by the importer of each “substantially similar” vehicle that benefits from an eligibility determination will be reduced to \$105 but remain at \$125 for vehicles not “substantially similar,” regardless of whether the determination is made pursuant to a petition or by NHTSA on its own initiative. This fee does not apply to vehicles imported from Canada admitted under VSA 80–83, or to vehicles imported on and after October 1, 2000 that are covered by determinations that were made on the agency’s own initiative before October 1, 2000, for which all costs have now been recovered.

Finally, the \$16 fee that a RI must pay as a processing cost for review of each conformity package that it submits will remain at \$16. However, if the RI files the HS–7 Declaration form for the vehicle electronically with the U.S. Customs Service through the Automated Broker Interface, and the RI has an e-mail address and pays by credit card, the present fee of \$13 will be reduced to \$6 per vehicle if the information in the entry and certificate is correct.

DATES: The effective date of the final rule is October 1, 2000.

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, we published a notice that discussed in full the rulemaking history of 49 CFR part 594 and the fees authorized by the Imported Vehicle Safety Compliance Act of 1988, Public Law 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. Certain fees 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. On July 19, 2000, we proposed fees that would become effective on October 1, 2000, the beginning of FY 2001 (65 FR 44713). There were no comments on this notice.

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. We last amended the fee schedule in 1998; it has applied in Fiscal Years 1999–2000.

The fees are based on actual time and costs associated with the tasks for which the fees are assessed and reflect the slight increase in hourly costs in the past two fiscal years attributable to the approximately 3.68 and 4.94 percent raise (including the locality adjustment for Washington, DC) in salaries of employees on the General Schedule that became effective on January 1 each year in the years 1999 and 2000.

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 RIs 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 existing RIs. In order for it to maintain its registration, at the time it submits its annual fee, each RI must also file a statement affirming that the information it previously furnished in its registration application (or as later amended) remains correct (49 CFR 592.5(e)).

In accordance with the statutory directive, we 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 two fiscal years. The initial component of the Registration Program Fee is the fee attributable to processing and acting upon registration applications. We will increase this fee from \$290 to \$345 for new applications. We will increase the fee representing the review of the annual statement from \$149 to \$177. The adjustments reflect our recent experience in time spent reviewing both new applications and annual statements with accompanying documentation, as well as the inflation factor attributable to Federal salary increases and locality adjustments in

the past two years since the regulation was last amended.

We must also recover costs attributable to maintenance of the registration program which arise from our 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 our review of the costs associated with this program, the portion of the fee attributable to the maintenance of the registration program is approximately \$239 for each RI, an increase of \$38. When this \$239 is added to the \$345 representing the registration application component, the cost to an applicant equals \$584, which is the fee we are adopting. This represents an increase of \$93 from the existing fee. When the \$239 is added to the \$177 representing the annual statement component, the total cost to the RI is \$416, which represents an increase of \$66.

Section 594.6(h) recounts indirect costs that were previously estimated at \$12.12 per man-hour. This will be raised \$1.78, to \$13.90, 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 RIs 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 account in the computation of costs. However, we have been able to reduce our processing costs through combining several decisions in a single **Federal Register** notice as well as achieving efficiencies through improved word processing techniques.

Accordingly, we are reducing the fee of \$199 presently required to accompany a “substantially similar” petition to \$175, but are increasing from \$721 to \$800 the fee 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 for such an inspection remains 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 \$125 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). This fee will change due to the different costs associated with petitions. For petitions based on non-substantially similar vehicles, the fee will remain at \$125. For petitions based on substantially similar vehicles, the fee will be reduced from \$125 to \$105. Costs associated with previous eligibility determinations on the agency’s own initiative will have been recovered by October 1, 2000. We shall apply the fee of \$125 per vehicle only to vehicles covered by determinations made by the agency on its own initiative on and after October 1, 2000.

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 we 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 has judged to be 20 minutes.

Because of the modest salary and locality raises in the General Schedule that were effective at the beginning of 1999 and 2000, we are increasing the current processing fee by \$0.35, from \$5.40 per bond to \$5.75.

Section 594.10 Fee for review and processing of conformity certificate

This fee currently requires each RI to pay \$16 per vehicle to cover the cost of the agency's review of the certificate of conformity furnished to the Administrator. However, if a RI enters a vehicle with the U.S. Customs Service through the Automated Broker Interface (ABI), has an e-mail address to receive communications from NHTSA, and pays the fee by credit card, the fee is \$13. Based upon an analysis of the direct and indirect costs for the review and processing of these certificates, we find that the costs continue to average \$16 per vehicle for non-automated entries, and we therefore did not propose a change in this fee. We estimate that there has been a reduction in cost to the agency for automated entries of approximately \$7, and we will pass this on to the RI by reducing the fee from \$13 to \$6 per vehicle if all the information in the ABI entry is correct. Because errors in ABI entries eliminate the time-saving advantages of electronic entry, the processing cost will remain at \$16 for certificates of conformity or ABI entries containing incorrect information.

Effective Date

The effective date of the final rule is October 1, 2000.

Rulemaking Analyses

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

This rulemaking action was not reviewed under Executive Order 12866. 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 are 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. 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. 605(b)). The 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 are not affected at all since they are generally neither importers nor purchasers of nonconforming motor vehicles.

C. Executive Order 13132 (Federalism)

Executive Order 13132 (64 FR 43255, August 10, 1999), revokes and replaces Executive Orders 12612 "Federalism" and 12875 "Enhancing the Intergovernmental Partnership." E.O. 13132 requires NHTSA to develop an accountable process to ensure "meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications." Executive Order 13132 defines the term "Policies that have federalism implications" to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." Under Executive Order 13132, NHTSA may not issue a regulation that has federalism implication, that imposes substantial direct compliance costs, and that is not

required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or NHTSA consults with State and local officials early in the process of developing the proposed regulation.

The rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132. Thus, the requirements of section 6 of the Executive Order do not apply to this rulemaking action.

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 does not have a retroactive or preemptive effect. Judicial review of a rule based on this proposal may be obtained pursuant to 5 U.S.C. 702. That section does not require that a petition for reconsideration be filed prior to seeking judicial review.

F. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) requires agencies to prepare a written assessment of the cost, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually. Because the final rule based will not have an effect of \$100 million, no Unfunded Mandates assessment has been prepared.

List of Subjects in 49 CFR Part 594

Imports, Motor vehicle safety, Motor vehicles.

PART 594—[AMENDED]

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

1. The authority citation for part 594 reads as follows:

Authority: 49 U.S.C. 30141, 31 U.S.C. 9701; delegation of authority at 49 CFR 1.50.

2. Section 594.6 is amended by:

- a. Revising the introductory language in paragraph (a),
- b. Revising paragraph (b),
- c. Removing the year "1998" in paragraph (d) and adding in its place "2000,"
- d. Revising the final sentence of paragraph (h); and
- e. 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, 2000, must pay an annual fee of \$584, 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, 2000, is \$345. The sum of \$345, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(h) * * * This cost is \$13.90 per man-hour for the period beginning October 1, 2000.

(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, 2000, is \$239. When added to the costs of registration of \$345, as set forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are \$584. The annual renewal registration fee for the period beginning October 1, 2000, is \$416.

3. Section 594.7 is amended by revising paragraph (e) to read as follows:

§ 594.7 Fee for filing petitions for a determination whether a vehicle is eligible for importation.

* * * * *

(e) For petitions filed on and after October 1, 2000, the fee payable for seeking a determination under paragraph (a)(1) of this section is \$175. The fee payable for a petition seeking a determination under paragraph (a)(2) of this section is \$800. If the petitioner requests an inspection of a vehicle, the sum of \$550 shall be added to such fee. No portion of this fee is refundable if the petition is withdrawn or denied.

* * * * *

4. Section 594.8 is amended by revising the first sentence of paragraph (c) to read as follows:

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

* * * * *

(c) If a determination has been made on or after October 1, 2000, pursuant to the Administrator's initiative, the fee for each vehicle is \$125. * * *

5. Section 594.9 is amended by revising paragraph (c) 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, 2000, for which a certificate of conformity is furnished, is \$5.75.

6. Section 594.10 is amended by adding two new sentences to the end of paragraph (d) to read as follows:

§ 594.10 Fee for review and processing of conformity certificate.

* * * * *

(d) * * * 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 \$6, provided that the fee is paid by a credit card issued to the registered importer. If NHTSA finds that the information in the entry or the certificate is incorrect, requiring further processing, the processing fee shall be \$16.

Issued on: September 11, 2000.
Kenneth N. Weinstein,
Associate Administrator for Safety Assurance.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 000913257-0257-01; I.D. 081800D]

RIN 0648-AO52

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Prohibition of Trap Gear in the Royal Red Shrimp Fishery in the Gulf of Mexico

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

ACTION: Emergency interim rule; request for comments.

SUMMARY: This emergency interim rule prohibits the use of trap gear in the royal red shrimp fishery within the exclusive economic zone (EEZ) of the Gulf of Mexico. The intended effect of this emergency interim rule is to prevent gear conflict and overfishing in the royal red shrimp fishery.

DATES: This emergency interim rule is effective September 14, 2000, through March 18, 2001. Comments must be received no later than 4:30 p.m., eastern standard time, on October 19, 2000.

ADDRESSES: Written comments on this emergency interim rule must be mailed to, and copies of documents supporting this action may be obtained from, the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702. Comments also may be submitted via fax to 727-570-5583. Comments will not be accepted if submitted via e-mail or Internet. Comments on ambiguity or unnecessary complexity arising from the language used in this emergency interim rule should be directed to the Southeast Regional Office at the address given here.

FOR FURTHER INFORMATION CONTACT: Dr. Steve Branstetter, telephone: 727-570-5305, fax: 727-570-5583, e-mail: Steve.Branstetter@noaa.gov.

SUPPLEMENTARY INFORMATION: The shrimp fishery of the Gulf of Mexico is managed under the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Background

On January 27, 1999, NMFS published a final rule (64 FR 4030) pursuant to section 305(a) of the Magnuson-Stevens Act, establishing a list of authorized fisheries and fishing gear and notification guidelines for actions to be taken by regional fishery management councils (councils) and NMFS upon receipt of a notification of the intent to fish or use a fishing gear that is not on that authorized list. The list of fisheries and gear was revised upon publication of a revised final rule effective December 1, 1999 (64 FR 67511, December 2, 1999). Under the final rule, no person or vessel may employ fishing gear or engage in a fishery not included on the list without