

500001-0116. Additionally, an electronic version of the text may be obtained from <http://www.gsa.gov/gsbca>. Written comments may be mailed to Margaret S. Pfunder, GSA Board of Contract Appeals, 18th & F Streets, N.W., Washington, DC 20405, or sent electronically by using the following Internet address:

Margaret.Pfunder@gsa.gov.

FOR FURTHER INFORMATION CONTACT: Margaret S. Pfunder, Deputy Chief Counsel, GSA Board of Contract Appeals, telephone (202) 501-0272, facsimile machine (202) 501-3510.

Dated: June 18, 1996.

Stephen M. Daniels,

Chairman.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 594

[Docket No. 89-8; Notice 9]

RIN 2127-AG43

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 1997 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 annual fee for the registration of a new importer be increased from \$456 to \$501, and the annual fee for renewal of registration be increased from \$240 to \$332. The fee required to reimburse the U.S. Customs Service for bond processing costs would increase by \$0.20, from \$4.95 to \$5.15 per bond.

The fee payable for a determination that nonconforming vehicles are capable of conversion to meet the FMVSS would be increased from \$104 to \$199 if the determination results from a petition arguing that the nonconforming vehicle is substantially similar to conforming vehicles. With respect to vehicles that have no substantially similar counterpart, the fee rises from \$520 to \$721. In addition, the fee payable by the importer of each vehicle that benefits by a determination will be increased from

\$93 to \$134, regardless of whether the determination is made pursuant to a petition or by NHTSA on its own initiative.

DATES: Comments are due August 8, 1996. The effective date of the final rule would be October 1, 1996.

ADDRESSES: Comments should refer to Docket No. 89-8; Notice x, and be submitted to: Docket Section, NHTSA, room 5109, 400 Seventh St., SW, Washington, D.C. 10590. Docket hours are from 9:30 a.m. to 4:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Introduction

On September 29, 1989, NHTSA issued 49 CFR part 594, establishing the initial fees authorized by section 108 of the National Traffic and Motor Vehicle Safety Act, as amended by the Imported Vehicle Safety Compliance Act of 1988, Pub. L. 100-562 (54 FR 40100). These fees were applicable in Fiscal Year 1990 (FY90). 49 U.S.C. 30141(e) (formerly 15 U.S.C. 1397(c)(3)(B)) provides that the amount or rate of fees shall be reviewed and, if appropriate, adjusted at least every 2 years. Further, the fees applicable in any fiscal year shall be established before the beginning of such year. The statute authorizes an annual fee to cover the costs of the importer registration program, an annual fee or fees to cover the cost of making import eligibility determinations, and an annual fee or fees to cover the cost of processing the bond furnished to the Customs Service.

In accordance with the statutory requirements, NHTSA reviewed and adjusted fees for FY91 (55 FR 40664), for FY92-93 (56 FR 49427), and FY 94-96 (58 FR 51021).

As a general statement applicable to consideration of all fees, there has been a slight increase in hourly costs in the past three fiscal years attributable to the approximately 2 percent raise in salaries of employees on the General Schedule that became effective on January 1 in the years 1995, and 1996 (there was a locality raise only in 1994).

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 * * *." The annual fee attributable to the registration program is payable both by new applicants and by registered importers seeking to renew their registration. The reader is referred to the notice of September 29, 1989, for a fuller discussion of the fee and its components.

In accordance with the statutory directive, NHTSA reviewed the existing fees and their bases in an attempt to establish appropriate fees for at least the next fiscal year which would be sufficient to recover the costs of carrying out the registration program for importers. The initial component of the Registration Program Fee is the portion of the fee attributable to processing and action upon registration applications. The agency has determined that this portion of the fee should be decreased from \$356 to \$301 for new applications, and increased from \$100 to \$132 for renewals. The higher initial cost is warranted because the average cost of processing a new application is substantially greater than that of its renewal.

Other costs attributable to maintenance of the registration program arise from reviewing a registrant's annual statement and verifying the continuing validity of information already submitted. These costs also include costs attributable to revocation or suspension of a registration.

The total portion of the fee attributable to maintenance of the registration program as estimated by NHTSA is approximately \$200, an increase of \$100. This reflects the fact that costs have been incurred for processing suspensions or revocations. When this \$200 is added to the \$301 representing the registration application component, the cost to an applicant equals \$501, and is the fee proposed by NHTSA. It represents an increase of \$45. When the \$200 is added to the \$132 representing the renewal component, the cost to a renewing registered importer would be \$332. This fee increase is also proposed. It represents an increase of \$92.

Sec. 564.6(h) recounts indirect costs that have been estimated at \$6.71 per man-hour. This would be raised to \$7.07 under the proposal.

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." Pursuant to part 593, these

decisions are 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. Because a substantially different procedure was adopted for the second year of this program, FY91, the reader is referred to the notice appearing at 55 FR 40664 for a fuller discussion of the cost factors of such determinations.

For FY94-96, NHTSA continued the restructured fee schedule that was adopted for FY91. Under the restructuring, which continues in effect, the fee for a vehicle imported under a decision made on the agency's initiative is payable by the importer of any vehicle covered by that decision. The fee for a vehicle imported under a decision pursuant to a petition is payable in part by the petitioner and in part by importers. However, the fee to be charged for a vehicle is a pro rata share of the costs in making all the eligibility determinations in the fiscal year.

The fees that were adopted in FY91 were retained unchanged for FY92 and FY93; the fees adopted for FY94 were retained unchanged for FY95 and FY96. As the agency noted in the final rule adopting the fees for FY94, only one petition had been granted for a vehicle which is not "substantially similar" to a certified model, and there was not yet an average cost figure for this category. Since that time, at least half a dozen other petitions have been received and NHTSA has found that these require noticeably more analysis and, at times, further correspondence with the petitioner in order to have a sufficient data to reach a decision.

Inflation and the small raises under the General Schedule also must be taken into count in the computation of costs.

Accordingly, NHTSA proposes that there be an increase from \$104 to \$199 in the fee required to accompany a "substantially similar" petition, and from \$520 to \$721 for petitions for vehicles that are not substantially similar and that have no certified counterpart. In the event that a petition requests an inspection of a vehicle,

under each petition, that fee will remain at \$550.

The importer of each vehicle covered by a petition currently must pay \$93 upon its importation, the same fee applicable to those whose vehicles covered by a determination on the agency's initiative (other than Canadian vehicles covered by code VSA-1). This fee would be increased to \$134, based upon an increase in administrative costs.

The fee for inspection of a vehicle to verify its conformance status would remain unchanged.

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 make a reasonable determination of the cost for 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 was judged to be 20 minutes. For a fuller discussion of these costs, the reader is again referred to prior notices of Docket 89-8.

Because of the modest salary and locality raises in the General Schedule that were effective at the beginning of 1994, 1995, and 1996, NHTSA proposes that the current processing fee be increased by \$0.20, from \$4.95 per bond to \$5.15.

Effective Date

The effective date of the final rule would be October 1, 1996.

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. NHTSA currently anticipates that the costs of the final rule would 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 is no substantial effect upon State and local governments. There is 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. I certify that this action will not have a substantial economic impact upon a substantial number of small entities. Although entities that currently modify nonconforming vehicles are small businesses within the meaning of the Regulatory Flexibility Act, the agency has no reason to believe that a substantial number of these companies could not pay the fees proposed by this action which would be only modestly increased from those now being paid, 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 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 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.

Request for Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted.

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

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be submitted accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation, 49 CFR Part 512.

All comments received on or before the closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. It is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket must 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 594

Imports, Motor vehicle safety, Motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR part 594 be amended as follows:

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

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

2. The title of part 594 would be changed to read as follows:

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

3. Section 594.1 would be revised to read as follows:

§ 594.1 Scope.

This part establishes the fees authorized by 49 U.S.C. 30141.

4. Section 594.4 would be amended by revising its introductory paragraph to read as follows:

§ 594.4 Definitions.

All terms used in this part that are defined in 49 U.S.C. 30102 are used as defined in that section.

* * * * *

5. Section 594.6 would be amended by:

- (a) changing the year "1993" in paragraphs (d) and to read "1996," and
 - (b) revising the introductory language in paragraph (a), (c) revising paragraph (b),
 - (c) revising the final sentence of paragraph (h); and
 - (d) 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, 1996, shall pay an annual fee of \$501, 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 file on and after October 1, 1996, is \$301. The sum of \$301, representing this portion, shall not be refundable if the application is denied or withdrawn.

* * * * *

(h) * * * This cost is \$7.07 per man-hour for the period beginning October 1, 1996.

(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, 1996, is \$200. When added to the costs of registration of \$301, as set

forth in paragraph (b) of this section, the costs per applicant to be recovered through the annual fee are \$501. The annual renewal registration fee for the period beginning October 1, 1996, is \$332.

6. Section 594.7 would be amended by revising the first two sentences of paragraph (e) to read as follows:

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

* * * * *

(e) For petitions filed on and after October 1, 1996, the fee payable for a petition seeking a determination under paragraph (a)(1) of this section is \$199. The fee payable for a petition seeking a determination under paragraph (a)(2) of this section is \$721. * * *

* * * * *

7. 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 \$134. * * *

(c) If a determination has been made pursuant to the Administrator's initiative, the fee for each vehicle is \$134. * * *

8. 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, 1996, for which a certificate of conformity is furnished, is \$5.15.

Issued on: June 14, 1996.

Michael B. Brownlee,
Associate Administrator for Safety Assurance.

[FR Doc. 96-15732 Filed 6-21-96; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC22

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for Barton Springs Salamander

AGENCY: Fish and Wildlife Service, Interior.