

**FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[MM Docket No. 97-200; RM-9144; RM-9313]

**Radio Broadcasting Services; Ashton, ID and West Yellowstone, MT****AGENCY:** Federal Communications Commission.**ACTION:** Final rule.

**SUMMARY:** This document grants allotment proposals in the above-referenced proceeding, in response to a petition for rule making filed by Mountain Tower Broadcasting (Ashton, Idaho, RM-9144), as well as a counterproposal filed on behalf of Alpine Broadcasting Limited Partnership (West Yellowstone, Montana, RM-9313). Channel 243A is allotted to Ashton, Idaho, rather than Channel 224A, as proposed in the *Notice of Proposed Rule Making*, to accommodate the modification of Station KWWF(FM), to specify operation on Channel 225C at West Yellowstone, Montana. See 62 FR 49189, September 19, 1997. Coordinates used for Channel 243A at Ashton, Idaho, are 44-04-12 and 111-26-54; coordinates used for Channel 225C at West Yellowstone, Montana, are 44-33-39 and 111-26-24. With this action, the proceeding is terminated.

**DATES:** Effective October 5, 1998. A filing window for Channel 243A at Ashton, Idaho, will not be opened at this time. Instead, the issue of opening a filing window for Channel 243A will be addressed by the Commission in a subsequent Order.

**FOR FURTHER INFORMATION CONTACT:** Nancy Joyner, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process should be addressed to the Audio Services Division, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Report and Order, MM Docket No. 97-200, adopted August 12, 1998, and released August 21, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

**PART 73—[AMENDED]**

1. The authority citation for part 73 reads as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Ashton, Channel 243A.

3. Section 73.202(b), the Table of FM Allotments under Montana, is amended by removing Channel 243A and adding Channel 225C at West Yellowstone.

Federal Communications Commission.

**John A. Karousos,**

*Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 98-22809 Filed 8-24-98; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 594**

[Docket No. NHTSA 98-3781; Notice 2]

RIN 2127-AH26

**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 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 is reducing the fee for the registration of a new importer from \$501 to \$491, and increasing the fee for annual renewal of registration 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 is increased 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 remains 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 remains at \$721. In addition, the fee payable by the importer of each vehicle that benefits from an eligibility determination is 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 is 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 is reduced to \$13 per vehicle.

**DATES:** The effective date of the final rule is 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**

This notice is based upon a notice of proposed rulemaking published on June 5, 1998, and adopts the fees proposed in the notice (63 FR 30700).

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, Pub. L. 100-562, since recodified as 49 U.S.C. 30141-47. The reader is referred to that notice and the June 5, 1998, 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 adopts fees that will become effective on October 1, 1998, the beginning of Fiscal Year 1999 (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 FYs97-98.

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 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. These fees have been adopted.

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. These fees have been adopted.

Sec. 594.6(h) recounts indirect costs that were previously estimated at \$7.07 per man-hour. These are now estimated to be \$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 did 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 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 \$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. This reduction has also been adopted.

##### *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 proposed that the current processing fee be increased by \$0.25, from \$5.15 per bond to \$5.40, and has adopted the proposal.

##### *Section 594.10 Fee for Review and Processing of Conformity Certificate*

This is a new fee, adopted pursuant to section 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 § 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 found that the costs averaged \$16 per vehicle and it therefore proposed that the fee be increased by \$2, to \$18 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. These fees have been adopted.

The one comment that NHTSA received in response to the proposed notice dealt with the proposed \$16 cost per certificate. The North American Automobile Trade Organization asked "whether the \$16 fee is based on historical vehicle volumes or current volumes." The Trade Organization believed that "the current volume of vehicles may warrant a reduction (or, alternatively, an increase) in the fee from \$16 if it is based on historical importation volumes." The increase in fee was based upon agency experience since adoption of the \$14 fee. Thus, it was based on current volumes rather than "historical volumes," which the agency interprets as importations since the beginning of the fee system in 1990.

#### *Effective Date*

The fees applicable in any fiscal year are to be established before the beginning of such year. 49 U.S.C. 30141(e). Therefore, the effective date of the final rule establishing fees for FY99 and thereafter 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 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 (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 final rule 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 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.

##### *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 this final rule will not have a \$100 million effect, no Unfunded Mandates assessment has been prepared.

#### **List of Subjects in 49 CFR Part 594**

Imports, Motor vehicle safety, Motor vehicles.

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

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

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

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

2. Section 594.6 is amended by:  
(a) Changing the year "1996" in paragraph (d) to read "1998," and  
(b) Revising the introductory language in 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, 1998, is \$350.

\* \* \* \* \*

3. Section 594.8 is 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) is 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) is revised to read as follows:

**§ 594.10 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: August 17, 1998.

**Kenneth N. Weinstein,**  
*Associate Administrator for Safety Assurance.*

[FR Doc. 98-22447 Filed 8-24-98; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 970930235-8028-02; I.D. 081898B]

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Closure

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

**ACTION:** Closure.

**SUMMARY:** NMFS closes the commercial fishery for king mackerel in the exclusive economic zone (EEZ) in the western zone of the Gulf of Mexico. This closure is necessary to protect the overfished Gulf king mackerel resource.

**DATES:** The closure is effective 12:01 a.m., August 25, 1998, through June 30, 1999.

**FOR FURTHER INFORMATION CONTACT:** Mark Godcharles, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The fishery for coastal migratory pelagic fish (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act by regulations at 50 CFR part 622.

Based on the Councils' recommended total allowable catch and the allocation ratios in the FMP, NMFS implemented a commercial quota for the Gulf of Mexico migratory group of king mackerel in the western zone of 1.05 million lb (0.48 million kg) (63 FR 8353, February 19, 1998).

Under 50 CFR 622.43(a), NMFS is required to close any segment of the

king mackerel commercial fishery when its quota has been reached, or is projected to be reached, by filing a notification at the Office of the Federal Register. NMFS has determined that the commercial quota of 1.05 million lb (0.48 million kg) for the western zone of the Gulf migratory group of king mackerel will be reached on August 24, 1998. Accordingly, the commercial fishery for Gulf group king mackerel from the western zone is closed effective 12:01 a.m., local time, August 25, 1998, through June 30, 1999, the end of the fishing year. The boundary between the eastern and western zones is 87°31'06" W. long., which is a line directly south from the Alabama/Florida boundary.

Except for a person aboard a charter vessel or headboat, during the closure, no person aboard a vessel for which a commercial permit for king and Spanish mackerel has been issued may fish for king mackerel in the EEZ in the western zone or retain king mackerel in or from the western zone EEZ. A person aboard a vessel that has a valid charter vessel/headboat permit for coastal migratory pelagic fish may continue to retain king mackerel in or from the western zone EEZ under the bag and possession limits set forth in 50 CFR 622.39(c)(1)(ii) and (c)(2), provided the vessel is operating as a charter vessel or headboat. A charter vessel or headboat that also has a commercial permit is considered to be operating as a charter vessel or headboat when it carries a passenger who pays a fee or when there are more than three persons aboard, including operator and crew.

During the closure, king mackerel from the western zone taken in the EEZ, including those harvested under the bag and possession limits, may not be purchased or sold. This prohibition does not apply to trade in king mackerel from the western zone that were harvested, landed ashore, and sold prior to the closure and were held in cold storage by a dealer or processor.

#### Classification

This action is taken under 50 CFR 622.43(a) and is exempt from review under E.O. 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: August 19, 1998.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 98-22769 Filed 8-20-98; 4:05 pm]

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