found to be noncovered based upon the correct information.

(3) As a result of this review, the PRO may decide that future medical information must be submitted in writing.

§ 466.222 Liability and sanctions for unreviewed cases.

(a) *Payment contingent upon approval.* No payment will be paid for any claim where the PRO has not approved the services for payment.

(b) *Failure of PRO to complete review.* If, because of a PRO administrative error, the review is not completed within the timeframes outlined in § 466.216, the PRO still must complete the review and issue an approval number or a notice denying the services.

(c) *Financial liability.* Financial liability is determined in accordance with provisions of sections 1842(1) and 1879 of the Act and §§ 405.330 through 405.336 of this chapter.

(d) *Corrective action.* (1) If the review is not completed timely, whether or not the PRO determines that the home IV drug therapy is appropriate and the physician or health care facility (or both) are the cause of the problem (including failure to make the request on a timely basis), the PRO must take whatever corrective actions are necessary to ensure that future cases are reported to the PRO for review within the outlined timeframes.

(2) If the information given over the telephone is found to be inaccurate or misleading, the PRO may take appropriate corrective actions.

§ 466.224 Reconsiderations and appeals.

Reconsiderations and appeals are available under part 473 of this chapter for all PRO initial denial determinations.

PART 473—RECONSIDERATIONS AND APPEALS.

D. 42 CFR Part 473 is amended as set forth below:

1. The authority citation is revised to read as follows:

Authority: Secs. 1102, 1154, 1155, 1835, 1866, 1871, and 1879 of the Social Security Act (42 U.S.C. 1302, 1320c–3, 1320c–4, 1395r, 1395cc, 1395hh, and 1395pp).

2. Paragraph (c) of § 473.18 is revised to read as follows:

§ 473.18 Location for submitting requests for reconsideration.

* * * * *

(c) *Expedited reconsideration.* A request for an expedited reconsideration must be submitted directly to the PRO if the denial is a result of—

(1) Preadmission/preprocedure review; or

(2) Review of home intravenous drug therapy services before the initiation of or during the period in which the beneficiary is still receiving the services.

3. Paragraphs (a)(1) and (a)(3) of § 473.32 are revised to read as follows:

§ 473.32 Time limits for issuance of the reconsidered determination.

(a) *Beneficiaries.* If a beneficiary files a timely request for reconsideration of an initial denial determination, the PRO must complete its reconsidered determination and send written notice to the beneficiary within the following time limits—

(1) Within three working days after the PRO receives the request for reconsideration if—

(i) The beneficiary is still an inpatient in a hospital for the stay in question when the PRO receives the request for reconsideration; or

(ii) The initial determination relates to institutional services for which admission to the institution is sought, the initial determination was made before the patient was admitted to the institution; and a request was submitted timely for an expedited reconsideration; or

(iii) The initial determination relates to home intravenous drug therapy services for which approval was denied and a request was submitted timely for an expedited reconsideration.

(3) Within 30 working days after the PRO receives the request for reconsideration if—

(i) The initial determination concerns ambulatory or noninstitutional services;

(ii) The beneficiary is no longer an inpatient in a hospital or SNF for the stay in question or no longer receives home intravenous drug therapy services for which the PRO issued a denial determination; or

(iii) The beneficiary does not submit a request for expedited reconsideration timely.

(Catalog of Federal Domestic Assistance Programs No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: July 12, 1989.

Louis B. Hays,

Acting Administrator, Health Care Financing Administration.

Approved: August 19, 1989.

Louis W. Sullivan, M.D.,

Secretary.

[FR Doc. 89–21239 Filed 9–7–89; 8:45 am]

BILLING CODE 4120–03–M

federal register

Friday
September 8, 1989

Part VI

The President

Proclamation 6016—Uncle Sam Day, 1989

Federal Register
Vol. 54, No. 173
Friday, September 8, 1989

Presidential Documents

Title 3—

The President

Proclamation 6016 of September 5, 1989

Uncle Sam Day, 1989

By the President of the United States of America

A Proclamation

The tall, white-haired figure of Uncle Sam—his stern, sagacious face graced by a flowing beard, and his distinguished top hat adorned by stars and stripes—is a beloved symbol of the United States. Recognized around the world, the striking visage of Uncle Sam recalls the pride and strength of the American people, as well as the freedom we enjoy.

One of the most familiar renditions of Uncle Sam is found on the James Montgomery Flagg recruitment poster used during World War I and World War II. With its now-famous headline, "Uncle Sam Wants You," this poster urged men and women to help defend our way of life by enlisting in the Armed Forces. Today, the figure of Uncle Sam continues to remind us of the great risks and personal sacrifices endured by generations of Americans in the quest for liberty.

In 1961, the Congress recognized Samuel Wilson of Troy, New York, as the progenitor of this celebrated American symbol. Hardworking and self-reliant, Samuel Wilson was a man of unwavering integrity. He was also an important source of food for the Army during the War of 1812. The marking "U.S." stamped on casks of meat that his packinghouse prepared for American troops represented "Uncle Sam" to many soldiers and eventually the name was associated with the U.S. Government itself.

During Samuel Wilson's lifetime, which spanned the exciting years of 1766 to 1854, Americans won our country's independence; formed a system of self-government under our great Constitution; explored and settled the frontier; and raised the hopes of freedom-loving peoples around the world. Because the character derived from his nickname embodies the proud and industrious spirit of the American people, it is fitting that we pause to remember "Uncle Sam" Wilson and his place in our Nation's history.

To honor Samuel Wilson on the anniversary of his birth and the occasion of the bicentennial of the City of Troy, New York, the Congress, by Public Law 100–645, has designated September 13, 1989, as "Uncle Sam Day" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, do hereby proclaim September 13, 1989, as Uncle Sam Day and call upon the people of the United States to observe this day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of September, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and fourteenth.

George Bush

[FR Doc. 89-21365
Filed 9-7-89; 9:22 am]
Billing code 3195-01-M

federal register

Friday
September 8, 1989

Part VII

Department of Transportation

National Highway Traffic Safety Administration

49 CFR Part 531

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. LVM 86-02; Notice 1]

Passenger Automobile Average Fuel Economy Standards; Proposed Decision To Grant Exemption

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

ACTION: Proposed decision to grant exemption from average fuel economy standards and to establish an alternative standard.

SUMMARY: This proposal is being issued in response to a petition filed by Rolls-Royce Motors, Ltd. (Rolls-Royce) requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model year (MY) 1990 and 1991 passenger automobiles, and that a lower alternative standard be established for it. This notice proposes that the requested exemption be granted and that alternative standards of 12.7 mpg for MY 1990 and 12.7 mpg for MY 1991 be established for Rolls-Royce.

DATE: Comments on this proposal must be received on or before September 28, 1989.

ADDRESS: Comments on this proposal must refer to Docket No. LVM 86-02; Notice 1 and should be submitted to: Docket Section, NHTSA, Room 5109, 400 Seventh Street SW., Washington, DC 20590. Docket hours are from 8:00 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street SW., Washington, DC 20590. Mr. Kee's telephone number is (202) 366-0846.

SUPPLEMENTARY INFORMATION:

Background

Section 502(c) of the Motor Vehicle Information and Cost Savings Act, as amended (the Act), provides that a low volume manufacturer of passenger automobiles may be exempted from the generally applicable average fuel economy standards for passenger automobiles if those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if the NHTSA establishes an alternative standard for the manufacturer at its maximum feasible level. Under the Act, a low volume manufacturer is one that manufactures (worldwide) fewer than 10,000 passenger automobiles in the model year for which the exemption is sought (the affected model year) and that manufactured fewer than 10,000 passenger automobiles in the second model year before the affected model year. In determining maximum feasible average fuel economy, the agency is required by section 502(e) of the Act to consider:

(1) Technological feasibility;

(2) Economic practicability;

(3) The effect of other Federal motor vehicle standards on fuel economy; and

(4) The need of the Nation to conserve energy.

Selection of the Type of Alternative Standard

The Act permits NHTSA to establish alternative average fuel economy standards applicable to exempted low volume manufacturers in one of three ways: (1) a separate standard may be established for each exempted manufacturer; (2) classes, based on design, size, price, or other factors, may be established for the automobiles of exempted manufacturers, with a separate average fuel economy standard applicable to each class; or (3) a single standard may be established for all exempted manufacturers.

On October 27, 1987, Rolls-Royce petitioned NHTSA for an exemption from the generally applicable fuel economy standards for MYs 1990–1991. A previous petition dated September 19, 1984, submitted for MYs 1987–1989 and requesting 11.2 mpg, was granted. In the current petition, Rolls-Royce states that its maximum feasible fuel economy for MY 1990–1991 fleets has increased to 12.7 mpg for each year. For MYs 1990 and 1991, NHTSA believes it is appropriate to establish a separate standard for Rolls-Royce. The analysis of the petitions submitted by other low volume manufacturers for MYs 1990 and 1991 have not yet been completed, so the agency cannot use the second or third approaches described above.

Background Information on Rolls-Royce

Rolls-Royce is a small company that concentrates wholly on the production of high quality prestige cars. Its annual production rate is 2,000–3,000 automobiles, 1,200–1,500 of which are sold in the U.S. market. The corporate philosophy is that concentrating on this limited range and volume is the only way to maintain its reputation for producing a car that it says is widely perceived as the best in the world.

Rolls-Royce states that it is making every effort to achieve the lowest possible fuel consumption consistent with meeting emission, safety, and other standards while maintaining customer expectations of its product. In the 10-year period from 1978, when Federal fuel economy standards were introduced, Rolls-Royce has achieved a fuel economy improvement of approximately 14% by optimizing and tuning its powertrain while leaving basic features of the vehicles unchanged. In view of its position of producing only luxury vehicles, and its long model runs (as much as fifteen years between major changes), the company states that significant fuel economy improvements cannot be made in the short term. Rolls-Royce further states that it has had difficulty increasing the fuel economy of vehicles specifically targeted for the U.S. market due to stringent emission standards.

In the longer term, technical innovation and weight saving should result in worthwhile improvements. A change in the basic concept of its cars to reduce size or downgrade the specifications would not be acceptable to its customers. The company has, on the other hand, been conscious of the need for weight saving for many years, and, since the introduction of the Silver Shadow, has made many parts of aluminum. These include the engine block and cylinder heads, transmission and axle castings, doors, hood and deck lid.

Areas specifically addressed by the Rolls-Royce petition to improve its fuel economy include mix shift, weight reduction, engine improvements, and drive train and transmission improvements.

Methodology Used to Project Maximum Feasible Average Fuel Economy Level for Rolls-Royce

Baseline Fuel Economy

To project the level of fuel economy which could be achieved by Rolls-Royce in MYs 1990 and 1991, the agency considered whether there were technical or other improvements that would be feasible for these Rolls-Royce vehicles, whether or not the company actually plans to incorporate such improvements in those vehicles. The agency reviewed the technological feasibility of any changes and their economic practicability.

NHTSA interprets "technological feasibility" as meaning that technology which would be available to Rolls-Royce for use on its 1990 and 1991 model year automobiles, and which would improve the fuel economy of those automobiles. The areas examined for technologically feasible improvements were weight reduction, aerodynamic improvements, engine improvements,

drive line improvements, and reduced rolling resistance.

"Economic practicability" is interpreted as meaning the financial capability of the manufacturer to improve its average fuel economy by incorporating technologically feasible changes to its 1990 and 1991 model year automobiles and the effects of any shift in the mix of vehicles sold that may result from changes in market demand.

Throughout this analysis, NHTSA has considered only those improvements which would be compatible with the basic design concepts of Rolls-Royce automobiles. NHTSA assumes that Rolls-Royce will continue to produce a five-passenger luxury car. Hence, design changes that would make the cars unsuitable for five adult passengers and luggage or would remove items traditionally offered on luxury cars, such as air conditioning, automatic transmission, power steering, and power windows, were not examined. Such changes to the basic design could be economically impracticable since they might well significantly reduce the demand for these automobiles, thereby reducing sales and causing significant economic injury to the low volume manufacturer.

Mix Shift

Rolls-Royce has little opportunity for improving fuel economy by changing the model mix since it makes only one basic model in various configurations, all with similarly low fuel economy. Both corporate financial limitations and the unique market sector served by Rolls-Royce preclude significant changes to the basic concept of a Rolls-Royce car. For MYs 1990 and 1991, Rolls-Royce cars will fall into four car lines, under the Rolls-Royce and Bentley name plates. All cars except the Silver Spur Limousine model are in the 5,500-pound inertia weight class. The Silver Spur Limousine is in the 6000-pound inertia weight class and has slightly lower fuel economy than the other car lines. The differences in fuel economy values among the different models are small and the model mix is essentially fixed by the market demand. Variations in sales percentages among the models have negligible effect on CAFE.

Weight Reduction

As stated previously, Rolls-Royce has used aluminum for many of its components for some time. An in-house program has been conducted by the company to evaluate the effect of further weight reduction by removing items from the vehicle with no changes to engine or transmission. Dynamometer tests indicated that emissions as well as fuel economy improvements would result from reduced weight, but the tests were conducted simply by removing components from the vehicle. An 11% reduction in weight resulted in a 4% improvement in fuel economy. To achieve an equal or greater weight reduction through design changes would require complete redesign and retooling, which is not practicable. In its petition for MYs 1987–89, the company stated that it was investigating the practicalities of producing a lighter more fuel-efficient model. It has since abandoned this project in view of the current trend toward larger luxury cars with higher performance. In a 1988 telephone conversation with NHTSA personnel, a company spokesman stated that market analysis and dealer-supplied information lead to the conclusion that Rolls-Royce could not maintain its image by producing a smaller, lighter and more economical version under current market demands and pressures.

Engine Improvements

The current petition from Rolls-Royce restates past efforts to improve fuel economy in addressing engine improvements. Past developmental activities include test and evaluation of various technologies applied to the Rolls-Royce engine. These included the Texaco Controlled Combustion system, the Honda Compound Vortex Controlled Combustion system, diesel engines, cylinder disablement, increased engine displacement, the May "Fireball" Combustion Chamber, and overall engine downsizing in conjunction with all new features including bodyshell, transmission, and suspension. Each of these approaches was discarded in turn as failing to provide a feasible option for simultaneously meeting fuel economy and emissions requirements, and the expectations of the company's customers.

The one technique which does show a high likelihood of improvement is the programmed electronic ignition advance system. This has shown a possible 10% improvement in fuel economy due to the ability to accurately shape the ignition cycle. This system will be introduced on some models for MY 1989, and all models in MY 1990, and accounts for most of the projected CAFE improvement for MYs 1990–1991. A slight contribution is also realized from reduced axle ratios which can be used in conjunction with electronic engine controls without exceeding emissions standards.

Transmission and Drive Train Improvements

Rolls-Royce uses the General Motors THM 400 three-speed automatic transmission with torque converter and hypoid rear axle on all models. In the past, the company has considered a four-speed version of this transmission but found it unsuitable for the torque and power characteristics of the engine. Rolls-Royce is now exploring the development of a new four-speed version of a GM 400 series transmission. Rolls-Royce is currently entering the test and evaluation stage with this improvement, which will not be fully deployed until after MY 1991. The rear axle ratio has also been reduced as stated above.

Effect of Other Motor Vehicle Standards

The Rolls-Royce petition cites exhaust emission standards as having the greatest effect on fuel economy, and for this reason the company considers the fuel economy program to be an integral part of its emission control program. It states that, historically, emission standards have placed a severe strain on its limited technical resources; and only with the introduction of new emission control techniques such as oxidation and three-way catalysts has the trend to higher fuel consumption been reversed.

Of the Federal safety regulations it believes have an adverse effect on fuel economy, Rolls Royce considers the most significant ones to be 49 CFR part 581 (energy absorbing bumpers), Federal Motor vehicle safety standard (FMVSS) 214 (side intrusion beams in doors), and FMVSS 208 (passive restraints). The effect of these is to increase vehicle weight notwithstanding other efforts to reduce weight, including application of other materials.

The Need of the Nation to Conserve Energy. The agency recognizes there is a need to conserve energy, to promote energy security, and to improve balance of payments. However, as stated above, NHTSA has tentatively determined that it is not technologically feasible or economically practicable for Rolls-Royce to achieve an average fuel economy in the 1990 and 1991 model years above 12.7 mpg. Granting an exemption to Rolls-Royce and setting an alternative standard at that level will result in only a negligible increase in fuel consumption and will not affect the need of the Naton to conserve energy.

For illustrative purposes only, an estimate of the additional fuel consumed by operating the 1990–1991 fleets of Rolls-Royce vehicles at the company's

projected CAFE of 12.7 mpg (compared to a hypothetical 27.5 mpg fleet) over 100,000 miles is 288,900 bbls. of fuel. This averages about 66 bbls. of fuel per day over the 12 year period that these cars will be an active part of the fleet. This is insignificant compared to the daily fuel used by the entire motor vehicle fleet which amounted to some 4.6 million bbls. per day for passenger cars in the U.S. in 1987.

Proposed Alternative Standard

This agency has tentatively concluded that it would not be technologically feasible and economically practicable for Rolls-Royce to improve the fuel economy of its model year 1990 and 1991 automobiles above an average of 12.7 mpg, that compliance with other Federal automobile standards will not adversely affect achievable fuel economy, and that the national effort to conserve energy will not be affected by granting the requested exemption and establishing an alternative standard. Consequently, this notice proposes to conclude that the maximum feasible average fuel economy for Rolls-Royce in the 1990 and 1991 model years is 12.7. Therefore, the agency proposes to exempt Rolls-Royce from the generally applicable standard of 27.5 mpg and to establish an alternative standard for Rolls-Royce of 12.7 mpg for model years 1990 and 1991.

List of Subjects in 49 CFR Part 531

Energy conservation, gasoline, imports, motor vehicles.

In consideration of the foregoing, it is proposed that 49 CFR Part 531 be amended as follows:

PART 531—[AMENDED]

1. The authority citation for Part 531 would continue to read as follows:

Authority: 15 U.S.C. 2002, delegation of authority at 49 CFR 1.50.

2. In § 531.15, the introductory text of pargraph (b) is republished and paragraph (b)(2) is revised to read as follows:

§ 531.5 Fuel economy standards.

* * * * *

(b) The following manufacturers shall comply with the standards indicated below for the specified model years:

* * * * *

(2)(b) Rolls-Royce Motors. Inc.

Model year	Average fuel economy standard (miles per gallon)
1978	10.7
1979	10.8
1980	11.1
1981	10.7
1982	10.6
1983	9.9
1984	10.0
1985	10.0
1986	11.0
1987	11.2
1988	11.2
1989	11.2
1990	12.7
1991	12.7

* * * * *

NHTSA has analyzed this proposal and determined that neither Executive Order 12291 nor the Department of Transportation regulatory policies and procedures apply, because the proposal would not establish a "rule," which term is defined as "an agency statement of general applicability and future effect." The proposed exemption is not generally applicable, since it would apply only to Rolls-Royce Motors, Inc., as discussed in this notice. If the Executive Order and the Departmental policies and procedures were applicable, the agency would have determined that this proposed action is neither major nor significant. The principal impact of this proposal is that the exempted company would not have been required to pay civil penalties if its maximum feasible average fuel economy were achieved, and purchasers of those vehicles would not have had to bear the burden of those civil penalties in the form of higher prices. Since this proposal sets an alternative standard at the level determined to be Rolls-Royce's maximum feasible level for model years 1990 and 1991, no fuel would be saved by establishing a higher alternative standard. The impacts for the public at large will be minimal.

The agency has also considered the environmental implications of this proposal in accordance with the National Environmental Policy Act and determined that this proposal, if adopted, will not significantly affect the human environment. Regardless of the fuel economy of the exempted vehicles, they must pass the emissions standards which measure the amount of emissions per mile traveled. Thus, the quality of the air is not affected by the proposed exemptions and alternative standards. Further, since the exempted passenger automobiles cannot achieve better fuel economy than is proposed herein, granting these proposed exemptions would not affect the amount of fuel available.

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 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 before the close of business on the comment closing data 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. Comments on the proposal will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and 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 rules 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.

(Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); Sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on September 5, 1989.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 89-21309 Filed 9-8-89; 10:40 am]

BILLING CODE 4910-59-M