DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 531

[Docket No. 95-45; Notice 1]

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

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT. **ACTION:** Proposed decision.

SUMMARY: This proposed decision responds to a petition filed by MedNet Incorporated requesting that it be exempted from the generally applicable average fuel economy standard of 27.5 miles per gallon (mpg) for model years 1996 through 1998, and that lower alternative standards be established. In this document, NHTSA proposes that the requested exemption be granted and that an alternative standard of 17.0 mpg be established for MY 1996, MY 1997, and MY 1998, for MedNet.

DATES: Comments on this proposed decision must be received on or before August 3, 1995.

ADDRESSES: Comments on this proposal must refer to the docket number and notice number in the heading of this notice and be submitted, preferably in ten copies, to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, DC 20590. Docket hours are 9:30 a.m. to 4 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Spinner, Office of Market Incentives, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Ms. Spinner's telephone number is: (202) 366–4802.

SUPPLEMENTARY INFORMATION:

Statutory Background

Pursuant to 49 U.S.C. section 32902(d), NHTSA may exempt a low volume manufacturer of passenger automobiles from the generally applicable average fuel economy standards if NHTSA concludes that those standards are more stringent than the maximum feasible average fuel economy for that manufacturer and if NHTSA establishes an alternative standard for that manufacturer at its maximum feasible level. Under the statute, a low volume manufacturer is one that manufactured (worldwide) fewer than 10,000 passenger automobiles in the second model year before the model year for which the

exemption is sought (the affected model year) and that will manufacture fewer than 10,000 passenger automobiles in the affected model year. In determining the maximum feasible average fuel economy, the agency is required under 49 U.S.C. 32902(f) 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. The statute at 49 U.S.C. 32902(d)(2)

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

Background Information on MedNet

MedNet Incorporated (MedNet) is a small company that will produce the Dutcher Paratransit Vehicle (PTV) Dutcher Motors, Inc. (Dutcher), the previous manufacturer of these vehicles, was chartered in 1984 to manufacture a limited quantity of special purpose vehicles-Dutcher PTV. Since its establishment, Dutcher produced only two vehicles. MedNet recently acquired Dutcher's assets. Dutcher's willingness to sell to MedNet was based on its own inability to produce the Dutcher PTV vehicles. MedNet now intends to produce the Dutcher PTV. The Dutcher PTV is a large passenger car intended to be used in providing transportation for mobility-impaired individuals. MedNet intends to begin production of the Dutcher PTV in the summer of 1995 and anticipates manufacturing 100, 250, and 500 vehicles, respectively for MYs 1996, 1997, and 1998.

MedNet's Petition

On June 27, 1994, MedNet petitioned NHTSA for exemption from CAFE standards for model years (MYs) 1996, 1997, and 1998. MedNet's petition was filed less than 24 months prior to the beginning of model year 1996 as required by 49 CFR Part 525.6. The petition can be accepted late if "good cause for late submission is shown" as stated in 49 CFR 525.6. The reason for MedNet's late submission for MY 1996 is its recent acquisition of Dutcher Motors, Inc. (Dutcher) assets. Dutcher's willingness to sell to MedNet was based on its own inability to produce the Dutcher PTV vehicles. Thereafter, MedNet relocated Dutcher's equipment

and parts from San Marcos, California to Battle Creek, Michigan. Because of new ownership and lack of knowledge of the required procedures of 49 CFR 525, MedNet believed that it was exempted from the standards based on Dutcher's prior exemption (56 FR 37478). Dutcher has filed several petitions requesting exemptions from the generally applicable CAFE standards for MYs 1986-1988 and MYs 1992-1995. Dutcher's most recent petition was submitted on December 5, 1990, requesting alternative standards for MYs 1992–1995. The agency granted the petition and established an alternate standard of 17.0 miles per gallon (mpg) for MYs 1992-1995.

Under the circumstances outlined above, NHTSA determines good cause is shown by MedNet for the submission of its untimely petition.

Classification of Dutcher PTV as a Passenger Automobile

Due to differences in the definitions used by this agency under the Cost Savings Act for CAFE purposes and the Environmental Protection Agency under the Clean Air Act for emissions control purposes, the Dutcher PTV is classified differently by these two agencies. The Environmental Protection Agency (EPA) classified the predecessor to the Dutcher PTV, the Transitaxi, as a "light duty truck" for emissions compliance due to that model's derivation from existing truck components. (40 CFR 86.02-2). However, NHTSA concluded that the Transitaxi was a "passenger automobile" for fuel economy purposes. Both the Transitaxi and the Dutcher PTV are passenger automobiles under the definition in 49 CFR 523.4 since each transports not more than 10 individuals and does not meet any configurational or usage criteria for light trucks given in 49 CFR 523.5. MedNet plans to produce the Dutcher PTV without substantial change from the design used by Dutcher for the Transitaxi. NHTSA therefore concludes that the Dutcher PTV to be produced in MY's 1996-1998 is a "passenger automobile" for fuel economy purposes.

Methodology Used To Project Maximum Feasible Average Fuel Economy Level for MedNet

Baseline Fuel Economy

To project the level of fuel economy which could be achieved by MedNet in MYs 1996–1998, the agency considered whether there were technical or other improvements that would be feasible for these vehicles, and whether or not the company currently plans to incorporate such improvements in the vehicles. The