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International Footnotes

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I. New "S" Numbering Scheme

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S5.293 Different category of service: in Canada, Chile, Colombia, Cuba, the United States, Guyana, Honduras, Jamaica, Mexico, Panama and Peru, the allocation of the bands 470-512 MHz and 614-806 MHz to the fixed and mobile services is on a primary basis (see No. S5.33), subject to agreement obtained under No. S9.21. In Argentina and Ecuador, the allocation of the band 470-512 MHz to the fixed and mobile services is on a primary basis (see No. S5.33), subject to agreement obtained under No. S9.21.

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S5.296 Additional allocation: in Germany, Austria, Belgium, Cyprus, Denmark, Spain, Finland, France, Ireland, Israel, Italy, Libya, Lithuania, Malta, Morocco, Monaco, Norway, the Netherlands, Portugal, Syria, the United Kingdom, Sweden, Switzerland, Swaziland and Tunisia, the band 470-790 MHz is also allocated on a secondary basis to the land mobile service, intended for applications ancillary to broadcasting. Stations of the land mobile service in the countries listed in this footnote shall not cause harmful interference to existing or planned stations operating in accordance with the Table in countries other than those listed in this footnote.

S5.297 Additional allocation: in Costa Rica, Cuba, El Salvador, the United States, Guatemala, Guyana, Honduras, Jamaica and Mexico, the band 512-608 MHz is also allocated to the fixed and mobile services on a primary basis, subject to agreement obtained under No. S9.21.

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Non-Federal Government (NG) Footnotes

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NG149 The frequency bands 54-72 MHz, 76-88 MHz, 174-216 MHz, 470-512 MHz, 512-608 MHz, and 614-698 MHz are also allocated to the fixed service to permit subscription television operations in accordance with Part 73 of the rules.

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NG159 Full power analog television stations licensed and new digital television (DTV) broadcasting operations in the band 698-806 MHz shall be entitled to protection from harmful interference until the end of the DTV transition period. Low power television and television translators in the band 746-806 MHz must cease operations in the band at the end of the DTV transition period. Low power television and television translators in the band 698-746 MHz are secondary to all other operations in the band 698-746 MHz.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 537

[Docket No. NHTSA-98-3965, Notice 01]

RIN 2127-AG00

Automotive Fuel Economy; Semi-Annual Reports

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Termination of proposed rulemaking.

SUMMARY: This document terminates a rulemaking proceeding to amend the required form and content of the semi-annual reports that automobile manufacturers are required to submit under the Federal automotive fuel economy program. The purpose of the proposal was to simplify the existing reporting requirements and thereby reduce the paperwork burdens imposed on manufacturers, without inhibiting the agency's ability to comply with its statutory requirements. The agency undertook this action as part of an effort to make its regulations easier to understand and apply. However, the agency has determined that the changes it proposed would increase, rather than reduce, the regulatory burdens of the manufacturers (e.g., computer reprogramming costs) and the administrative tasks of NHTSA, and the Environmental Protection Agency (EPA). Accordingly, we are terminating the rulemaking proceeding.

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Ms. Henrietta L. Spinner, Office of Planning and Consumer Programs, Safety Performance Standards, NPS-32, NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-4802.

For legal issues: Otto Matheke, Office of the Chief Counsel, NCC-20, telephone (202) 366-5253, facsimile (202) 366-3820.

SUPPLEMENTARY INFORMATION: NHTSA undertook a review of its regulations and directives and identified rules that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, usefulness, and appropriateness. NHTSA identified the Semi-Annual Reports for Automotive Fuel Economy as a candidate for review and, as noted below, issued a proposal to amend the semi-annual report requirements.

Background

Section 32907 of title 49, United States Code (49 U.S.C. 32907) requires automobile manufacturers to submit semi-annual reports to NHTSA. These reports indicate whether the manufacturer will comply with applicable fuel economy standards for a model year, state the actions that the manufacturer has taken or intends to take to comply with the standard, and provide other information required by regulation (49 U.S.C. 32907(a)(1)). Section 32907(a)(2) specifies that two reports must be filed for each model year (49 U.S.C. 32907(a)(2)). One report is due before the beginning of each model year, and the second is due within 30 days of the 180th day of the model year. In the event that a manufacturer determines, after having previously reported that it would comply with the applicable standard for that model year, that the actions it has taken in an effort to comply with an applicable fuel economy standard are not sufficient to ensure compliance with that standard, the manufacturer is required by section 32907(a)(3) (49 U.S.C. 32907(a)(3)) to report additional actions that the manufacturer intends to take to comply and whether those actions will be sufficient to ensure compliance. However, if a manufacturer is subject to an alternative fuel economy standard under Section 32902(d)(2) (49 U.S.C. 32902(d)(2)), it is not required to submit any of the foregoing reports.

NHTSA published a final rule in the Federal Register on December 12, 1977 (42 FR 62374), implementing the provisions of Section 32907 and adding several requirements to those expressly contemplated by that section's provisions. In the final rule, the agency observed that since manufacturers have different annual production periods, there was no single model year designation applicable to all companies. Accordingly, NHTSA determined to use the calendar year to specify the timing of the section 32907 reports, making the pre-model year report for a model year due in December (49 CFR 537.5(b)(1)) (e.g., the pre-model year report for the 2001 model year was due in December 2000) and the mid-model year report for that model year due in July (49 CFR 537.5(b)(2)) (e.g., the mid-model year report for the 2001 model year is due in July 2001). For the major domestic manufacturers, this means that the pre-model year report is submitted during the early part of their production period and the mid-model year report is due near the end of that period. The final rule also established requirements for the content of the reports (49 CFR 537.6,

537.7), as well as for the supplemental reports that are required when a manufacturer determines that it cannot meet applicable fuel economy standards (49 CFR 537.8).

The Notice of Proposed Rulemaking

In a notice of proposed rulemaking (NPRM) issued on May 13, 1996 (61 FR 22010), the agency proposed revisions to simplify the reporting requirements contained in Part 537. The agency proposal sought to reverse the order in which the most detailed information must be submitted by manufacturers. Instead of submitting the detailed data in the pre-model year report, the NPRM proposed that these data be presented in the mid-model year report. This change was intended to lead to the submission of more complete and correct data because the data would be gathered later in the typical production period for each model. The proposal sought to reduce the amount of detailed data required in the mid-model year report by requesting data at the model level instead of requiring data about different configurations within model lines. The proposal also sought to modify the format for the reports so that data would be submitted in a form more closely matching the format used by the agency in analyzing manufacturer fleets in the annual Automotive Fuel Economy Report to Congress and other special reports and studies. The proposal also sought to eliminate some categories of information (SAE horsepower, Engine Code, Emission Control System, Existence of Overdrive, and data relating to classification as a passenger car or light truck), modified other categories (Number of Carburetor Barrels, and Projected Sales), and added new categories (Number of Engine Cylinders and Road Load power at 50 miles per hour). Further, for both the pre and mid-model year reports, the proposal indicated that model type information be provided in order of increasing equivalent test weight, replacing the prior specification that these data be provided in order of increasing average inertia weight.

The NPRM also proposed to delete § 537.8 in its entirety. This section contains the requirements for supplementary reports. The proposal explained that in the event that a supplementary report is filed or requested in the future, revisions in § 537.7(b)(4) would incorporate the supplemental report into the mid-model year reports.

Comments Received in Response to the NPRM

The agency received comments on the proposed revisions from two trade associations and three manufacturers. The American Automobile Manufacturers Association and the Association of International Automobile Manufacturers (AAMA/AIAM) submitted joint comments and Chrysler Corporation (Chrysler), Ford Motor Company (Ford), and General Motors Corporation (GM) also submitted comments. Manufacturers were generally supportive of the intent of the proposed revisions, but expressed concerns that some changes might impose significant financial burdens by requiring computer reprogramming and the expenditure of resources for the collection and preparation of information that is not used by the industry or other federal government agencies. All of the commenters objected to the proposal's specification of "equivalent test weight" as a replacement for "average inertia weight" in § 537.7(c). The commenters argued that "equivalent test weight" is a term that is used to describe vehicles at the model level as opposed to the configuration level. As § 537.7(c) currently specifies "average inertia weight," which applies at the configuration level, the commenters indicated that use of "equivalent test weight" would require submission of more complex reports.

In addition to these general concerns, both AAMA/AIAM and each of the manufacturers had individual concerns regarding discrete elements of the agency's proposal.

AAMA/AIAM argued for several alterations to the proposed modifications of § 537.7(c)(4). In light of the agency's stated goal of simplifying the detailed information proposed to be incorporated into the mid-model year reports by requiring it at the model level, AAMA/AIAM requested that two other specifications—road load power and equivalent test weight—be changed or discarded. The associations also contended that other proposed parameters would be of little value, since "loaded vehicle weight," as well as "total drive ratio" are data that relate to vehicle configurations rather than model types. Instead of using equivalent test weight and loaded vehicle weight, AAMA/AIAM suggested that "inertia weight class" be used instead. The organizations stated that "loaded vehicle weight" and "total drive ratio" are not used by the Environmental Protection Agency (EPA) for calculating model fuel economy and should be

stricken from the proposed requirements. AAMA/AIAM also suggested that the manufacturers' final CAFE reports should be submitted concurrently to the EPA. AAMA/AIAM also stated that this process would allow the EPA time to review the calculations and to properly notify (i.e., within 60 days) both NHTSA and the manufacturers that the calculations are either correct or require modification. AAMA/AIAM recommended reducing the pre-model year report to only a projected fleet average corporate average fuel economy (CAFE) level and a projected production volume. Finally, AAMA/AIAM strongly suggested that the proposal's requirement that specific data be included in the mid-model year report be stricken entirely and that both the pre- and mid-model year reports contain only fleet averages and projected total production volumes.

GM indicated its belief that the proposed changes would not necessarily simplify reporting tasks or lessen manufacturer burdens. The company suggested that the model type report format in the proposal be modified to list each model type with its associated projected volume, combined fuel economy, and average equivalent test weight class. GM also argued for changes in the proposed format for mid-model year reports. The company noted that the proposal's revision of § 537.7(c)(3)—which sought to replace a requirement that information be provided at the configuration level for only those vehicles that had been tested with a requirement that the same information be provided at the model level—would increase the regulatory burden of manufacturers instead of reduce it. In addition, the revisions proposed for § 537.7(c)(4) would, in GM's view, require the expenditure of additional resources to acquire data and change their computer systems to include SAE power, road load horsepower, total drive ratio, and loaded vehicle weight. GM also contended that, in deleting § 537.8, relating to supplementary reports, and inserting a provision for supplementary reports into part 537, which outlines requirements for pre- and mid-model year reports, the proposal created a new requirement, as supplementary reports would have to be incorporated into the mandatory pre- and mid-model year reports. GM also observed that § 537.7(c)(3) of the proposal indicated that mid-model year report data be provided either in tabular form or electronically. The company suggested that it would be prudent to require that

the data be submitted both electronically and on paper.

Chrysler also argued that the proposed changes to data formats and content would require significant computer reprogramming efforts. The company also recommended reducing the pre-model year report to only a projected fleet average corporate average fuel economy (CAFE) level and a projected production volume. Finally, Chrysler indicated that it was unsure why NHTSA departed from English units of HP to SAE net rated power in kilowatts.

Ford recommended deleting some categories of data the proposal would require in the mid-model year report. The company indicated that final production volumes classified by loaded test weight, total drive ratio, and road load power are not known at the time of mid-model report submission. In Ford's view, the proposed requirements would force the company to submit reports that could be both inaccurate and misleading. Ford also noted that § 537.7(c)(5) of the proposed regulatory text specified that certain data be provided for light trucks classified as being capable of off-highway operation under 49 CFR Part 523 and indicated that this reference should specifically refer to § 523.5(b).

Interagency Consultation

Following its review of the comments, NHTSA sought EPA's views of the proposal and the impact that adoption of the proposal would have on that agency's role in the administration of the CAFE program. The EPA said that the agency's proposal would be detrimental in several respects. EPA opposed the relaxation of the semi-annual report requirements. In particular, EPA urged this agency to not change the requirement that data be submitted on the configuration level. As that agency analyzes fuel economy data in detail, it urged NHTSA to retain existing requirements that vehicle configuration, transmission configuration, and axle ratios be reported. In addition, EPA indicated that the continued reporting of SAE horsepower is necessary to allow EPA to continue to calculate and employ a "performance index." EPA also suggested that NHTSA continue to require both pre- and mid-model year reports. Although it acknowledged that pre-model year reports are, by their nature, incomplete and preliminary, these reports do contain valuable information on projected sales, vehicle performance, and vehicle characteristics.

EPA also noted that one of the aspects of the NHTSA proposal that had been favored by commenters—the direct

concurrent submission of fuel economy reports to both agencies—was recently addressed in a rule issued by the EPA. In that rulemaking (64 FR 23976), EPA modified 40 CFR 600.512-01(a) to require reports to be submitted to NHTSA at the same time they are submitted to the EPA.

Analysis

The agency proposal sought to amend Part 537 to simplify the requirements for the submission of fuel economy reports. After review of the comments submitted in response to that proposal and discussions between NHTSA and the EPA, it has become apparent that the agency's proposal would add additional burdens to manufacturers and increase their reporting costs while depriving EPA of some of the information it needs to complete its mission.

Conclusion

For the reasons stated above, NHTSA is terminating this rulemaking action.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: April 4, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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