

for calculated improvements in fuel economy based on dual fuel vehicles beyond the statutory limit.

(d) For model years 2020 and beyond, a manufacturer must calculate the fuel economy of dual fueled vehicles in accordance with 40 CFR 600.510–12(c).

## PART 537—AUTOMOTIVE FUEL ECONOMY REPORTS

Sec.

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AUTHORITY: 49 U.S.C. 32907; delegation of authority at 49 CFR 1.95.

SOURCE: 87 FR 26087, May 2, 2022, unless otherwise noted.

### § 537.1 Scope.

This part establishes requirements for automobile manufacturers to submit reports to the National Highway Traffic Safety Administration regarding their efforts to improve automotive fuel economy.

### § 537.2 Purpose.

The purpose of this part is to obtain information to aid the National Highway Traffic Safety Administration in evaluating automobile manufacturers' plans for complying with average fuel economy standards and in preparing an annual review of the average fuel economy standards.

[89 FR 52953, June 24, 2024]

### § 537.3 Applicability.

This part applies to automobile manufacturers, except for manufacturers subject to an alternate fuel economy standard under 49 U.S.C. 32902(d).

[89 FR 52953, June 24, 2024]

### § 537.4 Definitions.

(a) *Statutory terms.* (1) The terms *average fuel economy standard*, *fuel*, *manufacture*, and *model year* are used as defined in 49 U.S.C. 32901.

(2) The term *manufacturer* is used as defined in 49 U.S.C. 32901 and in accordance with part 529 of this chapter.

(3) The terms *average fuel economy*, *fuel economy*, and *model type* are used as defined in subpart A of 40 CFR part 600.

(4) The terms *automobile*, *automobile capable of off-highway operation*, and *passenger automobile* are used as defined in 49 U.S.C. 32901 and in accordance with the determinations in part 523 of this chapter.

(b) *Other terms.* (1) The term *loaded vehicle weight* is used as defined in subpart A of 40 CFR part 86.

(2) The terms *axle ratio*, *base level*, *body style*, *car line*, *combined fuel economy*, *engine code*, *equivalent test weight*, *gross vehicle weight*, *inertia weight*, *transmission class*, and *vehicle configuration* are used as defined in subpart A of 40 CFR part 600.

(3) The term *light truck* is used as defined in part 523 of this chapter and in accordance with determinations in that part.

(4) The terms *approach angle*, *axle clearance*, *brakeover angle*, *cargo carrying volume*, *departure angle*, *passenger carrying volume*, *running clearance*, and *temporary living quarters* are used as defined in part 523 of this chapter.

(5) The term *incomplete automobile manufacturer* is used as defined in part 529 of this chapter.

(6) As used in this part, unless otherwise required by the context:

(i) *Administrator* means the Administrator of the National Highway Traffic Safety Administration or the Administrator's delegate.

(ii) *Current model year* means:

(A) In the case of a pre-model year report, the full model year immediately following the period during which that report is required by § 537.5(b) to be submitted.

(B) In the case of a mid-model year report, the model year during which that report is required by § 537.5(b) to be submitted.

(iii) *Average* means a production-weighted harmonic average.

(iv) *Total drive ratio* means the ratio of an automobile's engine rotational speed (in revolutions per minute) to the automobile's forward speed (in miles per hour).

[89 FR 52953, June 24, 2024]

**§ 537.5 General requirements for reports.**

(a) For each current model year, each manufacturer shall submit a pre-model year report, a mid-model year report, and, as required by § 537.8, supplementary reports.

(b)(1) The pre-model year report required by this part for each current model year must be submitted during the month of December (*e.g.*, the pre-model year report for the 1983 model year must be submitted during December 1982).

(2) The mid-model year report required by this part for each current model year must be submitted during the month of July (*e.g.*, the mid-model year report for the 1983 model year must be submitted during July 1983).

(3) Each supplementary report must be submitted in accordance with § 537.8(c).

(c) Each report required by this part must:

(1) Identify the report as a pre-model year report, mid-model year report, or supplementary report as appropriate;

(2) Identify the manufacturer submitting the report;

(3) State the full name, title, and address of the official responsible for preparing the report;

(4) Be submitted electronically to *cafe@dot.gov*. For each report, manufacturers should submit a confidential version and a non-confidential (*i.e.*, redacted) version. The confidential report should be accompanied by a request letter that contains supporting information, pursuant to § 512.8 of this chapter. Your request must also include a certificate, pursuant to § 512.4(b) of this chapter and part 512, appendix A, of this chapter. The word "CONFIDENTIAL" must appear on the top of each page containing information claimed to be confidential. If an entire page is claimed to be confidential, the submitter must indicate clearly that the entire page is claimed to be confidential. If the information for

which confidentiality is being requested is contained within a page, the submitter shall enclose each item of information that is claimed to be confidential within brackets: "[]." Confidential portions of electronic files submitted in other than their original format must be marked "Confidential Business Information" or "Entire Page Confidential Business Information" at the top of each page. If only a portion of a page is claimed to be confidential, that portion shall be designated by brackets. Files submitted in their original format that cannot be marked as described above must, to the extent practicable, identify confidential information by alternative markings using existing attributes within the file or means that are accessible through use of the file's associated program. A representative from NHTSA's Office of Chief Counsel, as designated by NHTSA, should be copied on any submissions with confidential business information;

(5) Identify the current model year;

(6) Be written in the English language; and

(7)(i) Specify any part of the information or data in the report that the manufacturer believes should be withheld from public disclosure as trade secret or other confidential business information.

(ii) With respect to each item of information or data requested by the manufacturer to be withheld under 5 U.S.C. 552(b)(4) and 15 U.S.C. 2005(d)(1), the manufacturer shall:

(A) Show that the item is within the scope of sections 552(b)(4) and 2005(d)(1);

(B) Show that disclosure of the item would result in significant competitive damage;

(C) Specify the period during which the item must be withheld to avoid that damage; and

(D) Show that earlier disclosure would result in that damage.

(d) Beginning with model year 2023, each manufacturer shall generate reports required by this part using the NHTSA CAFE Projections Reporting Template (Office of Management and Budget (OMB) Control No. 2127-0019, NHTSA Form 1474). The template is a fillable form.

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(1) Manufacturers must select the option to identify the report as a pre-model year report, mid-model year report, or supplementary report as appropriate.

(2) Manufacturers must complete all required information for the manufacturer and for all vehicles produced for the current model year required to comply with corporate average fuel economy (CAFE) standards. The manufacturer must identify the manufacturer submitting the report, including the full name, title, and address of the official responsible for preparing the report and a point of contact to answer questions concerning the report.

(3) Manufacturers must use the template to generate confidential and non-confidential reports for all the domestic and import passenger cars and light truck fleet produced by the manufacturer for the current model year. Manufacturers must submit a request for confidentiality in accordance with part 512 of this chapter to withhold projected production sales volume estimates from public disclosure. If the request is granted, NHTSA will withhold the projected production sales volume estimates from public disclosure until all the vehicles produced by the manufacturer have been made available for sale (usually one year after the current model year).

(4) Manufacturers must submit confidential reports and requests for confidentiality to NHTSA on CD-ROM in accordance with § 537.12. Email copies of non-confidential (*i.e.*, redacted) reports to NHTSA's secure email address: [cafe@dot.gov](mailto:cafe@dot.gov). Requests for confidentiality must be submitted in a PDF or MS Word format. Submit 2 copies of the CD-ROM to: Administrator, National Highway Traffic Administration, 1200 New Jersey Avenue SE, Washington, DC 20590, and submit emailed reports electronically to the following secure email address: [cafe@dot.gov](mailto:cafe@dot.gov).

(5) Manufacturers can withhold information on projected production sales volumes under 5 U.S.C. 552(b)(4) and 15 U.S.C. 2005(d)(1). In accordance, the manufacturer must:

(i) Show that the item is within the scope of sections 552(b)(4) and 2005(d)(1);

(ii) Show that disclosure of the item would result in significant competitive damage;

(iii) Specify the period during which the item must be withheld to avoid that damage; and

(iv) Show that earlier disclosure would result in that damage.

(e) Each report required by this part must be based upon all information and data available to the manufacturer 30 days before the report is submitted to the Administrator.

### § 537.6 General content of reports.

(a) Pre-model year and mid-model year reports. Except as provided in paragraph (c) of this section, each pre-model year report and the mid-model year report for each model year must contain the information required by § 537.7(a).

(b) Supplementary report. Except as provided in paragraph (c) of this section, each supplementary report for each model year must contain the information required by § 537.7(a)(1) and (2), as appropriate for the vehicle fleets produced by the manufacturer, in accordance with § 537.8(b)(1) through (4) as appropriate.

(c) Exceptions. The pre-model year report, mid-model year report, and supplementary report(s) submitted by an incomplete automobile manufacturer for any model year are not required to contain the information specified in § 537.7(c)(4)(xv) through (xviii) and (c)(5). The information provided by the incomplete automobile manufacturer under § 537.7(c) shall be according to base level instead of model type or carline.

### § 537.7 Pre-model year and mid-model year reports.

(a) *Report submission requirements.* (1) Manufacturers must provide a report with the information required by paragraphs (b) and (c) of this section for each domestic and import passenger automobile fleet, as specified in part 531 of this chapter, for the current model year.

(2) Manufacturers must provide a report with the information required by paragraphs (b) and (c) of this section for each light truck fleet, as specified

in part 533 of this chapter, for the current model year.

(3) For model year 2023 and later, for passenger cars specified in part 531 and light trucks specified in part 533 of this chapter, manufacturers must provide the information for pre-model and mid-model year reports in accordance with the NHTSA CAFE Projections Reporting Template (OMB Control No. 2127-0019, NHTSA Form 1474). The required reporting template can be downloaded from NHTSA's website.

(i) Manufacturers are only required to provide the actual information on vehicles and technologies in production at the time the pre- and mid-model year reports are required. Otherwise, manufacturers must provide reasonable estimates or updated estimates where possible for pre-and mid-model year reports.

(ii) Manufacturers should attempt not to omit data which should only be the done for products pending production and with unknown information at the time CAFE reports are prepared.

(b) *Projected average and required fuel economy.* (1) Manufacturers must state the projected average fuel economy for the manufacturer's automobiles determined in accordance with § 537.9 and based upon the fuel economy values and projected sales figures provided under paragraph (c)(2) of this section.

(2) Manufacturers must state the projected final average fuel economy that the manufacturer anticipates having if changes implemented during the model year will cause that average to be different from the average fuel economy projected under paragraph (b)(1) of this section.

(3) Manufacturers must state the projected required fuel economy for the manufacturer's passenger automobiles and light trucks determined in accordance with §§ 531.5(c) and 533.5 of this chapter and based upon the projected sales figures provided under paragraph (c)(2) of this section. For each unique model type and footprint combination of the manufacturer's automobiles, the manufacturer must provide the information specified in paragraphs (b)(3)(i) and (ii) of this section in tabular form. The manufacturer must list the model types in order of increasing average inertia weight from top to bottom down

the left side of the table and list the information categories in the order specified in paragraphs (b)(3)(i) and (ii) of this section from left to right across the top of the table. Other formats, such as those accepted by the Environmental Protection Agency (EPA), which contain all the information in a readily identifiable format are also acceptable. For model year 2023 and later, for each unique model type and footprint combination of the manufacturer's automobiles, the manufacturer must provide the information specified in paragraphs (b)(3)(i) and (ii) of this section in accordance with the CAFE Projections Reporting Template (OMB Control No. 2127-0019, NHTSA Form 1474).

(i) In the case of passenger automobiles, manufacturers must report the following:

(A) Beginning model year 2013, base tire as defined in § 523.2 of this chapter;

(B) Beginning model year 2013, front axle, rear axle, and average track width as defined in § 523.2 of this chapter;

(C) Beginning model year 2013, wheelbase as defined in § 523.2 of this chapter;

(D) Beginning model year 2013, footprint as defined in § 523.2 of this chapter; and

(E) The fuel economy target value for each unique model type and footprint entry listed in accordance with the equation provided in part 531 of this chapter.

(ii) In the case of light trucks, manufacturers must report the following:

(A) Beginning model year 2013, base tire as defined in § 523.2 of this chapter;

(B) Beginning model year 2013, front axle, rear axle, and average track width as defined in § 523.2 of this chapter;

(C) Beginning model year 2013, wheelbase as defined in § 523.2 of this chapter;

(D) Beginning model year 2013, footprint as defined in § 523.2 of this chapter; and

(E) The fuel economy target value for each unique model type and footprint entry listed in accordance with the equation provided in part 533 of this chapter.

(4) Manufacturers must state the projected final required fuel economy that the manufacturer anticipates having if

changes implemented during the model year will cause the targets to be different from the target fuel economy projected under paragraph (b)(3) of this section.

(5) Manufacturers must state whether the manufacturer believes that the projections it provides under paragraphs (b)(2) and (4) of this section, or if it does not provide an average or target under paragraphs (b)(2) and (4), the projections it provides under paragraphs (b)(1) and (3) of this section, sufficiently represent the manufacturer's average and target fuel economy for the current model year for purposes of the Act. In the case of a manufacturer that believes that the projections are not sufficiently representative for the purpose of determining the projected average fuel economy for the manufacturer's automobiles, the manufacturers must state the specific nature of any reason for the insufficiency and the specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency and any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the EPA under 40 CFR 600.509–12.

(c) *Model type and configuration fuel economy and technical information.* (1) For each model type of the manufacturer's automobiles, the manufacturers must provide the information specified in paragraph (c)(2) of this section in tabular form. List the model types in order of increasing average inertia weight from top to bottom down the left side of the table and list the information categories in the order specified in paragraph (c)(2) of this section from left to right across the top of the table. For model year 2023 and later, CAFE reports required by this part, shall for each model type of the manufacturer's automobiles, provide the information in specified in paragraph (c)(2) of this section in accordance with the NHTSA CAFE Projections Reporting Template (OMB Control No. 2127–0019, NHTSA Form 1474) and list the model types in order of increasing average inertia weight from top to bottom.

(2)(i) Combined fuel economy; and

(ii) Projected sales for the current model year and total sales of all model types.

(3) For pre-model year reports only through model year 2022, for each vehicle configuration whose fuel economy was used to calculate the fuel economy values for a model type under paragraph (c)(2) of this section, manufacturers must provide the information specified in paragraph (c)(4) of this section in accordance with the NHTSA CAFE Projections Reporting Template (OMB Control No. 2127–0019, NHTSA Form 1474).

(4)(i) Loaded vehicle weight;  
 (ii) Equivalent test weight;  
 (iii) Engine displacement, liters;  
 (iv) Society of Automotive Engineers (SAE) net rated power, kilowatts;  
 (v) SAE net horsepower;  
 (vi) Engine code;  
 (vii) Fuel system (number of carburetor barrels or, if fuel injection is used, so indicate);  
 (viii) Emission control system;  
 (ix) Transmission class;  
 (x) Number of forward speeds;  
 (xi) Existence of overdrive (indicate yes or no);  
 (xii) Total drive ratio (N/V);  
 (xiii) Axle ratio;  
 (xiv) Combined fuel economy;  
 (xv) Projected sales for the current model year;  
 (xvi)(A) In the case of passenger automobiles:  
 (1) Interior volume index, determined in accordance with subpart D of 40 CFR part 600; and  
 (2) Body style;  
 (B) In the case of light trucks:  
 (1) Passenger-carrying volume; and  
 (2) Cargo-carrying volume;  
 (xvii) Frontal area;  
 (xviii) Road load power at 50 miles per hour, if determined by the manufacturer for purposes other than compliance with this part to differ from the road load setting prescribed in 40 CFR 86.177–11(d); and  
 (xix) Optional equipment that the manufacturer is required under 40 CFR parts 86 and 600 to have actually installed on the vehicle configuration, or the weight of which must be included in the curb weight computation for the vehicle configuration, for fuel economy testing purposes.

(5) For each model type of automobile which is classified as a non-passenger vehicle (light truck) under part 523 of this chapter, manufacturers must provide the following data:

(i) For an automobile designed to perform at least one of the following functions in accordance with § 523.5(a) of this chapter, indicate (by "yes" or "no" for each function) whether the vehicle can:

(A) Transport more than 10 persons (if yes, provide actual designated seating positions);

(B) Provide temporary living quarters (if yes, provide applicable conveniences as defined in § 523.2 of this chapter);

(C) Transport property on an open bed (if yes, provide bed size width and length);

(D) Provide, as sold to the first retail purchaser, greater cargo-carrying than passenger-carrying volume, such as in a cargo van and quantify the value which should be the difference between the values provided in paragraphs (c)(4)(xvi)(B)(1) and (2) of this section; if a vehicle is sold with a second-row seat, its cargo-carrying volume is determined with that seat installed, regardless of whether the manufacturer has described that seat as optional; or

(E) Permit expanded use of the automobile for cargo-carrying purposes or other non-passenger-carrying purposes through:

(1) For non-passenger automobiles manufactured prior to model year 2012, the removal of seats by means of uninstalling by the automobile's manufacturer or by uninstalling with simple tools, such as screwdrivers and wrenches, so as to create a flat, floor level, surface extending from the forward-most point of installation of those seats to the rear of the automobile's interior; or

(2) For non-passenger automobiles manufactured in model year 2008 and beyond, for vehicles equipped with at least 3 rows of designated seating positions as standard equipment, permit expanded use of the automobile for cargo-carrying purposes or other non-passenger-carrying purposes through the removal or stowing of foldable or pivoting seats so as to create a flat, leveled cargo surface extending from

the forward-most point of installation of those seats to the rear of the automobile's interior.

(ii) For an automobile capable of off-highway operation, identify which of the features in paragraphs (c)(5)(ii)(A) through (C) of this section qualify the vehicle as off-road in accordance with § 523.5(b) of this chapter and quantify the values of each feature:

(A) 4-wheel drive; or

(B) A rating of more than 6,000 pounds gross vehicle weight; and

(C) Has at least four of the following characteristics calculated when the automobile is at curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended pressure. The exact value of each feature should be quantified:

(1) Approach angle of not less than 28 degrees.

(2) Breakover angle of not less than 14 degrees.

(3) Departure angle of not less than 20 degrees.

(4) Running clearance of not less than 20 centimeters.

(5) Front and rear axle clearances of not less than 18 centimeters each.

(6) Manufacturers must determine the fuel economy values provided under paragraphs (c)(2) and (4) of this section in accordance with § 537.9.

(7) Manufacturers must identify any air-conditioning (AC), off-cycle and full-size pick-up truck technologies used each model year to calculate the average fuel economy specified in 40 CFR 600.510-12.

(i) Provide a list of each air conditioning (AC) efficiency improvement technology utilized in your fleet(s) of vehicles for each model year for which the manufacturer qualifies for fuel consumption improvement values under 49 CFR 531.6 or 533.6. For each technology identify vehicles by make and model types that have the technology, which compliance category those vehicles belong to and the number of vehicles for each model equipped with the technology. For each compliance category (domestic passenger car, import passenger car, and light truck), report the AC fuel consumption improvement value in gallons/mile in accordance

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with the equation specified in 40 CFI00.510–12(c)(3)(i).

(ii) Manufacturers must provide a list of off-cycle efficiency improvement technologies utilized in its fleet(s) of vehicles for each model year that is pending or approved by the Environmental Protection Agency (EPA) for which the manufacturer qualifies for fuel consumption improvement values under 49 CFR 531.6 or 533.6. For each technology, manufacturers must identify vehicles by make and model types that have the technology, which compliance category those vehicles belong to, the number of vehicles for each model equipped with the technology, and the associated off-cycle credits (grams/mile) available for each technology. For each compliance category (domestic passenger car, import passenger car, and light truck), manufacturers must calculate the fleet off-cycle fuel consumption improvement value in gallons/mile in accordance with the equation specified in 40 CFR 600.510–12(c)(3)(ii).

(iii) For model years up to 2024, manufacturers must provide a list of full-size pickup trucks in its fleet that meet the mild and strong hybrid vehicle definitions. For each mild and strong hybrid type, manufacturers must identify vehicles by make and model types that have the technology, the number of vehicles produced for each model equipped with the technology, the total number of full-size pickup trucks produced with and without the technology, the calculated percentage of hybrid vehicles relative to the total number of vehicles produced, and the associated full-size pickup truck credits (grams/mile) available for each technology. For the light truck compliance category, manufacturers must calculate the fleet pickup truck fuel consumption improvement value in gallons/mile in accordance with the equation specified in 40 CFR 600.510–12(c)(3)(iii).

[87 FR 26087, May 2, 2022, as amended at 89 FR 52954, June 24, 2024]

### § 537.8 Supplementary reports.

(a)(1) Except as provided in paragraph (d) of this section, each manufacturer whose most recently submitted mid-model year report contained an

average fuel economy projection under § 537.7(b)(2) or, if no average fuel economy was projected under that section, under § 537.7(b)(1), that was not less than the applicable average fuel economy standard in this chapter and who now projects an average fuel economy which is less than the applicable standard in this chapter shall file a supplementary report containing the information specified in paragraph (b)(1) of this section.

(2) Except as provided in paragraph (d) of this section, each manufacturer that determines that its average fuel economy for the current model year as projected under § 537.7(b)(2) or, if no average fuel economy was projected under § 537.7(b)(2), as projected under § 537.7(b)(1), is less representative than the manufacturer previously reported it to be under § 537.7(b)(3), this section, or both, shall file a supplementary report containing the information specified in paragraph (b)(2) of this section.

(3) For model years through 2022, each manufacturer whose mid-model year report omits any of the information specified in § 537.7(b) or (c) shall file a supplementary report containing the information specified in paragraph (b)(3) of this section.

(4) Starting model year 2023, each manufacturer whose mid-model year report omits any of the information shall resubmit the information with other information required in accordance with the NHTSA CAFE Projections Reporting Template (OMB Control No. 2127–0019, NHTSA Form 1474).

(b)(1) The supplementary report required by paragraph (a)(1) of this section must contain:

(i) Such revisions of and additions to the information previously submitted by the manufacturer under this part regarding the automobiles whose projected average fuel economy has decreased as specified in paragraph (a)(1) of this section as are necessary—

(A) To reflect the change and its cause; and

(B) To indicate a new projected average fuel economy based upon these additional measures.

(ii) An explanation of the cause of the decrease in average fuel economy that led to the manufacturer's having

to submit the supplementary report required by paragraph (a)(1) of this section.

(2) The supplementary report required by paragraph (a)(2) of this section must contain:

(i) A statement of the specific nature of and reason for the insufficiency in the representativeness of the projected average fuel economy;

(ii) A statement of specific additional testing or derivation of fuel economy values by analytical methods believed by the manufacturer necessary to eliminate the insufficiency; and

(iii) A description of any plans of the manufacturer to undertake that testing or derivation voluntarily and submit the resulting data to the Environmental Protection Agency under 40 CFR 600.509-12.

(3) The supplementary report required by paragraph (a)(3) of this section must contain:

(i) All of the information omitted from the mid-model year report under § 537.6(c)(2); and

(ii) Such revisions of and additions to the information submitted by the manufacturer in its mid-model year report regarding the automobiles produced during the current model year as are necessary to reflect the information provided under paragraph (b)(3)(i) of this section.

(4) The supplementary report required by paragraph (a)(4) of this section must contain:

(i) All information omitted from the mid-model year reports under § 537.6(c)(2); and

(ii) Such revisions of and additions to the information submitted by the manufacturer in its pre-model or mid-model year reports regarding the automobiles produced during the current model year as are necessary to reflect the information provided under paragraph (b)(4)(i) of this section.

(c)(1) Each report required by paragraph (a)(1), (2), (3), or (4) of this section must be submitted in accordance with § 537.5(c) not more than 45 days after the date on which the manufacturer determined, or could have determined with reasonable diligence, that the report was required.

(2) [Reserved]

(d) A supplementary report is not required to be submitted by the manufacturer under paragraph (a)(1) or (2) of this section:

(1) With respect to information submitted under this part before the most recent mid-model year report submitted by the manufacturer under this part; or

(2) When the date specified in paragraph (c) of this section occurs after the day by which the pre-model year report for the model year immediately following the current model year must be submitted by the manufacturer under this part.

(e) For model years 2008, 2009, and 2010, each manufacturer of light trucks, as that term is defined in § 523.5 of this chapter, shall submit a report, not later than 45 days following the end of the model year, indicating whether the manufacturer is opting to comply with § 533.5(f) or (g) of this chapter.

#### § 537.9 Determination of fuel economy values and average fuel economy.

(a) *Vehicle subconfiguration fuel economy values.* (1) For each vehicle subconfiguration for which a fuel economy value is required under paragraph (c) of this section and has been determined and approved under 40 CFR part 600, the manufacturer shall submit that fuel economy value.

(2) For each vehicle subconfiguration specified in paragraph (a)(1) of this section for which a fuel economy value approved under 40 CFR part 600, does not exist, but for which a fuel economy value determined under 40 CFR part 600 exists, the manufacturer shall submit that fuel economy value.

(3) For each vehicle subconfiguration specified in paragraph (a)(1) of this section for which a fuel economy value has been neither determined nor approved under 40 CFR part 600, the manufacturer shall submit a fuel economy value based on tests or analyses comparable to those prescribed or permitted under 40 CFR part 600 and a description of the test procedures or analytical methods used.

(4) For each vehicle configuration for which a fuel economy value is required under paragraph (c) of this section and has been determined and approved

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under 40 CFR part 600, the manufacturer shall submit that fuel economy value.

(b) *Base level and model type fuel economy values.* For each base level and model type, the manufacturer shall submit a fuel economy value based on the values submitted under paragraph (a) of this section and calculated in the same manner as base level and model type fuel economy values are calculated for use under subpart F of 40 CFR part 600.

(c) *Average fuel economy.* Average fuel economy must be based upon fuel economy values calculated under paragraph (b) of this section for each model type and must be calculated in accordance with subpart F of 40 CFR part 600, except that fuel economy values for running changes and for new base levels are required only for those changes made or base levels added before the average fuel economy is required to be submitted under this part.

### § 537.10 Incorporation by reference by manufacturers.

(a) A manufacturer may incorporate by reference in a report required by this part any document other than a report, petition, or application, or portion thereof submitted to any Federal department or agency more than two model years before the current model year.

(b) A manufacturer that incorporates by references a document not previously submitted to the National Highway Traffic Safety Administration shall append that document to the report.

(c) A manufacturer that incorporates by reference a document shall clearly identify the document and, in the case of a document previously submitted to the National Highway Traffic Safety Administration, indicate the date on which and the person by whom the document was submitted to this agency.

### § 537.11 Public inspection of information.

Except as provided in § 537.12, any person may inspect the information and data submitted by a manufacturer under this part in the docket section of the National Highway Traffic Safety Administration. Any person may ob-

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tain copies of the information available for inspection under this section in accordance with the regulations of the Secretary of Transportation in part 7 of this title.

### § 537.12 Confidential information.

(a) *Treatment of confidential information.* Information made available under § 537.11 for public inspection does not include information for which confidentiality is requested under § 537.5(c)(7), is granted in accordance with section 505 of the Act and 5 U.S.C. 552(b) and is not subsequently released under paragraph (c) of this section in accordance with section 505 of the Act.

(b) *Denial of confidential treatment.* When the Administrator denies a manufacturer's request under § 537.5(c)(7) for confidential treatment of information, the Administrator gives the manufacturer written notice of the denial and reasons for it. Public disclosure of the information is not made until after the ten-day period immediately following the giving of the notice.

(c) *Release of confidential information.* After giving written notice to a manufacturer and allowing ten days, when feasible, for the manufacturer to respond, the Administrator may make available for public inspection any information submitted under this part that is relevant to a proceeding under the Act, including information that was granted confidential treatment by the Administrator pursuant to a request by the manufacturer under § 537.5(c)(7).

## PART 538—MANUFACTURING INCENTIVES FOR ALTERNATIVE FUEL VEHICLES

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- 538.6 Measurement of driving range.
- 538.7 Petitions for reduction of minimum driving range.
- 538.8 Gallon Equivalents for Gaseous Fuels.
- 538.9 Dual fuel vehicle incentive.

AUTHORITY: 49 U.S.C. 32901, 32905, and 32906; delegation of authority at 49 CFR 1.95.