

§ 538.1

§ 538.1 Scope.

This part establishes minimum driving range criteria to aid in identifying passenger automobiles that are dual-fueled automobiles. It also establishes gallon equivalent measurements for gaseous fuels other than natural gas. This part also extends the dual-fuel incentive program.

[69 FR 7703, Feb. 19, 2004]

§ 538.2 Purpose.

The purpose of this part is to specify one of the criteria in 49 U.S.C. chapter 329 “Automobile Fuel Economy” for identifying dual-fueled passenger automobiles that are manufactured in model years 1993 through 2004. The fuel economy of a qualifying vehicle is calculated in a special manner so as to encourage its production as a way of facilitating a manufacturer’s compliance with the Corporate Average Fuel Economy Standards set forth in part 531 of this chapter. The purpose is also to establish gallon equivalent measurements for gaseous fuels other than natural gas. This part also specifies the model years after 2004 in which the fuel economy of dual-fueled automobiles may be calculated under the special incentive provisions found in 49 U.S.C. 32905(b) and (d).

[69 FR 7703, Feb. 19, 2004]

§ 538.3 Applicability.

This part applies to manufacturers of automobiles.

§ 538.4 Definitions.

(a) *Statutory terms.* (1) The terms *alternative fuel*, *alternative fueled automobile*, and *dual fueled automobile*, are used as defined in 49 U.S.C. 32901(a).

(2) The terms *automobile* and *passenger automobile*, are used as defined in 49 U.S.C. 32901(a), and in accordance with the determinations in part 523 of this chapter.

(3) The term *manufacturer* is used as defined in 49 U.S.C. 32901(a)(13), and in accordance with part 529 of this chapter.

(4) The term *model year* is used as defined in 49 U.S.C. 32901(a)(15).

(b)(1) Other terms. The terms *average fuel economy*, *fuel economy*, and *model*

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type are used as defined in subpart A of 40 CFR part 600.

(2) The term *EPA* means the U.S. Environmental Protection Agency.

§ 538.5 Minimum driving range.

(a) The minimum driving range that a passenger automobile must have in order to be treated as a dual fueled automobile pursuant to 49 U.S.C. 32901(c) is 200 miles when operating on its nominal useable fuel tank capacity of the alternative fuel, except when the alternative fuel is electricity.

(b) The minimum driving range that a passenger automobile using electricity as an alternative fuel must have in order to be treated as a dual fueled automobile pursuant to 49 U.S.C. 32901(c) is 7.5 miles on its nominal storage capacity of electricity when operated on the EPA urban test cycle and 10.2 miles on its nominal storage capacity of electricity when operated on the EPA highway test cycle.

[61 FR 14511, Apr. 2, 1996, as amended at 63 FR 66068, Dec. 1, 1998]

§ 538.6 Measurement of driving range.

The driving range of a passenger automobile model type not using electricity as an alternative fuel is determined by multiplying the combined EPA urban/highway fuel economy rating when operating on the alternative fuel, by the nominal usable fuel tank capacity (in gallons), of the fuel tank containing the alternative fuel. The combined EPA urban/highway fuel economy rating is the value determined by the procedures established by the Administrator of the EPA under 49 U.S.C. 32904 and set forth in 40 CFR part 600. The driving range of a passenger automobile model type using electricity as an alternative fuel is determined by operating the vehicle in the electric-only mode of operation through the EPA urban cycle on its nominal storage capacity of electricity and the EPA highway cycle on its nominal storage capacity of electricity. Passenger automobile types using electricity as an alternative fuel that have completed the EPA urban cycle after recharging and the EPA highway cycle after recharging shall be

deemed to have met the minimum range requirement.

[63 FR 66069, Dec. 1, 1998]

§ 538.7 Petitions for reduction of minimum driving range.

(a) A manufacturer of a model type of passenger automobile capable of operating on both electricity and either gasoline or diesel fuel may petition for a reduced minimum driving range for that model type in accordance with paragraphs (b) and (c) of this section.

(b) Each petition shall:

(1) Be addressed to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street SW, Washington, DC 20590.

(2) Be submitted not later than the beginning of the first model year in which the petitioner seeks to have the model type treated as an electric dual fueled automobile.

(3) Be written in the English language.

(4) State the full name, address, and title of the official responsible for preparing the petition, and the name and address of the petitioner.

(5) Set forth in full data, views, and arguments of the petitioner, including the information and data specified in paragraph (c) of this section, and the calculations and analyses used to develop that information and data. No documents may be incorporated by reference in a petition unless the documents are submitted with the petition.

(6) Specify and segregate any part of the information and data submitted under this section that the petitioner wishes to have withheld from public disclosure in accordance with part 512 of this chapter.

(c) Each petitioner shall include the following information in its petition:

(1) Identification of the model type or types for which a lower driving range is sought under this section.

(2) For each model type identified in accordance with paragraph (c)(1) of this section:

(i) The driving range sought for that model type.

(ii) The number of years for which that driving range is sought.

(iii) A description of the model type, including car line designation, engine displacement and type, electric storage

capacity, transmission type, and average fuel economy when operating on:

(A) Electricity; and

(B) Gasoline or diesel fuel.

(iv) An explanation of why the petitioner cannot modify the model type so as to meet the generally applicable minimum range, including the steps taken by the petitioner to improve the minimum range of the vehicle, as well as additional steps that are technologically feasible, but have not been taken. The costs to the petitioner of taking these additional steps shall be included.

(3) A discussion of why granting the petition would be consistent with the following factors:

(i) The purposes of 49 U.S.C. chapter 329, including encouraging the development and widespread use of electricity as a transportation fuel by consumers, and the production of passenger automobiles capable of being operated on both electricity and gasoline/diesel fuel;

(ii) Consumer acceptability;

(iii) Economic practicability;

(iv) Technology;

(v) Environmental impact;

(vi) Safety;

(vii) Driveability; and

(viii) Performance.

(d) If a petition is found not to contain the information required by this section, the petitioner is informed about the areas of insufficiency and advised that the petition will not receive further consideration until the required information is received.

(e) The Administrator may request the petitioner to provide information in addition to that required by this section.

(f) The Administrator publishes in the FEDERAL REGISTER a notice of receipt for each petition containing the information required by this section. Any interested person may submit written comments regarding the petition.

(g) In reaching a determination on a petition submitted under this section, the Administrator takes into account:

(1) The purposes of 49 U.S.C. chapter 329, including encouraging the development and widespread use of alternative