



## **ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Parts 1037, 1039, 1042, and 1068**

## **DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

**49 CFR Part 535**

**[EPA-HQ-OAR-2012-0102; NHTSA-2012-0152; *FRL 9900-11-OAR*]**

**RIN 2060-AR48; 2127-AL31**

### **Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments**

**AGENCIES:** Environmental Protection Agency (EPA) and National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Partial withdrawal of direct final rule; direct final rule.

**SUMMARY:** Because EPA and NHTSA, on behalf of the Department of Transportation, received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, we are withdrawing those elements of the direct final rule and republishing the affected sections without those elements.

**DATES:** Effective [insert date of publication in the Federal Register], EPA withdraws the amendments to 40 CFR 1037.104, 1037.150, 1039.104, 1039.625, 1042.615, and 1068.240 published at 78 FR 36388 on June 17, 2013, and NHTSA withdraws the amendment to 49 CFR 535.5 published at 78 FR 36388 on June 17, 2013. The direct final rule amendments are effective [insert date of publication in the Federal Register].

**FOR FURTHER INFORMATION CONTACT:** Lily Smith, Office of Chief Counsel, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590; telephone: (202) 366-2992. Angela Cullen, Environmental Protection Agency, Office of Transportation and Air Quality, Assessment and Standards Division, 2000 Traverwood Drive, Ann Arbor, Michigan 48105; telephone number: 734-214-4419; email address: cullen.angela@epa.gov.

**SUPPLEMENTARY INFORMATION:**

Because EPA and NHTSA received adverse comment on certain elements of the Heavy-Duty Engine and Vehicle and Nonroad Technical Amendments direct final rule published on June 17, 2013, at 78 FR 36370, we are withdrawing those elements of the direct final rule and republishing the affected sections without those elements. The withdrawal relates to four principal EPA provisions and one principal NHTSA provision. The EPA provisions are: (1) test requirements for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (2) optional chassis certification for heavy-duty greenhouse gas emissions in 40 CFR part 1037, (3) expanded technical hardship for equipment manufacturers installing nonroad diesel engines, and (4) the replacement engine exemption in 40 CFR part 1068, along with the corresponding changes to 40 CFR 1042.615. The NHTSA withdrawal relates to the provision for optional chassis certification for heavy-duty fuel efficiency requirements in 49 CFR 535.5(a) (6).

We stated in the direct final rule that if we received adverse comment by July 17, 2013 as to any part of the direct final rule, those parts would be withdrawn by publishing a timely notice in the Federal Register. Because EPA and NHTSA received adverse comment related to certain provisions, we are withdrawing those amendments and they will not take effect. The specific provisions that are being withdrawn are identified below. To avoid any confusion with respect

to 40 CFR 1068.240, concerning an exemption for replacement nonroad engines, the effect of this withdrawal is that the current provisions of that section remain in effect through §1068.240(d). The direct final rule also republished paragraphs (e) and (f) and removed paragraph (g) of §1068.240, and these are not being withdrawn.

EPA published a parallel proposed rule on the same day as the direct final rule. The proposed rule invited comment on the substance of the direct final rule with respect to EPA's amendments to 40 CFR parts 1037, 1039, 1042, and 1068. EPA intends to consider the comments received and proceed with a new final rule, including but not limited to addressing the amendments that relate to replacement nonroad engines that are withdrawn by this notice. As stated in the parallel proposal, EPA will not institute a second comment period for the proposed action with respect to the provisions that are withdrawn by this notice. One adverse comment relates to EPA's provision in 40 CFR 1037.150(l) and NHTSA's provision in 49 CFR 535.5(a) (6). NHTSA may issue a notice of proposed rulemaking (NPRM) and provide another opportunity to comment for the withdrawn amendment to 49 CFR 535.5(a) (6). Both agencies would coordinate any final actions on 40 CFR 1037.150(l) and 49 CFR 535.5(a) (6). The amendments for which we did not receive adverse comment are not being withdrawn and will become effective on August 16, 2013, as provided in the June 17, 2013 direct final rule.

Accordingly, the amendments to 40 CFR 1037.104(d)(9)(i), 1037.104(d)(9)(iii), 1037.104(g)(3)(iv), 1037.104(g)(7), 1037.150(l), 1039.104(g), 1039.625(m), 1042.615, and 1068.240 introductory text and paragraphs (a) through (d) published on June 17, 2013 (78 FR 36388), are withdrawn by EPA as of **[insert date of publication in the Federal Register]**, and the amendment to 49 CFR 535.5 published on June 17, 2013 (78 FR 36388) is withdrawn by DOT as of **[insert date of publication in the Federal Register]**.

## **List of Subjects**

### **40 CFR Part 1037**

Administrative practice and procedure, Air pollution control, Confidential business information, Environmental protection, Incorporation by reference, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Warranties.

### **40 CFR Part 1039**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Warranties.

### **40 CFR Part 1042**

Environmental protection, Administrative practice and procedure, Air pollution control, Confidential business information, Imports, Labeling, Penalties, Reporting and recordkeeping requirements, Vessels, Warranties.

### **40 CFR Part 1068**

Environmental protection, Administrative practice and procedure, Confidential business information, Imports, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements, Warranties.

### **49 CFR Part 535**

Fuel economy.

## **Title 40—Protection of Environment**

For the reasons set forth in the preamble, the Environmental Protection Agency is amending title 40, chapter I of the Code of Federal Regulations as follows:

**PART 1037—CONTROL OF EMISSIONS FROM NEW HEAVY-DUTY MOTOR VEHICLES**

1. The authority citation for part 1037 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

**Subpart B—[Amended]**

2. Section 1037.104 is amended by:

- a. Revising paragraphs (a)(2) introductory text, (d)(2), (4), and (6), (9), and (d)(12) and (13);
- b. Adding paragraph (d)(15); and
- c. Revising paragraph (g).

The revisions and addition read as follows:

**§ 1037.104 Exhaust emission standards for CO<sub>2</sub>, CH<sub>4</sub>, and N<sub>2</sub>O for heavy-duty vehicles at or below 14,000 pounds GVWR.**

\* \* \* \* \*

(a) \* \* \*

(2) Using the appropriate work factor, calculate a target value for each vehicle subconfiguration (or group of subconfigurations allowed under paragraph (a)(4) of this section) you produce using one of the following equations, or the phase-in provisions in § 1037.150(b), rounding to the nearest 0.1 g/mile:

\* \* \* \* \*

(d) \* \* \*

(2) The following general credit provisions apply:

(i) Credits you generate under this section may be used only to offset credit deficits under this section. You may bank credits for use in a future model year in which your average CO<sub>2</sub> level exceeds the standard. You may trade credits to another manufacturer according to 40 CFR 86.1865–12(k)(8). Before you bank or trade credits, you must apply any available credits to offset a deficit if the deadline to offset that credit deficit has not yet passed.

(ii) Vehicles subject to the standards of this section are included in a single greenhouse gas averaging set separate from any averaging set otherwise included in 40 CFR part 86.

(iii) Banked CO<sub>2</sub> credits keep their full value for five model years after the year in which they were generated. Unused credits expire at the end of this fifth model year.

\* \* \* \* \*

(4) The CO<sub>2</sub>, N<sub>2</sub>O, and CH<sub>4</sub> standards apply for a weighted average of the city (55%) and highway (45%) test cycle results. Note that this differs from the way the criteria pollutant standards apply for heavy-duty vehicles.

\* \* \* \* \*

(6) Credits are calculated using the useful life value (in miles) in place of “vehicle lifetime miles” specified in 40 CFR part 86, subpart S. Calculate a total credit or debit balance in a model year by adding credits and debits from 40 CFR 86.1865–12(k)(4), subtracting any CO<sub>2</sub>-equivalent debits for N<sub>2</sub>O or CH<sub>4</sub> calculated according to § 1037.104(c), and adding any of the following credits:

(i) Advanced technology credits according to paragraph (d)(7) of this section and § 1037.150(i).

(ii) Innovative technology credits according to paragraph (d)(13) of this section.

(iii) Early credits according to § 1037.150(a)(2).

\* \* \* \* \*

(9) Calculate your fleet-average emission rate consistent with good engineering judgment and the provisions of 40 CFR 86.1865. The following additional provisions apply:

(i) Unless we approve a lower number, you must test at least ten subconfigurations. If you produce more than 100 subconfigurations in a given model year, you must test at least ten percent of your subconfigurations. For purposes of this paragraph (d)(9)(i), count carryover tests, but do not include analytically derived CO<sub>2</sub> emission rates, data substitutions, or other untested allowances. We may approve a lower number of tests for manufacturers that have limited product offerings, or low sales volumes. Note that good engineering judgment and other provisions of this part may require you to test more subconfigurations than these minimum values.

(ii) The provisions of paragraph (g) of this section specify how you may use analytically derived CO<sub>2</sub> emission rates.

(iii) At least 90 percent of final production volume at the configuration level must be represented by test data (real, data substituted, or analytical).

(iv) Perform fleet-average CO<sub>2</sub> calculations as described in 40 CFR 86.1865 and 40 CFR part 600, with the following exceptions:

(A) Use CO<sub>2</sub> emissions values for all test results, intermediate calculations, and fleet average calculations instead of the carbon-related exhaust emission (CREE) values specified in 40 CFR parts 86 and 600.

(B) Perform intermediate CO<sub>2</sub> calculations for subconfigurations within each configuration using

the subconfiguration and configuration definitions in paragraph (d)(12) of this section.

(C) Perform intermediate CO<sub>2</sub> calculations for configurations within each test group and transmission type (instead of configurations within each base level and base levels within each model type). Use the configuration definition in paragraph (d)(12)(i) of this section.

(D) Do not perform intermediate CO<sub>2</sub> calculations for each base level or for each model type. Base level and model type CO<sub>2</sub> calculations are not applicable to heavy-duty vehicles subject to standards in this section.

(E) Determine fleet average CO<sub>2</sub> emissions for heavy-duty vehicles subject to standards in this section as described in 40 CFR 600.510–12(j), except that the calculations must be performed on the basis of test group and transmission type (instead of the model-type basis specified in the light-duty vehicle regulations), and the calculations for dual fuel, multi-fuel, and flexible fuel vehicles must be consistent with the provisions of paragraph (d)(10)(i) of this section.

\* \* \* \* \*

(12) The following definitions apply for the purposes of this section:

(i) Configuration means a subclassification within a test group based on engine code, transmission type and gear ratios, final drive ratio, and other parameters we designate.

Transmission type means the basic type of the transmission (e.g., automatic, manual, automated manual, semi-automatic, or continuously variable) and does not include the drive system of the vehicle (e.g., front-wheel drive, rear-wheel drive, or four-wheel drive). Engine code means the combination of both “engine code” and “basic engine” as defined in 40 CFR 600.002. Note that this definition differs from the one in 40 CFR 86.1803.

(ii) Subconfiguration means a unique combination within a vehicle configuration (as defined in

this paragraph (d)(12)) of equivalent test weight, road-load horsepower, and any other operational characteristics or parameters that we determine may significantly affect CO<sub>2</sub> emissions within a vehicle configuration. Note that for vehicles subject to standards of this section, equivalent test weight (ETW) is based on the ALVW of the vehicle as outlined in paragraph (d)(11) of this section.

(iii) The terms “complete vehicle” and “incomplete vehicle” have the meanings given for “complete heavy-duty vehicle” and “incomplete heavy-duty vehicle”, respectively, in 40 CFR 86.1803.

(13) This paragraph (d)(13) applies for CO<sub>2</sub> reductions resulting from technologies that were not in common use before 2010 that are not reflected in the specified test procedures. We may allow you to generate emission credits consistent with the provisions of 40 CFR 86.1869–12(c) and (d). You do not need to provide justification for not using the 5-cycle methodology.

\* \* \* \* \*

(15) You must submit a final report within 90 days after the end of the model year. Unless we specify otherwise, include applicable information identified in 40 CFR 86.1865–12(l), 40 CFR 600.512, and 49 CFR 535.8(e). The final report must include at least the following information:

- (i) Model year.
- (ii) Applicable fleet-average CO<sub>2</sub> standard.
- (iii) Calculated fleet-average CO<sub>2</sub> value and all the values required to calculate the CO<sub>2</sub> value.
- (iv) Number of credits or debits incurred and all values required to calculate those values.
- (v) Resulting balance of credits or debits.

(vi) N<sub>2</sub>O emissions.

(vii) CH<sub>4</sub> emissions.

(viii) HFC leakage score.

\* \* \* \* \*

(g) Analytically derived CO<sub>2</sub> emission rates (ADCs). This paragraph (g) describes an allowance to use estimated (i.e., analytically derived) CO<sub>2</sub> emission rates based on baseline test data instead of measured emission rates for calculating fleet-average emissions. Note that these ADCs are similar to ADFEs used for light-duty vehicles. Note also that F terms used in this paragraph (g) represent coefficients from the following road load equation:

$$\text{Force} = (\text{mass})(\text{acceleration}) = F_0 + F_1 \cdot (\text{velocity}) + F_2 \cdot (\text{velocity})^2$$

(1) Except as specified in paragraph (g)(2) of this section, use the following equation to calculate the ADC of a new vehicle from road load force coefficients (F0, F1, F2), axle ratio, and test weight:

$$\text{ADC} = \text{CO}_{2\text{base}} + 2.18 \cdot \Delta F_0 + 37.4 \cdot \Delta F_1 + 2257 \cdot \Delta F_2 + 189 \cdot \Delta AR + 0.0222 \cdot \Delta BTW$$

Where:

ADC = Analytically derived combined city/ highway CO<sub>2</sub> emission rate (g/mile) for a new vehicle.

CO<sub>2base</sub> = Combined city/highway CO<sub>2</sub> emission rate (g/mile) of a baseline vehicle.

ΔF0 = F0 of the new vehicle - F0 of the baseline vehicle.

ΔF1 = F1 of the new vehicle - F1 of the baseline vehicle.

ΔF2 = F2 of the new vehicle - F2 of the baseline vehicle.

$\Delta AR$  = Axle ratio of the new vehicle - axle ratio of the baseline vehicle.

$\Delta ETW$  = ETW of the new vehicle - ETW of the baseline vehicle.

(2) The purpose of this section is to accurately estimate CO<sub>2</sub> emission rates.

(i) You must apply the provisions of this section consistent with good engineering judgment. For example, do not use the equation in paragraph (g)(1) of this section where good engineering judgment indicates that it will not accurately estimate emissions. You may ask us to approve alternate equations that allow you to estimate emissions more accurately.

(ii) The analytically derived CO<sub>2</sub> equation in paragraph (g)(1) of this section may be periodically updated through publication of an EPA guidance document to more accurately characterize CO<sub>2</sub> emission levels' for example, changes may be appropriate based on new test data, future technology changes, or to changes in future CO<sub>2</sub> emission levels. Any EPA guidance document will determine the model year that the updated equation takes effect. We will issue guidance no later than eight months before the effective model year. For example, for 2014 models, the model year may start January 2, 2013, so guidance would be issued by May 1, 2012 for model year 2014.

(3) You may select, without our advance approval, baseline test data if they meet all the following criteria:

(i) Vehicles considered for the baseline test must comply with all applicable emission standards in the model year associated with the ADC.

(ii) You must include in the pool of tests considered for baseline selection all official tests of the same or equivalent basic engine, transmission class, engine code, transmission code, engine horsepower, dynamometer drive wheels, and compression ratio as the ADC subconfiguration. Do

not include tests in which emissions exceed any applicable standard.

(iii) Where necessary to minimize the CO<sub>2</sub> adjustment, you may supplement the pool with tests associated with worst-case engine or transmission codes and carryover or carry-across engine families. If you do, all the data that qualify for inclusion using the elected worst-case substitution (or carryover or carry-across) must be included in the pool as supplemental data (i.e., individual test vehicles may not be selected for inclusion). You must also include the supplemental data in all subsequent pools, where applicable.

(iv) Tests previously used during the subject model year as baseline tests in ten other ADC subconfigurations must be eliminated from the pool.

(v) Select the tested subconfiguration with the smallest absolute difference between the ADC and the test CO<sub>2</sub> emission rate for combined emissions. Use this as the baseline test for the target ADC subconfiguration.

(4) You may ask us to allow you to use baseline test data not fully meeting the provisions of paragraph (g)(3) of this section.

(5) Calculate the ADC rounded to the nearest 0.1 g/mile. Except with our advance approval, the downward adjustment of ADC from the baseline is limited to ADC values 20 percent below the baseline emission rate. The upward adjustment is not limited.

(6) You may not submit an ADC if an actual test has been run on the target subconfiguration during the certification process or on a development vehicle that is eligible to be declared as an emission-data vehicle.

(7) No more than 40 percent of the subconfigurations tested in your final CO<sub>2</sub> submission may be represented by ADCs.

(8) Keep the following records for at least five years, and show them to us if we ask to see them:

(i) The pool of tests.

(ii) The vehicle description and tests chosen as the baseline and the basis for the selection.

(iii) The target ADC subconfiguration.

(iv) The calculated emission rates.

(9) We may perform or order a confirmatory test of any subconfiguration covered by an ADC.

(10) Where we determine that you did not fully comply with the provisions of this paragraph (g), we may require that you comply based on actual test data and that you recalculate your fleet-average emission rate.

\* \* \* \* \*

3. Section 1037.150 is amended by revising paragraph (a)(2) to read as follows:

**§ 1037.150 Interim provisions.**

\* \* \* \* \*

(a) \* \* \*

(2) This paragraph (a)(2) applies for regulatory sub-categories subject to the standards of § 1037.104. To generate early credits under this paragraph (a)(2) for any vehicles other than electric vehicles, you must certify your entire U.S.-directed fleet to these standards. If you calculate a separate fleet average for advanced-technology vehicles under § 1037.104(c)(7), you must certify your entire U.S.-directed production volume of both advanced and conventional vehicles within the fleet. Except as specified in paragraph (a)(4) of this section, if some test groups are certified after the start of the model year, you may generate credits only for

production that occurs after all test groups are certified. For example, if you produce three test groups in an averaging set and you receive your certificates for those test groups on January 4, 2013, March 15, 2013, and April 24, 2013, you may not generate credits for model year 2013 for vehicles from any of the test groups produced before April 24, 2013. Calculate credits relative to the standard that would apply in model year 2014 using the applicable equations in 40 CFR part 86 and your model year 2013 U.S.-directed production volumes. These credits may be used to show compliance with the standards of this part for 2014 and later model years. We recommend that you notify us of your intent to use this provision before submitting your applications.

\* \* \* \* \*

## **PART 1039—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES**

4. The authority citation for part 1039 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

### **Subpart G—[Amended]**

5. Section 1039.625 is amended by revising paragraphs (e) and (j) introductory text to read as follows:

#### **§ 1039.625 What requirements apply under the program for equipment-manufacturer flexibility?**

\* \* \* \* \*

(e) Standards. If you produce equipment with exempted engines under this section, the engines

must meet emission standards specified in this paragraph (e), or more stringent standards. Note that we consider engines to be meeting emission standards even if they are certified with a family emission limit that is higher than the emission standard that would otherwise apply.

(1) If you are using the provisions of paragraph (d)(4) of this section, engines must meet the applicable Tier 1 or Tier 2 emission standards described in 40 CFR 89.112.

(2) If you are using the provisions of paragraph (a)(2) of this section, engines must be identical in all material respects to engines certified under this part 1039 as follows:

Engines in the following power category...	Must meet all standards and requirements that applied in the following model year...
(i) $19 \leq \text{kW} < 56$	2008 (Option 1, where applicable)
(ii) $56 \leq \text{kW} < 130$	2012 (Phase-out)
(iii) $130 \leq \text{kW} \leq 560$	2011 (Phase-out)
(iv) $\text{kW} > 560$	2011

(3) In all other cases, engines at or above 56 kW and at or below 560 kW must meet the appropriate Tier 3 standards described in 40 CFR 89.112.

\* \* \* \* \*

(j) Provisions for engine manufacturers. As an engine manufacturer, you may produce exempted engines as needed under this section. You do not have to request this exemption for your engines, but you must have written assurance from equipment manufacturers that they need a certain number of exempted engines under this section. Send us an annual report of the engines you produce under this section, as described in § 1039.250(a). Exempt engines must meet the emission standards in paragraph (e) of this section and you must meet all the requirements of 40 CFR 1068.265, except that engines produced under the provisions of paragraph (a)(2) of this section must be identical in all material respects to engines previously certified under this part

1039. If you show under 40 CFR 1068.265(c) that the engines are identical in all material respects to engines that you have previously certified to one or more FELs above the standards specified in paragraph (e) of this section, you must supply sufficient credits for these engines. Calculate these credits under subpart H of this part using the previously certified FELs and the alternate standards. You must meet the labeling requirements in 40 CFR 89.110 or § 1039.135, as applicable, with the following exceptions:

\* \* \* \* \*

**PART 1068—GENERAL COMPLIANCE PROVISIONS FOR HIGHWAY,  
STATIONARY, AND NONROAD PROGRAMS**

6. The authority citation for part 1068 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

**Subpart C—Exemptions and Exclusions**

**§ 1068.240 [Amended]**

7. Section 1068.240 is amended by removing paragraph (g).

**Title 49—Transportation**

For the reasons set forth in the preamble, the National Highway Traffic Safety Administration is amending title 49, chapter V, of the Code of Federal Regulations as follows:

**PART 535 MEDIUM- AND HEAVY-DUTY VEHICLE FUEL EFFICIENCY PROGRAM**

8. The authority citation for part 535 is revised to read as follows:

Authority: 49 U.S.C 32901, delegation of authority at 49 CFR 1.95.

9. Amend § 535.5 by:

- a. Revising paragraph (a)(4)(i) and adding paragraphs (a)(4)(v) and (vi);
- b. Revising paragraph (b)(2)(i) and adding paragraphs (b)(2)(iii) and (iv); and
- c. Revising paragraph (c)(2)(i) and adding paragraphs (c)(2)(iii), (c)(2)(iv); and
- d. Revising paragraph (c)(5).

The revisions and additions read as follows:

**§ 535.5 Standards.**

(a) \* \* \*

(4) \* \* \*

(i) Manufacturers may choose voluntarily to comply early with fuel consumption standards for model years 2013 through 2015, as determined in paragraphs (a)(4)(iii) and (iv) of this section, for example, in order to begin accumulating credits through over-compliance with the applicable standard. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufactures in each regulatory category for a given model year except as provided in paragraphs (a)(4)(v) and (vi) of this section.

\* \* \* \* \*

(v) For model year 2013, a manufacturer can choose to comply with the standards in paragraph (a) of this section and generate early credits under § 535.7(b) by using the entire U.S.-directed production volume of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in paragraph (a) of this section apply for vehicles complying in model year 2013. If some test groups are certified by EPA after the start of the model year, the

manufacturer may only generate credits under § 535.7(b) for the production that occurs after all test groups are certified in accordance with 40 CFR 1037.150 (a)(2).

(vi) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

\* \* \* \* \*

(b) \* \* \*

(2) \* \* \*

(i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (b)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufactures in each regulatory category for a given model year except as provided in paragraphs (b)(2)(iii) through (iv) of this section.

\* \* \* \* \*

(iii) For model year 2013, a manufacturer can choose to comply with the standards in this paragraph (b) and generate early credits under § 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in this paragraph (b) apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate

credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) For model years 2013 through 2015, a manufacturer may choose voluntarily to comply early with the fuel consumption standards provided in paragraph (c)(3) of this section. For example, a manufacturer may choose to comply early in order to begin accumulating credits through over-compliance with the applicable standards. A manufacturer choosing early compliance must comply with all the vehicles and engines it manufactures in each regulatory category for a given model year except as provided in paragraphs (c)(2)(iii) through (iv) of this section.

\* \* \* \* \*

(iii) For model year 2013, a manufacturer can choose to comply with the standards in this paragraph (c) and generate early credits under § 535.7(c) by using the entire U.S.-directed production volume within any of its regulatory sub-categories of vehicles other than electric vehicles as specified in 40 CFR 1037.150. The model year 2014 standards in this paragraph (c) apply for vehicles complying in model year 2013. If some vehicle families within a regulatory subcategory are certified by EPA after the start of the model year, manufacturers may generate

credits under § 535.7(c) only for production that occurs after all families are certified in accordance with 40 CFR 1037.150(a)(1).

(iv) For model year 2014, a manufacturer producing model year 2014 vehicles before January 1, 2014, may optionally elect to comply with these standards for a partial model year that begins on January 1, 2014, and ends on the day the manufacturer's model year would normally end if it meets the provisions in 40 CFR 1037.150(g).

\* \* \* \* \*

(5) *Vocational tractors.* Tractors meeting the definition of vocational tractors in 49 CFR 523.2 for purposes of certifying vehicles to fuel consumption standards, are divided into families of vehicles as specified in 40 CFR 1037.230(a)(1) and must comply with standards for heavy-duty vocational vehicles and engines of the same weight class specified in paragraphs (b) and (d) of this section. Class 7 and Class 8 tractors certified or exempted as vocational tractors are limited in production to no more than 21,000 vehicles in any three consecutive model years. If a manufacturer is determined as not applying this allowance in good faith by the EPA in its applications for certification in accordance with 40 CFR 1037.205 and 1037.630, a manufacturer must comply with the tractor fuel consumption standards in paragraph (c)(3) of this section. Vocational tractors generating credits can trade and transfer credits in the same averaging sets as tractors and vocational vehicles in the same weight class.

\* \* \* \* \*

Dated: August 8, 2013

David L. Strickland, Administrator  
National Highway Traffic Safety Administration  
Department of Transportation

Dated: August 8, 2013

Janet G. McCabe, Acting Assistant Administrator  
Office of Air and Radiation  
Environmental Protection Agency

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