

§ 534.5

49 CFR Ch. V (10–1–10 Edition)

produced by those manufacturers during the model year are treated as though they were manufactured by the same manufacturer. A manufacturer is considered to have become the successor of another manufacturer during a model year if it is the successor on September 30 of the corresponding calendar year and was not the successor for the preceding model year.

(c) Credits earned by a predecessor before or during model year 2007 may be used by a successor, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a predecessor after model year 2007 may be used by a successor, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

(d) Credits earned by a successor before or during model year 2007 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general three-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward. Credits earned by a successor after model year 2007 may be used to offset a predecessor's shortfall, subject to the availability of credits and the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward.

[69 FR 77671, Dec. 28, 2004, as amended at 74 FR 14452, Mar. 30, 2009]

§ 534.5 Manufacturers within control relationships.

(a) If a civil penalty arises out of a fuel economy shortfall incurred by a group of manufacturers within a control relationship, each manufacturer within that group is jointly and severally liable for the civil penalty.

(b) A manufacturer is considered to be within a control relationship for an entire model year if and only if it is within that relationship on September 30 of the calendar year in which the model year ends.

(c) Credits of a manufacturer within a control relationship may be used by the group of manufacturers within the

control relationship to offset shortfalls, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(d) If a manufacturer within a group of manufacturers is sold or otherwise spun off so that it is no longer within that control relationship, the manufacturer may use credits that were earned by the group of manufacturers within the control relationship while the manufacturer was within that relationship, subject to the agreement of the other manufacturers, the availability of the credits, and the general three-year restriction on carrying credits forward or backward prior to or during model year 2007, or the general five-year restriction on carrying credits forward and the general three-year restriction on carrying credits backward after model year 2007.

(e) Agreements among manufacturers in a control relationship related to the allocation of credits or liabilities addressed by this section shall be filed with the agency within 60 days of the end of each model year in the same form as specified in section 534.6. The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR Part 512.

[69 FR 77671, Dec. 28, 2004, as amended at 74 FR 14452, Mar. 30, 2009]

§ 534.6 Reporting corporate transactions.

Manufacturers who have entered into written contracts transferring rights and responsibilities such that a different manufacturer owns the controlling stock or exerts control over the design, production or sale of automobiles to which a Corporate Average Fuel Economy standard applies shall report the contract to the agency as follows:

(a) The manufacturers must file a certified report with the agency affirmatively stating that the contract transfers rights and responsibilities between

them such that one manufacturer has assumed a controlling stock ownership or control over the design, production or sale of vehicles. The report must also specify the first full model year to which the transaction will apply.

(b) Each report shall—

- (i) Identify each manufacturer;
- (ii) State the full name, title, and address of the official responsible for preparing the report;
- (iii) Identify the production year being reported on;
- (iv) Be written in the English language; and
- (v) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

(c) The manufacturers may seek confidential treatment for information provided in the certified report in accordance with 49 CFR part 512.

§ 534.7 Situations not directly addressed by this part.

To the extent that this part does not directly address an issue concerning the rights and responsibilities of manufacturers in the context of a change in corporate relationships, the agency will make determinations based on interpretation of the statute and the principles reflected in the part.

PART 536—TRANSFER AND TRADING OF FUEL ECONOMY CREDITS

- Sec.
- 536.1 Scope.
- 536.2 Application.
- 536.3 Definitions.
- 536.4 Credits.
- 536.5 Trading infrastructure.
- 536.6 Treatment of credits earned prior to model year 2011.
- 536.7 Treatment of carryback credits.
- 536.8 Conditions for trading of credits.
- 536.9 Use of credits with regard to the domestically manufactured passenger automobile minimum standard.
- 536.10 Treatment of dual-fuel and alternative fuel vehicles—consistency with 49 CFR part 538.

AUTHORITY: Sec. 104, Pub. L. 110-140 (49 U.S.C. 32903); delegation of authority at 49 CFR 1.50.

SOURCE: 74 FR 14452, Mar. 30, 2009, unless otherwise noted.

§ 536.1 Scope.

This part establishes regulations governing the use and application of CAFE credits up to three model years before and five model years after the model year in which the credit was earned. It also specifies requirements for manufacturers wishing to transfer fuel economy credits between their fleets and for manufacturers and other persons wishing to trade fuel economy credits to achieve compliance with prescribed fuel economy standards.

§ 536.2 Application.

This part applies to all credits earned (and transferable and tradable) for exceeding applicable average fuel economy standards in a given model year for domestically manufactured passenger cars, imported passenger cars, and light trucks.

§ 536.3 Definitions.

(a) Statutory terms. All terms defined in 49 U.S.C. § 32901(a) are used pursuant to their statutory meaning.

(b) Other terms.

Above standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have greater average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.

Adjustment factor means a factor used to adjust the value of a traded or transferred credit for compliance purposes to ensure that the compliance value of the credit when used reflects the total volume of oil saved when the credit was earned.

Below standard fuel economy means, with respect to a compliance category, that the automobiles manufactured by a manufacturer in that compliance category in a particular model year have lower average fuel economy (calculated in a manner that reflects the incentives for alternative fuel automobiles per 49 U.S.C. 32905) than that manufacturer's fuel economy standard for that compliance category and model year.