

manufacturer's domestically manufactured passenger car fleet. Subject to the credit transfer limitations of 49 U.S.C. 32903(g)(3), credits can also be transferred across compliance categories and banked or saved in that category to be carried forward or backwards later to address a credit shortfall.

Vintage means, with respect to a credit, the model year in which the credit was earned.

[74 FR 14452, Mar. 30, 2009, as amended at 75 FR 25727, May 7, 2010]

§ 536.4 Credits.

(a) *Type and vintage.* All credits are identified and distinguished in the accounts by originating manufacturer, compliance category, and model year of origin (*vintage*).

(b) *Application of credits.* All credits earned and applied are calculated, per 49 U.S.C. 32903(c), in tenths of a mile per gallon by which the average fuel economy of vehicles in a particular compliance category manufactured by a manufacturer in the model year in which the credits are earned exceeds the applicable average fuel economy

standard, multiplied by the number of vehicles sold in that compliance category. However, credits that have been traded between credit holders or transferred between compliance categories are valued for compliance purposes using the adjustment factor specified in paragraph (c) of this section, pursuant to the "total oil savings" requirement of 49 U.S.C. 32903(f)(1).

(c) *Adjustment factor.* When traded or transferred and used, fuel economy credits are adjusted to ensure fuel oil savings is preserved. For traded credits, the user (or buyer) of credits must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to acquire from the earner (or seller). For transferred credits, the user of credits must multiply the calculated adjustment factor by the number of its shortfall credits it plans to offset in order to determine the number of equivalent credits to transfer from the compliance category holding the available credits. The adjustment factor is calculated by the following formula:

$$A = \left(\frac{VMT_u * MPG_{ae} * MPG_{se}}{VMT_e * MPG_{au} * MPG_{su}} \right)$$

Where *A* = Adjustment Factor applied to traded or transferred credits;

VMT_e = Lifetime vehicle miles traveled as provided in the following table for the model year and compliance category in which the credit was earned.

VMT_u = Lifetime vehicle miles traveled as provided in the following table for the model year and compliance category in which the credit is used for compliance.

Model year	Lifetime Vehicle Miles Traveled (VMT)				
	2012	2013	2014	2015	2016
Passenger Cars	177,238	177,366	178,652	180,497	182,134
Light Trucks	208,471	208,537	209,974	212,040	213,954

MPG_{se} = Required fuel economy standard for the originating (earning) manufacturer, compliance category, and model year in which the credit was earned;

MPG_{ae} = Actual fuel economy for the originating manufacturer, compliance category, and model year in which the credit was earned;

MPG_{su} = Required fuel economy standard for the user (buying) manufacturer, compliance category, and model year in which the credit is used for compliance;

MPG_{au} = Actual fuel economy for the user manufacturer, compliance category, and

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model year in which the credit is used for compliance.

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§ 536.5 Trading infrastructure.

(a) *Accounts.* NHTSA maintains “accounts” for each credit holder. The account consists of a balance of credits in each compliance category and vintage held by the holder.

(b) *Who may hold credits.* Every manufacturer subject to fuel economy standards under 49 CFR parts 531 or 533 is automatically an account holder. If the manufacturer earns credits pursuant to this regulation, or receives credits from another party, so that the manufacturer’s account has a non-zero balance, then the manufacturer is also a credit holder. Any party designated as a recipient of credits by a current credit holder will receive an account from NHTSA and become a credit holder, subject to the following conditions:

(1) A designated recipient must provide name, address, contacting information, and a valid taxpayer identification number or social security number;

(2) NHTSA does not grant a request to open a new account by any party other than a party designated as a recipient of credits by a credit holder;

(3) NHTSA maintains accounts with zero balances for a period of time, but reserves the right to close accounts that have had zero balances for more than one year.

(c) *Automatic debits and credits of accounts.* (1) Upon receipt of a verified instruction to trade credits from an existing credit holder, NHTSA verifies the presence of sufficient credits in the account of the trader, then debits the account of the trader and credits the account of the recipient with credits of the vintage, origin, and compliance category designated. Traded credits identified by a specific compliance category are deposited into the recipient’s account in that same compliance category. If the recipient is not a current account holder, NHTSA establishes the account subject to the conditions described in § 536.5(b), and adds the credits to the newly-opened account.

(2) NHTSA automatically deletes unused credits from holders’ accounts as they reach their expiry date.

(d) *Compliance.* (1) NHTSA assesses compliance with fuel economy standards each year, utilizing the certified and reported CAFE data provided by the Environmental Protection Agency for enforcement of the CAFE program pursuant to 49 U.S.C. 32904(e). Credit values are calculated based on the CAFE data from the EPA. If a particular compliance category within a manufacturer’s fleet has above standard fuel economy, NHTSA adds credits to the manufacturer’s account for that compliance category and vintage in the appropriate amount by which the manufacturer has exceeded the applicable standard.

(2) If a manufacturer’s vehicles in a particular compliance category have below standard fuel economy, NHTSA will provide written notification to the manufacturer that it has failed to meet a particular fleet target standard. The manufacturer will be required to confirm the shortfall and must either: submit a plan indicating how it will allocate existing credits or earn, transfer and/or acquire credits; or pay the appropriate civil penalty. The manufacturer must submit a plan or payment within 60 days of receiving agency notification.

(3) Credits used to offset shortfalls are subject to the three and five year limitations as described in § 536.6.

(4) Transferred credits are subject to the limitations specified by 49 U.S.C. 32903(g)(3) and this regulation.

(5) The value, when used for compliance, of any credits received via trade or transfer is adjusted, using the adjustment factor described in § 536.4(c), pursuant to 49 U.S.C. 32903(f)(1).

(6) Credit allocation plans received from a manufacturer will be reviewed and approved by NHTSA. NHTSA will approve a credit allocation plan unless it finds that the proposed credits are unavailable or that it is unlikely that the plan will result in the manufacturer earning sufficient credits to offset the subject credit shortfall. If a plan is approved, NHTSA will revise the respective manufacturer’s credit