§ 536.9 Use of credits with regard to the domestically manufactured passenger automobile minimum standard.

(a) Each manufacturer is responsible for compliance with both the minimum standard and the attribute-based standard.

(b) In any particular model year, the domestically manufactured passenger automobile compliance category credit excess or shortfall is determined by comparing the actual CAFE value against either the required standard value or the minimum standard value, whichever is larger.

(c) Transferred or traded credits may not be used, pursuant to 49 U.S.C. 32903(g)(4) and (f)(2), to meet the domestically manufactured passenger automobile minimum standard specified in 49 U.S.C. 32902(b)(4) and in 49 CFR 531.5(d).

(d) If a manufacturer’s average fuel economy level for domestically manufactured passenger automobiles is lower than the attribute-based standard, but higher than the minimum standard, the manufacturer may achieve compliance with the attribute-based standard by applying credits.

(e) Cancellation of credits. A credit holder may instruct NHTSA to cancel its currently held credits, specifying the originating manufacturer, vintage, and compliance category of the credits to be cancelled. These credits will be permanently null and void; NHTSA will remove the specific credits from the credit holder’s account, and will not reissue them to any other party.

(f) Errors or fraud in earning credits. If NHTSA determines that a manufacturer has been credited, through error or fraud, with earning credits, NHTSA will cancel those credits if possible. If the manufacturer credited with having earned those credits has already traded them when the error or fraud is discovered, NHTSA will hold the receiving manufacturer responsible for returning the same or equivalent credits to NHTSA for cancellation.

(g) Error or fraud in trading. In general, all trades are final and irrevocable once executed, and may only be reversed by a new, mutually-agreed transaction. If NHTSA executes an erroneous instruction to trade credits from one holder to another through error or fraud, NHTSA will reverse the transaction if possible. If those credits have been traded away, the recipient holder is responsible for obtaining the same or equivalent credits for return to the previous holder.
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(e) If a manufacturer’s average fuel economy level for domestically manufactured passenger automobiles is lower than the minimum standard, then the difference between the minimum standard and the manufacturer’s actual fuel economy level may only be relieved by the use of credits earned by that manufacturer within the domestic passenger car compliance category which have not been transferred or traded. If the manufacturer does not have available earned credits to offset a credit shortage below the minimum standard then the manufacturer can submit a carry-back plan that indicates sufficient future credits will be earned in its domestic passenger car compliance category or will be subject to penalties.


§ 536.10 Treatment of dual-fuel and alternative fuel vehicles—consistency with 49 CFR part 538.

(a) Statutory alternative fuel and dual-fuel vehicle fuel economy calculations are treated as a change in the underlying fuel economy of the vehicle for purposes of this regulation, not as a credit that may be transferred or traded. Improvements in alternative fuel or dual fuel vehicle fuel economy as calculated pursuant to 49 U.S.C. 32905 and limited by 49 U.S.C. 32906 are therefore attributable only to the particular compliance category and model year to which the alternative or dual-fuel vehicle belongs.

(b) If a manufacturer’s calculated fuel economy for a particular compliance category, including any statutorily-required calculations for alternative fuel and dual fuel vehicles, is higher or lower than the applicable fuel economy standard, manufacturers will earn credits or must apply credits or pay civil penalties equal to the difference between the calculated fuel economy level in that compliance category and the applicable standard. Credits earned are the same as any other credits, and may be held, transferred, or traded by the manufacturer subject to the limitations of the statute and this regulation.

(c) For model years up to and including MY 2019, if a manufacturer builds enough dual fuel vehicles (except plug-in hybrid electric vehicles) to improve the calculated fuel economy in a particular compliance category by more than the limits set forth in 49 U.S.C. 32906(a), the improvement in fuel economy for compliance purposes is restricted to the statutory limit. Manufacturers may not earn credits nor reduce the application of credits or fines 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).