



10/21/2022

NHTSA QUESTIONS AND ANSWERS

BACKGROUND

On June 7, 2022, NHTSA issued a Federal Register notice (87 FR 34752) announcing a public workshop to present and demonstrate three compliance reporting templates for the Corporate Average Fuel Economy (CAFE) Program. The workshop demonstrated the use of the templates, which automobile manufacturers will use to provide NHTSA with its required compliance data as specified by 49 CFR Part 536 and 537. As a part of the notice, questions were sought from the public, and certain answers were presented by NHTSA during the workshop. Below are the combined questions and answers (Q&A) as well as answers to other questions that were raised during and following the workshop.

Today, NHTSA is issuing its Q&As on the Public Information Center (PIC) in addition to a revision to its CAFE Projections Template, version 2.23, and a summary document explaining the changes to the template. Manufacturers are required to provide their 2023 pre-model year report, in accordance with 49 CFR Part 537.5, using the projections template by December 31, 2022. If manufacturers have problems or questions when using the template or providing the required content, please contact Chris Lamance at (202)366-9525. We will work with you to solve any reporting issues.

Q&As for the CAFE PROJECTIONS TEMPLATE

1) When are supplementary reports required?

- Supplementary reports must be submitted after the MMY report whenever an omission (or error) is discovered not more than 45 days after the date on which the manufacturer determined, or could have determined with reasonable diligence, that the report was required per 49 CFR 537.8(c)(1).
- Starting model year 2023, each manufacturer whose mid-model year report omits any of the information shall resubmit the supplementary information with other information required in accordance with the NHTSA CAFE Projections Reporting Template (OMB Control No. 2127-0019, NHTSA Form 1474).

2) How is production availability addressed in the PMY and MMY reports?

- Manufacturers should tell us, to the best of their abilities using sound engineering judgement, what they plan to produce. If it is not possible to estimate at the time the report is submitted, then it can be omitted the information from the report until an estimate is possible.

- Manufacturers are expected to estimate production information whenever possible. Manufacturers should use sound engineering judgment when estimating values: for example, when estimating the model type production volumes or credits for off-cycle technologies on or off the menu list (see 40 CFR 86.1869-12) in their PMY reports.
- 3) Should manufacturers include information on off-cycle incentives pending approval in their PMY and MMY reporting?**
- Yes. Manufacturers should provide estimates of the expected benefits and model types equipped with the technology for off-cycle requests pending approval. This information is required by 49 CFR Part 537.7(c)(7).
 - Any off-cycle information submitted to NHTSA should match those values submitted to EPA for approval in accordance with 40 CFR 86.1869-12.
 - If an off-cycle approval is given before the end of the model year, manufacturers should provide its approved information in supplementary reports to NHTSA.
- 4) If there is a possibility that an off-cycle technology may be employed on one of our models (although not yet finalized in our product plans), should we report with the assumption that the technology will be employed?**
- Yes, manufacturers should provide information once it is expected to be used in the fleet. Manufacturers should use sound engineering judgement to decide when it is expected to be used.
- 5) The level of detail sought for off-cycle credits makes sense for a FINAL CAFE report as opposed to the forecast nature of Pre & Mid model year reports. Can NHTSA rather leverage the off-cycle credits submitted to EPA within the FINAL CAFE results?**
- No. This information is required by 49 CFR Part 537.7(c)(7).
- 6) Which columns are mandatory, and which are optional for the PMY/MMY reporting template?**
- All the reporting fields are required except for situations where the data field does not apply to a given fleet, model type, configuration, or sub-configuration. Data fields left blank on OEM reports determined by NHTSA to be required for a given fleet, model, configuration, or sub-configuration may be treated as a failure to report data and late reporting penalties may be levied.
- 7) What do the white and gray cells mean in the template?**
- The white cells indicate a field that is user entered
 - The gray cells indicate a field that will auto populate
- 8) What happens if we have more off-cycle lighting packages (or other technology packages) than there are columns in the template?**
- NHTSA has added more columns for AC technologies in the revised version of the template (version 2.3). No additional columns are needed for other technologies.
- 9) The template auto populates the test weight, how does this work if we have a vehicle configuration that goes over two test weight ranges?**
- Manufacturers can split the subconfiguration into multiple rows to accommodate differences in test weights.
- 10) In submitting off-road criteria, is NHTSA's expectation that manufacturers report actual production measurements? When auditing production vehicles, will the audit be to the minimum regulatory requirement or to the reported value?**
- Please see 84 FR 26054.

- "Production Measurements NHTSA's regulations require manufacturers to measure vehicle characteristics when a vehicle is at its curb weight, on a level surface, with the front wheels parallel to the automobile's longitudinal centerline, and the tires inflated to the manufacturer's recommended cold inflation pressure. NHTSA clarified in the 2020 final rule that 49 CFR part 537 requires manufacturers to classify vehicles for CAFE based upon their physical production characteristics. The agency verifies reported values by measuring production vehicles. Manufacturers must also use physical vehicle measurements as the basis for values reported to the agency for purposes of vehicle classification."
- Conformance to 49 CFR Part 523 will be determined based upon the regulatory requirement when auditing production vehicles. However, manufacturers will be out of conformance with reporting requirements in 49 CFR Part 537 and should resubmit the vehicle classification values for the affected vehicles to NHTSA and EPA.

11) For the BEV basic engine (electric traction motor, motor controller, battery config, charging system, energy storage device), it would be helpful if examples were provided. Please understand that OEMs have a wide range of technologies. Can NHTSA please provide examples?

- The fields are left user-entered because we believe that EV industry is still developing. Making it user-selected would have limited the options for manufacturers.

| Basic Engine (Electric Vehicle) | Electric Traction Motor | Motor Controller | Battery Configuration | Electrical Charging System | Energy Storage System |
|---------------------------------|---|---|--|---|---|
| Example | 1. DC series 2. SRM (Switch Reluctance Motor) 3. Brushless DC 4. Three- Phase AC Induction 5. PMSM (Permanent Magnet Synchronous Motor) 6. Other | 1. DC Pulse width modulation 2. MPPT (Maximum Power Point Tracking) 3. Variable frequency drive (VFD) 4. Other | 1. Lithium-Ion Batteries (LA) 2. Nickel-Metal Hydride Batteries (NIMH) 3. Lead-Acid Batteries (LI) 4. Other | 1. Level 1 charging 2. Level 2 charging 3. Level 3 charging/Fast Chargers 4. Other | 1. ON = On-Board 2. OFF = Off-Board 3. B = Both |

Q&As for the CAFE CREDIT TRANSACTION TEMPLATE

12) Are stakeholders allowed to purchase CAFE credits for years in which they did not manufacture or sell any vehicles?

- Yes, anyone with a valid taxpayer identification number or Social Security number can purchase CAFE credits – see 49 CFR 536.5(b).

- Credits always maintain the identity of the credit account (year, amount, fleet, and manufacturer) in which they were originally earned.

13) When purchased credits are added in credit accounts as "Banked" credits, do they have to come in as the same model year account or is it possible to move credits to another model year account and re-sell them using the new model year (i.e., Purchase Model Year 2014, convert to Model Year 2019, and then re-sell to another OEM as Model Year 2019)?

- No, credits do not change vintage, ever. Meaning if ABC Motors buys 2019 XYZ DP credits, they will remain 2019 XYZ DP credits until they are applied to a shortfall, even if ABC Motors resells those credits to a third-party. ABC Motors cannot apply those credits to another fleet or MY credits unless they plan to use them to offset a shortfall. Additionally, the originating manufacturer, MY, and fleet name will forever be used to calculate adjustment factors.

14) Why is it possible to get different results when using the template to generate the Final Credits (FC) for purchase using the original credit shortfall value as the Initial Credit Amount (ICA) compared to starting with the FC and using the equations in Part 536 to calculate the ICA?

- CAFE performance is rounded to the nearest tenth of an mpg. Credits are awarded for every tenth of an mpg over the target, therefore fractional credits cannot be earned per 32903(c).
- Due to rounding, the results using the trading template can differ depending upon the starting point. The template credit calculations are based on the credit deficit to be resolved and not working backwards from the credits sold.
- For example, if there is a shortfall of 5-credits:
 - When calculating based on the credits needed to resolve the shortfall: $5(\text{final credits needed})/2.2(\text{adj factor}) = 2.2727$ rounded to 2 (credits that need to be purchased)
 - When calculating based on credits to be sold: $2*2.2 = 4.4$ which will be rounded to 4, that is not enough to satisfy a shortfall of 5-credit.
- We encourage manufacturers to purchase based on the template or purchase additional credits in the transaction to reduce risk

15) Can the planned use of credits be kept private from the credit seller?

- The credit buyer will be responsible for filling out the Credit Transaction Template and thus they will know what compliance MY and fleet to which the credits will be applied.
- Once the credit buyer has filled out the template, they will click the "generate joint trade instructions" button. This will create the form that both the buyer and the seller will sign. Both the credit seller and buyer must sign the document.
- The autogenerated form that will be signed by the credit seller does not contain any information on how the credits will be used.

16) What happens if the final application of the credits is unknown at the time of a credit trade?

- If you would like to bank credits, you simply select "trade" and select "no" and the transaction will **NOT** be applied to a shortfall. This will result in the credits being "banked". Prior to the template, when banking credits, the credits would be automatically banked in the same MY and compliance category as they were earned.

Manufacturers should manually enter the MY and compliance category of the purchased credits to bank those credits in their credit accounts when using the template.

17) What happens when errors or fraud is involved with earning or trading 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. See 49 CFR 536.8 (f and g) for more information. Manufacturers that earn credits through error or fraud may also be subject to civil or criminal penalties.
- In general, all trades are final and irrevocable once executed, and may only be reversed by a new, mutually agreed transaction. If, through error or fraud, NHTSA executes an erroneous instruction to trade credits from one holder to another, 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. Manufacturers that trade credits through error or fraud may also be subject to civil or criminal penalties.

18) Does the template account for NHTSA's minimum domestic passenger car standards?

- No, manufacturers should follow the instructions for using credits for domestically manufactured passenger automobile minimum standard as specified in 49 CFR 536.9.
- The template can be used after understanding and applying the limitation for credits used to satisfy credit shortfalls involving the minimum domestic passenger car standards in accordance with Part 536.

19) We currently have several trades that are pending NHTSA approval, as NHTSA is waiting for updates to the final reports from EPA. Is there any way to resolve this other than the updated final report from EPA?

- No. These credit transactions can only be approved once the final reports are received from EPA.

20) Define the possible credit transaction types.

- Trade: Credits acquired by trading with another manufacturer
- Transfer: Credits transferred from other compliance fleets within the same manufacturer
- Carry Forward: Credits carried forward from previous MYs within the same compliance category
- Carry Back: Credits carried backward from future MYs within the same compliance category
- Application: Credits that have been banked are being applied to a shortfall

21) Which manufacturer should submit this form?

- The buyer is responsible for filling out and submitting this form

22) What is the difference between "earned" and "banked" credits?

- Earned credits are credits that were earned by a manufacturer and remain in that manufacturer's fleet

- Banked credits: 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.

Q&As for CAFE CREDIT COSTING INFORMATION

23) Why is the cost of credit trades important?

- In the 2020 final rule, NHTSA adopted provisions for manufacturers to report confidential information on the cost of credit trades and all the supporting trade documents. The agency established that manufacturers were to report this information starting January 1, 2021.

24) What information should be submitted on the non-monetary costs associated with credit trades?

- Starting January 1, 2022, all parties trading credits must also provide NHTSA the price paid for the credits including a description of any other monetary or non-monetary terms affecting the price of the traded credits, such as any technology exchanged or shared in exchange for the credits, any other non-monetary payment for the credits, or any other agreements related to the trade as required by 49 CFR 536.5(c)(5).

25) How do we calculate exchange rates when determining the cost of a credit trade?

- Any online exchange rate calculator which updates rates real-time
- For example - https://xchangeofamerica.com/exchange-currency/currency-converter?gclid=Cj0KCCQjwIK-WBhDjARIsAO2sErSDt-AAsBHe2Q9KzoORPpNT6mFnwabUp2KtCpTLEajDX4dAoWDchnsaAgoiEALw_wcB

26) What will be the CAFE fine rate in the upcoming model years?

- For model years before model year 2019, the CAFE civil penalty rate is \$5.50; for model years 2019 through 2021, the CAFE civil penalty rate is \$14; and beginning in model year 2022, the CAFE civil penalty rate is \$15 (49 CFR 578.6(h)(2)). The CAFE civil penalty rate is subject to adjustments including those made in accordance with the Federal Civil Penalties Inflation Adjustment Act (28 U.S.C. § 2461 note).

27) How do we report an agreement for a future credit transaction?

- In compliance with 49 CFR 536.8(d), NHTSA will not honor any instructions to trade or transfer more credits than are currently held in any account. NHTSA will not honor instructions to trade or transfer credits from any future vintage (i.e., credits not yet earned). NHTSA will not participate in or facilitate contingent trades.

28) How long after a credit transaction is processed do manufacturers have to submit the credit value costing information?

- The information should be submitted concurrently along with the credit transactions template to NHTSA.
- Beginning September 2022, manufacturers' credit transaction requests will not be processed without the required costing information for credit trades.

29) Are manufacturers required to submit copies of contracts as part of credit cost information?

- Yes. Starting January 1, 2022, all parties trading credits must also provide NHTSA the price paid for the credits including a description of any other monetary or non-monetary terms affecting the price of the traded credits, such as any technology exchanged or shared in exchange for the credits, any other non-monetary payment for

the credits, or any other agreements related to the trade. These provisions are required by 49 CFR 536.5(c)(5). If desired, manufacturers should submit a request for CBI regarding this information.

30) Will NHTSA release the price paid by an OEM for traded credits to the public?

- The agency does not intend to publicly release information on the individual price(s) paid by manufacturers, unless required by law. NHTSA is considering releasing information on industry averages.

Q&As for the CAFE PUBLIC INFORMATION CENTER (PIC)

31) Can NHTSA produce an expired credit report? Or some version of a public document about credits due to expire?

- No plans currently exist for a credit expiration report.
- NHTSA will take this request under consideration.

32) Where can we find guidance on the templates and user guides?

- The agency intends to make user guides publicly available on the NHTSA PIC site

33) Do EPA and NHTSA use the same data elements?

- There is a data dictionary to match the shared EPA and NHTSA data elements.

General Q&As

34) When do the new CAFE reporting requirements take effect?

- **January 1, 2022** – *49 CFR 536.5(c)(5) Credit Trade Information*
All parties trading credits must also provide NHTSA the price paid for the credits including a description of any other monetary or non-monetary terms affecting the price of the traded credits, such as any technology exchanged or shared in exchange for the credits, any other non-monetary payment for the credits, or any other agreements related to the trade.
- **September 1, 2022** - *Credit Transactions Template required for reporting all credit transactions*
 - Template Located: https://one.nhtsa.gov/cape_pic/assets/Downloads/Light-Duty/NHTSA%20CAFE%20Credit%20Transaction%20Template_v23.xlsm
- **December 31, 2022** – *Projection Reporting Template Required starting with MY 2023 PMY report*
 - Template Located: https://one.nhtsa.gov/cape_pic/assets/Downloads/Light-Duty/NHTSA%20CAFE%20Projections%20Reporting%20Template_v225_CONFIDENTIAL.xlsm
- **January 1, 2024** – *Eligibility for NHTSA Off-cycle Approvals*
 - (Existing) Copies of all documents sent to EPA at the same time
 - (New) Copies of MY 2024+ Off-cycle analytical plans must be approved by EPA before the MY. (See 40 CFR 86.1869-12)
 - (New) Copies of MY 2024+ Off-cycle official credit applications approved by EPA by September of MY. (See 40 CFR 86.1869-12)

- (New) Extension approved by NHTSA 30-days before deadlines

35) How can manufacturers or other interested parties communicate concerns to NHTSA?

- By email - cafe@dot.gov.
- Phone: Maurice Hicks (202)366-5289; Chris Lamance (202)366-9525; or Michael Brace (202)366-7597.
- An interested party can also request to meet with NHTSA. Meeting requests may be sent to cafe@dot.gov.

36) How do manufacturers submit reports to NHTSA?

- Manufacturers should not submit their CAFE reports with confidential business information (CBI) by hardcopy or CD-ROM to DOT headquarters at this time. NHTSA is treating electronic submission as an acceptable method for submitting CBI to the agency under 49 C.F.R. Part 512. CAFE reports containing CBI should be emailed to an attorney in the Office of the Chief Counsel and to the cafe@dot.gov email account. You may send your confidential versions of CAFE reports to the following attorney: Michael Kuppersmith michael.kuppersmith@dot.gov.