

**§ 1039.705**

**40 CFR Ch. I (7-1-07 Edition)**

FEL that applies only to future production.

(e) Engine families that use emission credits for one or more pollutants may not generate positive emission credits for another pollutant.

(f) Emission credits may be used in the model year they are generated or in future model years. Emission credits may not be used for past model years.

(g) You may increase or decrease an FEL during the model year by amending your application for certification under §1039.225. The new FEL may apply only to engines you have not already introduced into commerce. Each engine's emission control information label must include the applicable FELs.

**§ 1039.705 How do I generate and calculate emission credits?**

The provisions of this section apply separately for calculating emission credits for NO<sub>x</sub>, NO<sub>x</sub>+NMHC, or PM.

(a) Calculate positive emission credits for an engine family that has an FEL below the otherwise applicable standard. Calculate negative emission credits for an engine family that has an FEL above the otherwise applicable standard.

(b) For each participating engine family, calculate positive or negative emission credits relative to the otherwise applicable emission standard. Round calculated emission credits to the nearest kilogram (kg), using consistent units throughout the following equation:

$$\text{Emission credits (kg)} = (\text{Std} - \text{FEL}) \times (\text{Volume}) \times (\text{AvgPR}) \times (\text{UL}) \times (10^{-3})$$

Where:

Std = the emission standard, in grams per kilowatt-hour, that applies under subpart B of this part for engines not participating in the ABT program of this subpart (the "otherwise applicable standard").

FEL = the family emission limit for the engine family, in grams per kilowatt-hour.

Volume = the number of engines eligible to participate in the averaging, banking, and trading program within the given engine family during the model year, as described in paragraph (c) of this section.

AvgPR = the average maximum engine power of all the engine configurations within an engine family, calculated on a sales-weighted basis, in kilowatts.

UL = the useful life for the given engine family, in hours.

(c) In your application for certification, base your showing of compliance on projected production volumes for engines whose point of first retail sale is in the United States. As described in §1039.730, compliance with the requirements of this subpart is determined at the end of the model year based on actual production volumes for engines whose point of first retail sale is in the United States. Do not include any of the following engines to calculate emission credits:

(1) Engines exempted under subpart G of this part or under 40 CFR part 1068.

(2) Exported engines.

(3) Engines not subject to the requirements of this part, such as those excluded under §1039.5.

(4) Engines in families that include only stationary engines, except for engines in families certified to standards that are identical to standards applicable under this part 1039 to nonroad engines of the same type for the same model year.

(5) Any other engines, where we indicate elsewhere in this part 1039 that they are not to be included in the calculations of this subpart.

[69 FR 39213, June 29, 2004, as amended at 71 FR 39185, July 11, 2006]

**§ 1039.710 How do I average emission credits?**

(a) Averaging is the exchange of emission credits among your engine families. You may average emission credits only within the same averaging set.

(b) You may certify one or more engine families to an FEL above the applicable standard, subject to the FEL caps and other provisions in subpart B of this part, if you show in your application for certification that your projected balance of all emission-credit transactions in that model year is greater than or equal to zero.

(c) If you certify an engine family to an FEL that exceeds the otherwise applicable standard, you must obtain enough emission credits to offset the engine family's deficit by the due date for the final report required in §1039.730. The emission credits used to

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address the deficit may come from your other engine families that generate emission credits in the same model year, from emission credits you have banked, or from emission credits you obtain through trading.

### § 1039.715 How do I bank emission credits?

(a) Banking is the retention of emission credits by the manufacturer generating the emission credits for use in averaging or trading in future model years. You may use banked emission credits only within the averaging set in which they were generated.

(b) In your application for certification, designate any emission credits you intend to bank. These emission credits will be considered reserved credits. During the model year and before the due date for the final report, you may redesignate these emission credits for averaging or trading.

(c) You may use banked emission credits from the previous model year for averaging or trading before we verify them, but we may revoke these emission credits if we are unable to verify them after reviewing your reports or auditing your records.

(d) Reserved credits become actual emission credits only when we verify them in reviewing your final report.

### § 1039.720 How do I trade emission credits?

(a) Trading is the exchange of emission credits between manufacturers. You may use traded emission credits for averaging, banking, or further trading transactions. Traded emission credits may be used only within the averaging set in which they were generated.

(b) You may trade actual emission credits as described in this subpart. You may also trade reserved emission credits, but we may revoke these emission credits based on our review of your records or reports or those of the company with which you traded emission credits.

(c) If a negative emission credit balance results from a transaction, both the buyer and seller are liable, except in cases we deem to involve fraud. See § 1039.255(e) for cases involving fraud. We may void the certificates of all en-

gine families participating in a trade that results in a manufacturer having a negative balance of emission credits. See § 1039.745.

### § 1039.725 What must I include in my application for certification?

(a) You must declare in your application for certification your intent to use the provisions of this subpart for each engine family that will be certified using the ABT program. You must also declare the FELs you select for the engine family for each pollutant for which you are using the ABT program. Your FELs must comply with the specifications of subpart B of this part, including the FEL caps. FELs must be expressed to the same number of decimal places as the applicable standards.

(b) Include the following in your application for certification:

(1) A statement that, to the best of your belief, you will not have a negative balance of emission credits for any averaging set when all emission credits are calculated at the end of the year.

(2) Detailed calculations of projected emission credits (positive or negative) based on projected production volumes. If your engine family will generate positive emission credits, state specifically where the emission credits will be applied (for example, to which engine family they will be applied in averaging, whether they will be traded, or whether they will be reserved for banking). If you have projected negative emission credits for an engine family, state the source of positive emission credits to offset the negative emission credits. Describe whether the emission credits are actual or reserved and whether they will come from averaging, banking, trading, or a combination of these. Identify from which of your engine families or from which manufacturer the emission credits will come.

### § 1039.730 What ABT reports must I send to EPA?

(a) If any of your engine families are certified using the ABT provisions of this subpart, you must send an end-of-year report within 90 days after the end of the model year and a final report within 270 days after the end of the