

**§ 1039.660 What special provisions apply to Independent Commercial Importers?**

Under §1039.801, certain engines are considered to be new engines when they are imported into the United States, even if they have previously been used outside the country. Independent Commercial Importers may use the provisions of 40 CFR part 89, subpart G, and 40 CFR 89.906(b) to receive a certificate of conformity for engines meeting all the requirements of this part 1039.

**Subpart H—Averaging, Banking, and Trading for Certification**

**§ 1039.701 General provisions.**

(a) You may average, bank, and trade (ABT) emission credits for purposes of certification as described in this subpart to show compliance with the standards of this part. Participation in this program is voluntary.

(b) Section 1039.740 restricts the use of emission credits to certain averaging sets.

(c) The definitions of Subpart I of this part apply to this subpart. The following definitions also apply:

(1) *Actual emission credits* means emission credits you have generated that we have verified by reviewing your final report.

(2) *Averaging set* means a set of engines in which emission credits may be exchanged only with other engines in the same averaging set.

(3) *Broker* means any entity that facilitates a trade of emission credits between a buyer and seller.

(4) *Buyer* means the entity that receives emission credits as a result of a trade.

(5) *Reserved emission credits* means emission credits you have generated that we have not yet verified by reviewing your final report.

(6) *Seller* means the entity that provides emission credits during a trade.

(7) *Standard* means the emission standard that applies under subpart B of this part for engines not participating in the ABT program of this subpart.

(8) *Trade* means to exchange emission credits, either as a buyer or seller.

(d) You may not use emission credits generated under this subpart to offset any emissions that exceed an FEL or standard. This applies for all testing, including certification testing, in-use testing, selective enforcement audits, and other production-line testing. However, if emissions from an engine exceed an FEL or standard (for example, during a selective enforcement audit), you may use emission credits to recertify the engine family with a higher 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