

**§ 1039.725**

**40 CFR Ch. I (7-1-04 Edition)**

in cases we deem to involve fraud. See § 1039.255(e) for cases involving fraud. We may void the certificates of all engine 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 model year. We may waive the requirement to send the end-of-year report, as long as you send the final report on time.

(b) Your end-of-year and final reports must include the following information for each engine family participating in the ABT program:

(1) Engine-family designation.

(2) The emission standards that would otherwise apply to the engine family.

(3) The FEL for each pollutant. If you changed an FEL during the model year, identify each FEL you used and calculate the positive or negative emission credits under each FEL. Also, describe how the applicable FEL can be identified for each engine you produced. For example, you might keep a list of engine identification numbers that correspond with certain FEL values.

(4) The projected and actual production volumes for the model year with a point of retail sale in the United States. If you changed an FEL during the model year, identify the actual production volume associated with each FEL.

(5) Maximum engine power for each engine configuration, and the sales-weighted average engine power for the engine family.

(6) Useful life.

(7) Calculated positive or negative emission credits for the whole engine family. Identify any emission credits that you traded, as described in paragraph (d)(1) of this section.

(c) Your end-of-year and final reports must include the following additional information:

(1) Show that your net balance of emission credits from all your engine families in each averaging set in the applicable model year is not negative.

(2) State whether you will reserve any emission credits for banking.

(3) State that the report's contents are accurate.

(d) If you trade emission credits, you must send us a report within 90 days after the transaction, as follows:

**Environmental Protection Agency**

**§ 1039.740**

(1) As the seller, you must include the following information in your report:

- (i) The corporate names of the buyer and any brokers.
- (ii) A copy of any contracts related to the trade.
- (iii) The engine families that generated emission credits for the trade, including the number of emission credits from each family.

(2) As the buyer, you must include the following information in your report:

- (i) The corporate names of the seller and any brokers.
- (ii) A copy of any contracts related to the trade.
- (iii) How you intend to use the emission credits, including the number of emission credits you intend to apply to each engine family (if known).

(e) Send your reports electronically to the Designated Compliance Officer using an approved information format. If you want to use a different format, send us a written request with justification for a waiver.

(f) Correct errors in your end-of-year report or final report as follows:

(1) You may correct any errors in your end-of-year report when you prepare the final report, as long as you send us the final report by the time it is due.

(2) If you or we determine within 270 days after the end of the model year that errors mistakenly decrease your balance of emission credits, you may correct the errors and recalculate the balance of emission credits. You may not make these corrections for errors that are determined more than 270 days after the end of the model year. If you report a negative balance of emission credits, we may disallow corrections under this paragraph (f)(2).

(3) If you or we determine anytime that errors mistakenly increase your balance of emission credits, you must correct the errors and recalculate the balance of emission credits.

**§ 1039.735 What records must I keep?**

(a) You must organize and maintain your records as described in this section. We may review your records at any time.

(b) Keep the records required by this section for eight years after the due date for the end-of-year report. You may use any appropriate storage formats or media, including paper, microfilm, or computer diskettes.

(c) Keep a copy of the reports we require in § 1039.725 and § 1039.730.

(d) Keep the following additional records for each engine you produce that generates or uses emission credits under the ABT program:

- (1) Engine family designation.
- (2) Engine identification number.
- (3) FEL and useful life.
- (4) Maximum engine power.
- (5) Build date and assembly plant.
- (6) Purchaser and destination.

(e) We may require you to keep additional records or to send us relevant information not required by this section.

**§ 1039.740 What restrictions apply for using emission credits?**

The following restrictions apply for using emission credits:

(a) *Averaging sets.* Emission credits may be exchanged only within an averaging set. For Tier 4 engines, there are two averaging sets—one for engines at or below 560 kW and another for engines above 560 kW.

(b) *Emission credits from earlier tiers of standards.* (1) For purposes of ABT under this subpart, you may not use emission credits generated from engines subject to emission standards under 40 CFR part 89, except as specified in § 1039.102(d)(1) or the following table:

If the maximum power of the credit-generating engine is . . .	And it was certified to the following standards under 40 CFR part 89 . . .	Then you may use those banked credits for the following Tier 4 engines . . .
(i) kW < 19	Tier 2	kW < 19
(ii) 19 ≤ kW < 37	Tier 2	kW ≥ 19
(iii) 37 ≤ kW ≤ 560	Tier 3	kW ≥ 19
(iv) kW > 560	Tier 2	kW ≥ 19

(2) Emission credits generated from marine engines certified under the provisions of 40 CFR part 89 may not be used under this part.

(3) See 40 CFR part 89 for other restrictions that may apply for using emission credits generated under that part.

(c) *NO<sub>x</sub> and NO<sub>x</sub>+NMHC emission credits.* You may use NO<sub>x</sub> emission credits