

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_x and NO_x+NMHC emission credits.* You may use NO_x emission credits

without adjustment to show compliance with NO_x+NMHC standards. You may use NO_x+NMHC emission credits to show compliance with NO_x standards, but you must adjust the NO_x+NMHC emission credits downward by twenty percent when you use them, as shown in the following equation:

$$\text{NO}_x \text{ emission credits} = (0.8) \times (\text{NO}_x + \text{NMHC emission credits}).$$

(d) *Other restrictions.* Other sections of this part specify additional restrictions for using emission credits under certain special provisions.

§ 1039.745 What can happen if I do not comply with the provisions of this subpart?

(a) For each engine family participating in the ABT program, the certificate of conformity is conditional upon full compliance with the provisions of this subpart during and after the model year. You are responsible to establish to our satisfaction that you fully comply with applicable requirements. We may void the certificate of conformity for an engine family if you fail to comply with any provisions of this subpart.

(b) You may certify your engine family to an FEL above an applicable standard based on a projection that you will have enough emission credits to offset the deficit for the engine family. However, we may void the certificate of conformity if you cannot show in your final report that you have enough actual emission credits to offset a deficit for any pollutant in an engine family.

(c) We may void the certificate of conformity for an engine family if you fail to keep records, send reports, or give us information we request.

(d) You may ask for a hearing if we void your certificate under this section (see § 1039.820).

Subpart I—Definitions and Other Reference Information

§ 1039.801 What definitions apply to this part?

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the

Act gives to them. The definitions follow:

Act means the Clean Air Act, as amended, 42 U.S.C. 7401-7671q.

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or engine performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing and fueling rate. You may ask us to exclude a parameter that is difficult to access if it cannot be adjusted to affect emissions without significantly degrading engine performance, or if you otherwise show us that it will not be adjusted in a way that affects emissions during in-use operation.

Aftertreatment means relating to a catalytic converter, particulate filter, or any other system, component, or technology mounted downstream of the exhaust valve (or exhaust port) whose design function is to reduce emissions in the engine exhaust before it is exhausted to the environment. Exhaust-gas recirculation (EGR) is not aftertreatment.

Aircraft means any vehicle capable of sustained air travel above treetop heights.

Auxiliary emission-control device means any element of design that senses temperature, motive speed, engine RPM, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission-control system.

Brake power means the usable power output of the engine, not including power required to fuel, lubricate, heat, or cool the engine or to operate aftertreatment devices.

Calibration means the set of specifications and tolerances specific to a particular design, version, or application of a component or assembly capable of functionally describing its operation over its working range.

Certification means obtaining a certificate of conformity for an engine family that complies with the emission standards and requirements in this part.