

§ 1051.640 What special provisions apply for custom off-highway motorcycles that are similar to highway motorcycles?

You may ask to exempt custom-designed off-highway motorcycles that are substantially similar to highway motorcycles under the display exemption provisions of 40 CFR 86.407-78(c). Motorcycles exempt under this provision are subject to the restrictions of 40 CFR 86.407-78(c) and are considered to be motor vehicles for the purposes of this part 1051.

[69 FR 2445, Jan. 15, 2004]

Subpart H—Averaging, Banking, and Trading for Certification

§ 1051.701 General provisions.

(a) You may average, bank, and trade emission credits for purposes of certification as described in this subpart to show compliance with the standards of this part. To do this you must show that your average emission levels are below the applicable standards in subpart B of this part, or that you have sufficient credits to offset a credit deficit for the model year (as calculated in §1051.720). If you cannot show in your end-of-year report that your average emission levels are below the applicable standards in subpart B of this part, or that you have sufficient credits to offset a credit deficit for the model year, we may void the certificates for all families certified to FELs above the allowable average. (b) The following averaging set restrictions apply:

(1) You may not average together engine families that are certified to different standards. You may, however, use banked credits that were generated relative to different standards, except as prohibited by paragraphs (b)(2) and (3) of this section, paragraph (e) of this section, or by other provisions in this part. For example, you may not average together within a model year off-highway motorcycles that are certified to the standards in §1051.105(a)(1) and §1051.105(a)(2); but you may use banked credits generated by off-highway motorcycles that are certified to the standards in §1051.105(a)(1) to show compliance with the standards in

§1051.105(a)(2) in a later model year, and vice versa.

(2) There are separate averaging, banking, and trading programs for snowmobiles, ATVs, and off-highway motorcycles. You may not average or exchange banked or traded credits from engine families of one type of vehicle with those from engine families of another type of vehicle.

(3) You may not average or exchange banked or traded credits with other engine families if you use fundamentally different measurement procedures for the different engine families (for example, ATVs certified to chassis-based vs. engine-based standards). This paragraph (b)(3) does not restrict you from averaging together engine families that use test procedures that we determine provide equivalent emission results.

(4) You may not average or exchange banked or traded exhaust credits with evaporative credits, or vice versa.

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

(1) *Average standard* means a standard that allows you comply by averaging all your vehicles under this part. See subpart B of this part to determine which standards are average standards.

(2) *Broker* means any entity that facilitates a trade between a buyer and seller.

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

(4) *Family emission limit (FEL)* has the meaning given in it in §1051.801.

(5) *Reserved credits* means credits you have generated that we have not yet verified in reviewing the end-of-year report.

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

(d) Do not include any exported vehicles in the certification averaging, banking, and trading program. Include only vehicles certified under this part.

§ 1051.705 How do I average emission levels?

(a) As specified in subpart B of this part, certify each vehicle to a family emission limit (FEL).

(b) Calculate a preliminary average emission level according to §1051.720

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using projected U.S.-directed production volumes for your application for certification.

(c) After the end of your model year, calculate a final average emission level according to §1051.720 for each type of recreational vehicle or engine you manufacture or import. Use actual U.S.-directed production volumes.

(d) If your preliminary average emission level is below the allowable average standard, see §1051.710 for information about generating and banking emission credits. These credits will be considered reserved until we verify them in reviewing the end-of-year report.

§ 1051.710 How do I generate and bank emission credits?

(a) If your average emission level is below the average standard, you may calculate credits according to §1051.720.

(b) You may generate credits if you are a certifying manufacturer.

(c) You may bank unused emission credits, but only after the end of the calendar year and after we have reviewed your end-of-year reports. Credits you generate do not expire.

(d) During the calendar year and before you send in your end-of-year report, you may consider reserved any credits you originally designate for banking during certification. You may redesignate these credits for trading in your end-of-year report, but they are not valid to demonstrate compliance until verified.

(e) You may use for averaging or trading any credits you declared for banking from the previous calendar year that we have not reviewed. But,

we may revoke these credits later—following our review of your end-of-year report or audit actions. For example, this could occur if we find that credits are based on erroneous calculations; or that emission levels are misrepresented, unsubstantiated, or derived incorrectly in the certification process.

§ 1051.715 How do I trade emission credits?

(a) You may trade only banked emission credits, not reserved credits.

(b) You may trade banked credits to any certifying manufacturer.

(c) If a negative credit balance results from a credit trade, both buyers and sellers are liable, except in cases involving fraud. We may void the certificates of all emission families participating in a negative trade.

(1) If you buy credits but have not caused the negative credit balance, you must only supply more credits equivalent to the amount of invalid credits you used.

(2) If you caused the credit shortfall, you may be subject to the requirement of §1051.730(b)(6).

§ 1051.720 How do I calculate my average emission level or emission credits?

(a) Calculate your average emission level for each type of recreational vehicle or engine for each model year according to the following equation and round it to the nearest tenth of a g/km or g/kW-hr. Use consistent units throughout the calculation.

(1) For exhaust emissions:

(i) Calculate the average emission level as:

$$\text{Emission level} = \left[\sum_i (\text{FEL})_i \times (\text{UL})_i \times (\text{Production})_i \right] \div \left[\sum_i (\text{Production})_i \times (\text{UL})_i \right]$$

Where:

FEL_i = The FEL to which the engine family is certified.

UL_i = The useful life of the engine family.

Production_i = The number of vehicles in the engine family.

(ii) Use U.S.-directed production projections for initial certification, and

actual U.S.-directed production volumes to determine compliance at the end of the model year.

(2) For vehicles that have standards expressed as g/kW-hr and a useful life in km, convert the useful life to kW-hr based on the maximum power output observed over the emission test and an