

§ 1042.720

emission credits if we are unable to verify them after reviewing your reports or auditing your records.

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

§ 1042.720 Trading 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.

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

(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 § 1042.255(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 § 1042.745.

§ 1042.725 Information required for the 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 emission 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.

40 CFR Ch. I (7-1-08 Edition)

§ 1042.730 ABT reports.

(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 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 first retail sale in the United States, as described in § 1042.705(c). 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 production-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 participating engine families in each averaging set in the applicable model year is not negative.

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

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

Environmental Protection Agency

§ 1042.745

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

(1) Sellers must include the following information in their 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) Buyers must include the following information in their 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 decreased 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 increased your balance of emission credits, you must correct the errors and recalculate the balance of emission credits.

§ 1042.735 Recordkeeping.

(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 not use emission credits on any engines if you do not keep all the records required under this section. You must therefore keep these records to continue to bank valid credits. Store these records in any format and on any media, as long as you can promptly send us organized, written records in English if we ask for them. You must keep these records readily available. We may review them at any time.

(c) Keep a copy of the reports we require in § 1042.730.

(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. You may identify these numbers as a range.

(3) FEL and useful life. If you change the FEL after the start of production, identify the date that you started using the new FEL and give the engine identification number for the first engine covered by the new FEL.

(4) Maximum engine power.

(5) Purchaser and destination.

(e) We may require you to keep additional records or to send us information not required by this section, as allowed under the Clean Air Act.

§ 1042.745 Noncompliance.

(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 emission 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.