

(f) Errors discovered in your end-of-year report or final report, including errors in calculating credits, are corrected as follows:

(1) Any errors discovered in the end-of-year report may be corrected in the final report up to 270 days from the end of the model year.

(2) Errors discovered by the manufacturer in the final report may be corrected up to 270 days from the end of the model year, and credits will be recalculated.

(3) If we or you determine within 270 days of the end of the model year, that an error occurred that mistakenly decreased your positive credits, the error will be corrected and credits will be recalculated. Such errors will not be corrected if they are determined more than 270 days from the end of the model year.

(4) In cases where credit balance is negative, if we determine that an error occurred that mistakenly decreased your balance of credits, we may, but are not required to, correct the error and recalculate the credits. This applies

whether or not the error was discovered by you.

(5) If we determine at any time, that an error occurred that mistakenly increased your balance of credits, we will correct the error and recalculate the credits to decrease your balance. This applies whether or not the error was discovered by you.

(g) If you trade credits, you must send the Designated Compliance Officer a report of the trade, within 90 days of any credit trade, that includes the following information:

(1) The corporate names of the buyer, seller, and any brokers.

(2) Copies of contracts related to credit trading from the buyer, seller, and broker, as applicable.

(3) The engine families involved in the trade.

(4) The actual quarterly and cumulative applicable production/sales volume.

(5) The values required to calculate credits as given in § 1039.705.

(6) The resulting type and number of credits generated.

(7) How and where credit surpluses are dispersed; and

(8) How and through what means credit deficits are met.

(h) Include in each report a statement certifying the accuracy and authenticity of its contents.

§ 1039.735 What restrictions apply for using credits?

The following restrictions apply for credit use:

(a) *Averaging sets.* Credits may be exchanged only within an averaging set. For Tier 4 engines, there is a single averaging set that includes all power categories. See paragraph (b) for provisions related to credits generated relative to earlier tiers of standards.

(b) *Credits from a different tier of standards.* (1) For purposes of ABT under this subpart, you may not use credits generated from engines subject to emission standards under 40 CFR part 89, except as specified in the following table:

If the power rating of the credit-generating engine is . . .	Then you may use the following credits for Tier 4 compliance . . .
(i) Less than 37 kW	Credits from engines subject to emission standards in 89.112(a) Table 1, identified as Tier 2.
(ii) At least 37 kW, but less than 560 kW.	Credits from engines subject to emission standards in 89.112(a) Table 1, identified as Tier 3.
(iii) 560 kW or higher	Credits from engines subject to emission standards in 89.112(a) Table 1, identified as Tier 2.

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

(3) Credits generated from nonmarine engines under the provisions of 40 CFR part 89 allowed to be used under this part are subject to the averaging set restrictions described in 40 CFR 89.204. This means that credits generated by engines at or above 19 kW may not be used by engines less than 19 kW, and credits generated by engines less than 19 kW may not be used by engines at or above 19 kW.

(4) See 40 CFR part 89 for other restrictions that may apply for use of credits generated under that part.

(c) *NO_x and NMHC + NO_x credits.* You may use NO_x credits to show compliance with NMHC+NO_x standards. You may use NMHC+NO_x credits to show compliance with NO_x standards, but you must adjust the NMHC+NO_x credits downward by twenty percent when you use them, as shown in the following equation:

NO_x credits = (0.8) × (NMHC+NO_x credits).

(d) *Other restrictions.* Other sections of this part may include ABT restrictions for engines certified under

certain special provisions. Those restrictions apply as specified.

§ 1039.740 What can happen if I do not comply with the provisions of this subpart?

(a)(1) All certificates issued for engine family participating in this ABT program are conditional upon your full compliance with the provisions of this subpart during the model year of production and afterwards.

(2) Failure to comply with any provisions of this subpart will be deemed to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be voided.

(3) By choosing to participate in this ABT program, you are responsible to establish to EPA's satisfaction that the conditions under which the certificate was issued were satisfied or waived.

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

certificate of conformity for the engine family.

(c) We may void the certificate of conformity for an engine family for which you fail to retain the records required in this subpart or to provide such information to us upon request.

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 *et seq.*

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