

## § 1037.735

## 40 CFR Ch. I (7-1-13 Edition)

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

(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 vehicle 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 vehicle 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.

### § 1037.735 Recordkeeping.

(a) You must organize and maintain your records as described in this sec-

tion. We may review your records at any time.

(b) Keep the records required by this section for at least eight years after the due date for the end-of-year report. You may not use emission credits for any vehicles 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 §§ 1037.725 and 1037.730.

(d) Keep records of the vehicle identification number for each vehicle you produce that generates or uses emission credits under the ABT program. You may identify these numbers as a range. If you change the FEL after the start of production, identify the date you started using each FEL and the range of vehicle identification numbers associated with each FEL. You must also identify the purchaser and destination for each vehicle you produce to the extent this information is available.

(e) We may require you to keep additional records or to send us relevant information not required by this section in accordance with the Clean Air Act.

### § 1037.740 Restrictions for using emission credits.

The following restrictions apply for using emission credits:

(a) *Averaging sets.* Except as specified in paragraph (b) of this section, emission credits may be exchanged only within an averaging set. There are three principal averaging sets for vehicles subject to this subpart.

(1) Vehicles at or below 19,500 pounds GVWR that are subject to the standards of § 1037.105.

(2) Vehicles above 19,500 pounds GVWR but at or below 33,000 pounds GVWR.

(3) Vehicles over 33,000 pounds GVWR.

(4) Note that other separate averaging sets also apply for emission credits not related to this subpart. For example, under § 1037.104, an additional

## Environmental Protection Agency

## § 1037.745

averaging set comprises all vehicles subject to the standards of that section. Separate averaging sets also apply for engines under 40 CFR part 1036, including engines used in vehicles subject to this subpart.

(b) *Credits from hybrid vehicles and other advanced technologies.* The averaging set restrictions of paragraph (a) of this section do not apply for credits generated under § 1037.104(d)(7), § 1037.615 or 40 CFR 1036.615 from hybrid vehicles with regenerative braking, or from other advanced technologies.

(1) The maximum amount of credits you may bring into the following service class groups is 60,000 Mg per model year:

(i) Spark-ignition engines, light heavy-duty compression-ignition engines, and light heavy-duty vehicles. This group comprises the averaging set listed in paragraphs (a)(1) of this section and the averaging set listed in 40 CFR 1036.740(a)(1) and (2).

(ii) Medium heavy-duty compression-ignition engines and medium heavy-duty vehicles. This group comprises the averaging sets listed in paragraph (a)(2) of this section and 40 CFR 1036.740(a)(3).

(iii) Heavy heavy-duty compression-ignition engines and heavy heavy-duty vehicles. This group comprises the averaging sets listed in paragraph (a)(3) of this section and 40 CFR 1036.740(a)(4).

(2) The limit specified in paragraph (b)(1) of this section does not limit the amount of advanced technology credits that can be used within a service class group if they were generated in that same service class group.

(c) *Credit life.* Credits expire after five years.

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

### § 1037.745 End-of-year CO<sub>2</sub> credit deficits.

Except as allowed by this section, we may void the certificate of any vehicle family certified to an FEL above the applicable standard for which you do not have sufficient credits by the deadline for submitting the final report.

(a) Your certificate for a vehicle family for which you do not have sufficient

CO<sub>2</sub> credits will not be void if you remedy the deficit with surplus credits within three model years. For example, if you have a credit deficit of 500 Mg for a vehicle family at the end of model year 2015, you must generate (or otherwise obtain) a surplus of at least 500 Mg in that same averaging set by the end of model year 2018.

(b) You may apply only surplus credits to your deficit. You may not apply credits to a deficit from an earlier model year if they were generated in a model year for which any of your vehicle families for that averaging set had an end-of-year credit deficit.

(c) If you do not remedy the deficit with surplus credits within three model years, we may void your certificate for that vehicle family. Note that voiding a certificate applies *ab initio*. Where the net deficit is less than the total amount of negative credits originally generated by the family, we will void the certificate only with respect to the number of vehicles needed to reach the amount of the net deficit. For example, if the original vehicle family generated 500 Mg of negative credits, and the manufacturer's net deficit after three years was 250 Mg, we would void the certificate with respect to half of the vehicles in the family.

EFFECTIVE DATE NOTE: At 78 FR 36394, June 17, 2013, § 1037.745 was amended by revising the section heading and adding paragraph (d), effective Aug. 16, 2013. For the convenience of the user, the added and revised text is set forth as follows:

### § 1037.745 End-of-year CO<sub>2</sub> credit deficits.

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(d) For purposes of calculating the statute of limitations, the following actions are all considered to occur at the expiration of the deadline for offsetting debits as specified in paragraph (a) of this section:

(1) Failing to meet the requirements of paragraph (a) of this section.

(2) Failing to satisfy the conditions upon which a certificate was issued relative to offsetting debits.

(3) Selling, offering for sale, introducing or delivering into U.S. commerce, or importing vehicles that are found not to be covered by a certificate as a result of failing to offset debits.