

for both tractors and vocational vehicles, treat them as separate averaging sets. Adjust the CO₂ emission rates to be equivalent to an engine meeting the average NO_x FEL of new engines (assuming engines certified to the 0.20 g/hp-hr NO_x standard have a NO_x FEL equal to 0.20 g/hp-hr), as described in paragraph (b)(1) of this section.

(d) Include the following statement on the emission control information label: "THIS ENGINE WAS CERTIFIED TO AN ALTERNATE CO₂ STANDARD UNDER §1036.620."

(e) You may not bank CO₂ emission credits for any engine family in the same averaging set and model year in which you certify engines to the standards of this section. You may not bank any advanced technology credits in any averaging set for the model year you certify under this section (since such credits would be available for use in this averaging set). Note that the provisions of §1036.745 apply for deficits generated with respect to the standards of this section.

(f) You need our approval before you may certify engines under this section, especially with respect to the numerical value of the alternate standards. We will not approve your request if we determine that you manipulated your engine families or test engine configurations to certify to less stringent standards, or that you otherwise have not acted in good faith. You must keep and provide to us any information we need to determine that your engine families meet the requirements of this section. Keep these records for at least five years after you stop producing engines certified under this section.

§ 1036.625 In-use compliance with family emission limits (FELs).

You may ask us to apply a higher in-use FEL for certain in-use engines, subject to the provisions of this section. Note that §1036.225 contains provisions related to changing FELs during a model year.

(a) *Purpose.* This section is intended to address circumstances in which it is in the public interest to apply a higher in-use FEL based on forfeiting an appropriate number of emission credits.

(b) *FELs.* When applying higher in-use FELs to your engines, we would in-

tend to accurately reflect the actual in-use performance of your engines, consistent with the specified testing provisions of this part.

(c) *Equivalent families.* We may apply the higher FELs to other families in other model years if they used equivalent emission controls.

(d) *Credit forfeiture.* Where we specify higher in-use FELs under this section, you must forfeit CO₂ emission credits based on the difference between the in-use FEL and the otherwise applicable FEL. Calculate the amount of credits to be forfeited using the applicable equation in §1036.705, by substituting the otherwise applicable FEL for the standard and the in-use FEL for the otherwise applicable FEL.

(e) *Requests.* Submit your request to the Designated Compliance Officer. Include the following in your request:

- (1) The engine family name and model year of the engines affected.
- (2) A list of other engine families/model years that may be affected.
- (3) The otherwise applicable FEL for the engine families along with your recommendations for higher in-use FELs.
- (4) Your source of credits for forfeiture.

(f) *Relation to recall.* You may not request higher in-use FELs for any engine families for which we have made a determination of nonconformance and ordered a recall. You may, however, make such requests for engine families for which you are performing a voluntary emission recall.

(g) *Approval.* We may approve your request if we determine that you meet the requirements of this section and such approval is in the public interest. We may include appropriate conditions with our approval or we may approve your request with modifications.

Subpart H—Averaging, Banking, and Trading for Certification

§ 1036.701 General provisions.

(a) You may average, bank, and trade (ABT) emission credits for purposes of certification as described in this subpart and in subpart B of this part to show compliance with the standards of §1036.108. Participation in this program is voluntary. (Note: As described in