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(manufacturer/engine family or reserved) where the projected annual credits will be applied.

(iii) The manufacturer may supply the information required by this section in the form of a spreadsheet detailing the manufacturer's annual production plans and the credits generated or consumed by each engine family.

(b) All certificates issued are conditional upon manufacturer compliance with the provisions of this subpart both during and after the model year of production.

(c) Failure to comply with all provisions of this subpart will be considered to be a failure to satisfy the conditions upon which the certificate was issued, and the certificate may be determined to be void *ab initio* pursuant to § 90.123.

(d) The manufacturer bears the burden of establishing to the satisfaction of the Administrator that the conditions upon which the certificate was issued were satisfied or waived.

(e) Projected credits based on information supplied in the certification application may be used to obtain a certificate of conformity. However, any such credits may be revoked based on review of end-of-year reports, follow-up audits, and any other verification steps considered appropriate by the Administrator.

§ 90.209 Maintenance of records.

(a) The manufacturer must establish, maintain, and retain the following adequately organized and indexed records for each engine family:

(1) EPA engine family identification code;

(2) Family Emission Limit (FEL) or FELs where FEL changes have been implemented during the model year;

(3) Maximum modal power for the certification test engine;

(4) Projected production volume for the model year; and

(5) Records appropriate to establish the quantities of engines that constitute eligible production as defined in § 90.3 for each FEL.

(b) Any manufacturer producing an engine family participating in trading reserved credits must maintain the following records on an annual basis for each such engine family:

(1) The engine family;

(2) The actual applicable production volume;

(3) The values required to calculate credits as given in § 90.207;

(4) The resulting type and number of credits generated/required;

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

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

(c) The manufacturer must retain all records required to be maintained under this section for a period of eight years from the due date for the end-of-model year report. Records may be retained as hard copy or reduced to microfilm, ADP diskettes, and so forth, depending on the manufacturer's record retention procedure; provided, that in every case all information contained in the hard copy is retained.

(d) Nothing in this section limits the Administrator's discretion in requiring the manufacturer to retain additional records, or submit information not specifically required by this section, if otherwise permitted by law.

(e) Pursuant to a request made by the Administrator, the manufacturer must submit to the Administrator the information that the manufacturer is required to retain.

(f) EPA may, pursuant to § 90.123, void *ab initio* a certificate of conformity for an engine family for which the manufacturer fails to retain the records required in this section or to provide such information to the Administrator upon request.

§ 90.210 End-of-year and final reports.

(a) End-of-year and final reports must indicate the engine family, the engine class, the actual production volume, the values required to calculate credits as given in § 90.207, and the number of credits generated/required. Manufacturers must also submit how and where credit surpluses were dispersed (or are to be banked) and/or how and through what means credit deficits were met. Copies of contracts related to credit trading must be included or supplied by the broker, if applicable. The report must include a calculation of credit balances to show that the credit summation for all engines is equal to or greater than zero (or less than zero in cases of negative credit

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balances as permitted in § 90.207(c)). For model year 2005 and later, the report must include a calculation of the production weighted average HC+NO_x (including NMHC+NO_x) FEL for Class II engine families to show compliance with the provisions of § 90.203(g)(2).

(b) The calculation of eligible production for end-of-year and final reports must be based on engines produced for the United States market, excluding engines which are subject to state emission standards pursuant to a waiver granted by EPA under section 209(e) of the Act. Upon advance written request, the Administrator will consider other methods to track engines for credit calculation purposes that provide high levels of confidence that eligible production or sales are accurately counted.

(c)(1) End-of-year reports must be submitted within 90 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, Washington, DC 20460.

(2) Unless otherwise approved by the Administrator, final reports must be submitted within 270 days of the end of the model year to: Manager, Engine Compliance Programs Group (6403-J), U.S. Environmental Protection Agency, Washington, DC 20460.

(d) Failure by a manufacturer to submit any end-of-year or final reports in the specified time for any engines subject to regulation under this part is a violation of § 90.1003(a)(2) and section 213(d) of the Clean Air Act for each engine.

(e) A manufacturer generating credits for banking only who fails to submit end-of-year reports in the applicable specified time period (90 days after the end of the model year) may not use the credits until such reports are received and reviewed by EPA. Use of projected credits pending EPA review is not permitted in these circumstances.

(f) Errors discovered by EPA or the manufacturer in the end-of-year report, including errors in credit calculation, may be corrected in the final report.

(g) If EPA or the manufacturer determines that a reporting error occurred on an end-of-year or final report previously submitted to EPA under this

section, the manufacturer's credits and credit calculations must be recalculated. Erroneous positive credits will be void except as provided in paragraph (h) of this section. Erroneous negative credit balances may be adjusted by EPA.

(h) If EPA review determines a reporting error in the manufacturer's favor (that is, resulting in an increased credit balance) or if the manufacturer discovers such an error within 270 days of the end of the model year, EPA shall restore the credits for use by the manufacturer.

§ 90.211 Request for hearing.

An engine manufacturer may request a hearing on the Administrator's voiding of the certificate under §§ 90.203(h), 90.206(e), 90.207(f), 90.208(c), or 90.209(f), pursuant to § 90.124. The procedures of § 90.125 shall apply to any such hearing.

§ 90.212 Optional transition year averaging, banking, and trading program for Phase 2 handheld engines.

(a) In lieu of the averaging, banking, and trading program described in §§ 90.204 through 90.211, a handheld engine manufacturer may, through model year 2010, participate in an optional transition year averaging, banking and trading program as described in §§ 90.213 through 90.220.

(b) Under this optional transition year program, if an engine family has an FEL below the applicable standard for that year, it can generate emission credits as calculated in § 90.216. These credits will be determined by subtracting the engine family's FEL from the standard and multiplying by the appropriate adjustment factor selected from Tables 1 through 3 in § 90.216. These credits will be designated as "Optional Transition Year" credits. These credits, as adjusted by these factors, may be used in subsequent model years through model year 2007 to demonstrate manufacturer compliance with the applicable standard. Beginning in model year 2008 and continuing through model year 2010, these optional transition credits can be used to demonstrate compliance if, prior to the use of any credits, the manufacturer's average emission level as calculated