for a given model year may bank credits in that model year for use in averaging and trading in any subsequent model year.

(2) A manufacturer of a nonroad engine family may bank NO_X credits up to one calendar year prior to the effective date of mandatory certification. Such engines must meet the requirements of subparts A, B, D, E, F, G, H, I, J, and K of this part.

(3)(i) A manufacturer of a nonroad engine family may bank PM credits from Tier 1 engines under the provisions specified in § 89.207(b) for use in averaging and trading in the Tier 2 or later timeframe. These credits are considered to be Tier 2 credits.

(ii) Such engine families are subject to all provisions specified in subparts A, B, D, E, F, G, H, I, J, and K of this part, except that the applicable PM FEL replaces the PM emission standard for the family participating in the banking and trading program.

(b) *Requirements for Tier 2 and later engines rated at or above 37 kW and Tier 1 and later engines rated under 37 kW.* (1) A manufacturer of a nonroad engine family with an $NMHC + NO_X$ FEL or a PM FEL below the applicable standard for a given model year may bank credits in that model year for use in averaging and trading in any following model year.

(2) For engine rated under 37 kW, a manufacturer of a nonroad engine family may bank credits prior to the effective date of mandatory certification. Such engines must meet the requirements of subparts A, B, D, E, F, G, H, I, J, and K of this part.

(c) A manufacturer may bank actual credits only after the end of the model year and after EPA has reviewed the manufacturer's end-of-year reports. During the model year and before submittal of the end-of-year report, credits originally designated in the certification process for banking will be considered reserved and may be redesignated for trading or averaging in the end-of-year report and final report.

(d) Credits declared for banking from the previous model year that have not been reviewed by EPA may be used in averaging or trading transactions. However, such credits may be revoked at a later time following EPA review of

the end-of-year report or any subsequent audit actions.

§ 89.206 Trading.

(a) *Requirements for Tier 1 engines rated at or above 37 kW.* (1) A nonroad engine manufacturer may exchange emission credits with other nonroad engine manufacturers within the same averaging set in trading.

(2) Credits for trading can be obtained from credits banked in a previous model year or credits generated during the model year of the trading transaction.

(3) Traded credits can be used for averaging, banking, or further trading transactions within the restrictions described in § 89.204(c).

(b) *Requirements for Tier 2 and later engines rated at or above 37 kW and Tier 1 and later engines rated under 37 kW.* (1) A nonroad engine manufacturer may exchange emission credits with other nonroad engine manufacturers within the same averaging set in trading.

(2) Credits for trading can be obtained from credits banked in previous model years that have not expired or credits generated during the model year of the trading transaction.

(3) Traded credits can be used for averaging, banking, or further trading transactions within the restrictions described in § 89.204(c) and paragraph (b)(4) of this section.

(4) Emission credits generated from engines rated at or above 19 kW utilizing indirect fuel injection may not be traded to other manufacturers.

(c) In the event of a negative credit balance resulting from a transaction, both the buyer and the seller are liable, except in cases deemed involving fraud. Certificates of all engine families participating in a negative trade may be voided ab initio under § 89.126(c).

§ 89.207 Credit calculation.

(a) *Requirements for calculating NO_X credits from Tier 1 engines rated at or above 37 kW.* (1) For each participating engine family, emission credits (positive or negative) are to be calculated