

credits based on actual applicable production/sales volume as contained in the end-of-year reports submitted to EPA. Some or all of these credits may be revoked if EPA review of the end-of-year reports or any subsequent audit action(s) uncovers problems or errors.

*Point of first retail sale* means the point at which the engine is first sold directly to an end user. Generally, this point is the retail boat or engine dealer. If the engine is sold first to a boat or vessel manufacturer for installation in a boat or vessel, the boat or vessel manufacturer may be the point of first retail sale if the boat or vessel manufacturer can determine if the engine is or is not exported once they have sold the boat or vessel. If the boat or vessel manufacturer cannot determine if the engine is or is not exported once they have sold the boat or vessel, the engine is presumed to not be exported, unless the engine manufacturer can demonstrate otherwise. Engine manufacturers must include engines in their average if the engine is exported and subsequently imported into the United States installed in a boat or vessel and introduced into United States commerce.

*Trading* means the exchange of marine engine emission credits between manufacturers.

#### § 91.203 General provisions.

(a) The certification averaging, banking, and trading provisions for hydrocarbon plus oxides of nitrogen emissions from eligible marine SI engines are described in this subpart.

(b) A marine SI engine family must use the averaging provisions and may use the banking and trading provisions for hydrocarbon plus oxides of nitrogen emissions if it is subject to regulation under subpart B of this part with certain exceptions specified in paragraph (c) of this section.

(c) Manufacturers of marine SI engines may not use the banking and trading provisions for new marine SI engines:

(1) Which are exported, or

(2) Which are subject to state engine emission standards unless the manufacturer demonstrates to the Administrator that inclusion of these engines in banking and trading is appropriate.

(d) A manufacturer may certify marine SI engine families at Family Emission Limits (FELs) above or below the applicable emission standard, provided the summation of the manufacturer's projected balance of all credit transactions in a given model year is greater than or equal to zero, as determined under § 91.207.

(1) A manufacturer of an engine family with an FEL exceeding the applicable emission standard must obtain positive emission credits sufficient to address the associated credit shortfall via averaging, banking, or trading.

(2) An engine family with an FEL below the applicable emission standard may generate positive emission credits for averaging, banking, or trading, or a combination thereof. Emission credits may not be used to offset an engine family's emissions that exceed its applicable FEL. Credits may not be used to remedy nonconformity determined by a production line testing, a Selective Enforcement Audit (SEA) or by recall (in-use) testing. However, in the case of a manufacturer production line testing or SEA failure, credits may be used to allow subsequent production of engines for the family in question if the manufacturer elects to recertify to a higher FEL. In the case of production line testing a manufacturer may revise the FEL based upon production line testing results obtained under subpart F and upon Administrator approval pursuant to § 91.122(d).

(e) Credits generated in a given model year may be used in the following three model years. Credits not used by the end of the third model year after being generated are forfeited. Credits generated in one model year may not be used for prior model years, unless allowed under § 91.207.

(f) Manufacturers must demonstrate compliance under the averaging, banking, and trading provisions for a particular model year by 270 days after the model year. An engine family generating negative credits for which the manufacturer does not obtain or generate an adequate number of positive credits from the same or previous model years will violate the conditions of the certificate of conformity. The

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certificate of conformity may be voided *ab initio* pursuant to §91.123 for this engine family.

**§91.204 Averaging.**

(a) Negative credits from engine families with FELs above the applicable emission standard must be offset by positive credits from engine families below the applicable emission standard, as allowed under the provisions of this subpart. Averaging of credits in this manner is used to determine compliance under §91.207(b).

(b) For model years through 2000, outboard credits may not be summed with personal watercraft credits, or vice versa, for purposes of compliance under §91.207, except manufacturers may, at their discretion, include personal watercraft credits with outboard credits upon demonstration to the satisfaction of the Administrator that the personal watercraft engine is installed in a hybrid vessel that is smaller than a typical sterndrive or inboard vessel and larger than a typical personal watercraft. For model year 2001 and later, manufacturers must sum credits generated from outboard and personal watercraft to determine compliance under §91.207.

(c) Credits used in averaging may be obtained from credits generated by another engine family as allowed under §91.204(b), in the same model year, credits banked in the three previous model years, or credits obtained through trading.

**§91.205 Banking.**

(a) A manufacturer of a marine SI engine family with an FEL below the applicable emission standard for a given model year may bank credits in that model year for use in averaging and trading in the following three model years. Negative credits must be banked according to the requirements under §91.207(c). Positive credits not used within the three model years after they are banked are forfeited.

(1) Early banking. (i) For outboard engines in model year (MY) 1997, a manufacturer may bank positive emission credits if the following conditions are met: the manufacturer certifies their entire marine outboard engine product line for MY 1997 under the

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emission standards applicable to MY 1998, the manufacturer demonstrates compliance with the corporate average standard under §91.207(b), and the sum of positive and negative credits under §91.207 generates positive emission credits, when the following formula is used for purposes of the applicable standard in §91.207(a). The number of credits that may be banked under this paragraph is the number of positive emission credits generated under the provisions of the preceding sentence. Marine engines certified under the provisions of this paragraph are subject to all of the requirements of this part.

HYDROCARBON PLUS OXIDES OF NITROGEN  
EXHAUST EMISSION STANDARDS  
[Grams per kilowatt-hour]

Model year	P<4.3 kW HC+NO <sub>x</sub> Emission standard by model year	P>4.3 kW HC+NO <sub>x</sub> emission standard by model year
1997 ...	276	$(0.959 \times (151 + 557/P^{0.9}) + 1.22)$

(ii) For personal watercraft engines in model year 1998, a manufacturer may bank positive emission credits if the following conditions are met: The manufacturer certifies their entire marine personal watercraft engine product line for MY 1998 under the emission standards applicable to 1998 model year outboard engine emission standards, the manufacturer demonstrates compliance with the corporate average standard under §91.207(b), and the sum of positive and negative credits under §91.207 generates positive emission credits, when the following formula is used for purposes of the applicable standard §91.207(a). The number of credits that may be banked under this paragraph is the number of positive emission credits generated under the provisions of the preceding sentence. Marine engines certified under the provisions of this paragraph are subject to all of the requirements of this part.