

**From:** Scott Brenner [scott@rosemontstrategies.com]  
**Sent:** 5/23/2018 8:59:20 PM  
**To:** Wehrum, Bill [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=33d96ae800cf43a3911d94a7130b6c41-Wehrum, Wil]  
**CC:** Atkinson, Emily [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=bb2155adef6a44aea9410741f0c01d27-Atkinson, Emily]; Loving, Shanita [/o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=439ce9c2d2104080a1b5908d3402bf20-Loving, Shanita]  
**Subject:** Re: UPDATED: Confirmed 1/19 at 11:00am: Guidance on locomotive emission credits. Can EPA do this or do we need a congressional action?

Bill,

We were in several months ago with New York Air Brake to discussion locomotive emission credits and options for suppliers who provide EPA-approved emission reducing technologies. We would greatly appreciate it if we could have some more of your time as we would like to come in with Norfolk Southern to discuss another option and to correct a market change as a result of a recent EPA action.

**Problem:** Under current US EPA practices, only locomotive manufacturers and remanufacturers can apply for certificates of conformity, which certifies that the locomotives in compliance with federal emissions requirements. EPA also restricts applications to modify an existing certificate to manufacturers and remanufacturers.

EPA grants clean air emission credits only for technology covered in a certificate. Unfortunately, EPA's interpretation allows General Electric (GE) – the dominant locomotive manufacturer – largely to decide which technologies can be adopted by the industry. Therefore, EPA is left granting certificates and credits based only on the technology GE chooses to submit for approval, which is clearly less than ideal and not based upon the most cost-effective emissions control technology available in the marketplace.

For instance, GE is currently offering operators the option of stripping out NYAB's LEADER ( a train control technology) and installing the GE product, and offering to apply for emission credits. If the operator refuses to change train control technology, GE will not apply for emission credits to the detriment of the operator.

This interpretation undermines the goals of the Clean Air Act itself because it fails to encourage the adoption of the best and most cost-effective emissions control technology while discouraging competing technologies from entering the market for emission reduction products.

**Proposed Solution:** Allow railroads and aftermarket part suppliers to be eligible to submit an application to modify an existing certificate. Any additional emissions credits earned by the post-manufacture change to the locomotive would accrue to the applying party. This would grant railroads and their suppliers the opportunity to generate emission credits for new EPA approved technology, giving market forces the chance to advance clean air at lower costs.

We believe this can be achieved in one of two manners: (1) EPA could interpret 40 CFR 1033.225(f) as applicable to railroads and aftermarket part suppliers. The rule states that “you” may apply for a modification without specifically defining to whom that “you” applies. EPA could interpret “you” broadly to include railroads and suppliers, thus allowing a wide range of market players to decide what technology advances. certificate be granted to the party applying for the modification. That would be the same party that

would be liable under current EPA practices. This would allow the railroad applicant, for example, to be the beneficiary of the new credits and to lower the cost of compliance with the Clean Air Act.

Apologies for the lengthy email but wanted to summarize our issue. Thank you for your consideration.

Scott

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**From:** Loving, Shanita <Loving.Shanita@epa.gov>  
**Sent:** Friday, December 22, 2017 2:34:14 PM  
**To:** Scott Brenner  
**Cc:** Jason.Connell@nyab.com; Atkinson, Emily  
**Subject:** UPDATED: Confirmed 1/19 at 11:00am: Guidance on locomotive emission credits. Can EPA do this or do we need a congressional action?

Hi Scott,

You are confirmed for a 30 minute in person meeting on Friday, January 19, 2018 at 11:00 am.

Directions and procedures to 1200 Pennsylvania Avenue NW:

**Metro:** If you come by Metro get off at the Federal Triangle metro stop. Exit the metro station and go up two sets of escalators to the surface level and turn right. You will see a short staircase and wheelchair ramp leading to a set of glass doors with the EPA logo - that is the William Jefferson Clinton Federal Building, North Entrance.

**Taxi:** Direct the taxi to drop you off on 12th Street NW, between Constitution and Pennsylvania Avenues, at the elevator for the Federal Triangle metro stop - this is almost exactly half way between the two avenues on 12<sup>th</sup> Street NW. Facing the building with the EPA logo and American flags, walk toward the building and take the glass door on your right hand side with the escalators going down to the metro on your left – that is the North Lobby of the William Jefferson Clinton building.

**Security Procedures:** A government issued photo id is required to enter the building and it is suggested you arrive 15 minutes early in order to be cleared and arrive at the meeting room on time. Upon entering the lobby, the meeting attendees will be asked to pass through security and provide a photo ID for entrance. Let the guards know that you were instructed to call 202-564-7404 for a security escort.

Please send me a list of participants in advance of the meeting and feel free to contact me should you need any additional information.

Shanita Loving

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