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other subparts, “applicable emission standard” is defined to also include FELs.

(3) *Averaging set* means a set of locomotives in which emission credits may be exchanged only with other locomotives in the same averaging set.

(4) *Broker* means any entity that facilitates a trade of emission credits between a buyer and seller.

(5) *Buyer* means the entity that receives emission credits as a result of a trade.

(6) *Reserved emission credits* means emission credits you have generated that we have not yet verified by reviewing your final report.

(7) *Seller* means the entity that provides emission credits during a trade.

(8) *Trade* means to exchange emission credits, either as a buyer or seller.

(9) *Transfer* means to convey control of credits generated for an individual locomotive to the purchaser, owner, or operator of the locomotive at the time of manufacture or remanufacture; or to convey control of previously generated credits from the purchaser, owner, or operator of an individual locomotive to the manufacturer/remanufacturer at the time of manufacture/remanufacture.

(d) You may not use emission credits generated under this subpart to offset any emissions that exceed an FEL or standard. This applies for all testing, including certification testing, in-use testing, selective enforcement audits, and other production-line testing. However, if emissions from a locomotive exceed an FEL or standard (for example, during a selective enforcement audit), you may use emission credits to recertify the engine family with a higher FEL that applies only to future production.

(e) Engine families that use emission credits for one or more pollutants may not generate positive emission credits for another pollutant.

(f) Emission credits may be used in the model year they are generated or in future model years. Emission credits may not be used for past model years.

(g) You may increase or decrease an FEL during the model year by amending your application for certification under §1033.225. The new FEL may apply only to locomotives you have not

already introduced into commerce. Each locomotive’s emission control information label must include the applicable FELs. You must conduct production line testing to verify that the emission levels are achieved.

(h) Credits may be generated by any certifying manufacturer/remanufacturer and may be held by any of the following entities:

(1) Locomotive or engine manufacturers.

(2) Locomotive or engine remanufacturers.

(3) Locomotive owners.

(4) Locomotive operators.

(5) Other entities after notification to EPA.

(i) All locomotives that are certified to an FEL that is different from the emission standard that would otherwise apply to the locomotives are required to comply with that FEL for the remainder of their service lives, except as allowed by §1033.750.

(1) Manufacturers must notify the purchaser of any locomotive that is certified to an FEL that is different from the emission standard that would otherwise apply that the locomotive is required to comply with that FEL for the remainder of its service life.

(2) Remanufacturers must notify the owner of any locomotive or locomotive engine that is certified to an FEL that is different from the emission standard that would otherwise apply that the locomotive (or the locomotive in which the engine is used) is required to comply with that FEL for the remainder of its service life.

(j) The FEL to which the locomotive is certified must be included on the locomotive label required in §1033.135. This label must include the notification specified in paragraph (i) of this section.

**§ 1033.705 Calculating emission credits.**

The provisions of this section apply separately for calculating emission credits for NO<sub>x</sub> or PM.

(a) Calculate positive emission credits for an engine family that has an FEL below the otherwise applicable emission standard. Calculate negative emission credits for an engine family that has an FEL above the otherwise

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applicable emission standard. Do not round until the end of year report.

(b) For each participating engine family, calculate positive or negative emission credits relative to the otherwise applicable emission standard. For the end of year report, round calculated emission credits to the nearest one hundredth of a megagram (0.01 Mg). Round your end of year emission credit balance to the nearest megagram (Mg). Use consistent units throughout the calculation. When useful life is expressed in terms of megawatt-hrs, calculate credits for each engine family from the following equation:

$$\text{Emission credits} = (\text{Std} - \text{FEL}) \times (1.341) \times (\text{UL}) \times (\text{Production}) \times (F_p) \times (10^{-3} \text{ kW-Mg/MW-g}).$$

Where:

Std = the applicable NO<sub>x</sub> or PM emission standard in g/bhp-hr (except that Std = previous FEL in g/bhp-hr for locomotives that were certified under this part to an FEL other than the standard during the previous useful life).

FEL = the family emission limit for the engine family in g/bhp-hr.

UL = the sales-weighted average useful life in megawatt-hours (or the subset of the engine family for which credits are being calculated), as specified in the application for certification.

Production = the number of locomotives participating in the averaging, banking, and trading program within the given engine family during the calendar year (or the number of locomotives in the subset of the engine family for which credits are being calculated). Quarterly production projections are used for initial certification. Actual applicable production/sales volumes are used for end-of-year compliance determination.

F<sub>p</sub> = the proration factor as determined in paragraph (d) of this section.

(c) When useful life is expressed in terms of miles, calculate the useful life in terms of megawatt-hours (UL) by dividing the useful life in miles by 100,000, and multiplying by the sales-weighted average rated power of the engine family. For example, if your useful life is 800,000 miles for a family with an average rated power of 3,500 hp, then your equivalent MW-hr useful life would be 28,000 MW-hrs. Credits are calculated using this UL value in the equations of paragraph (b) of this section.

(d) The proration factor is an estimate of the fraction of a locomotive's service life that remains as a function of age. The proration factor is 1.00 for freshly manufactured locomotives.

(1) The locomotive's age is the length of time in years from the date of original manufacture to the date at which the remanufacture (for which credits are being calculated) is completed, rounded to the next higher year.

(2) The proration factors for line-haul locomotives ages 1 through 20 are specified in Table 1 to this section. For line-haul locomotives more than 20 years old, use the proration factor for 20 year old locomotives. The proration factors for switch locomotives ages 1 through 40 are specified in Table 2 to this section. For switch locomotives more than 40 years old, use the proration factor for 40 year old locomotives.

(3) For repower engines, the proration factor is based on the age of the locomotive chassis, not the age of the engine, except for remanufactured locomotives that qualify as refurbished. The minimum proration factor for remanufactured locomotives that meet the definition of refurbished but not freshly manufactured is 0.60. (NOTE: The proration factor is 1.00 for all locomotives that meet the definition of freshly manufactured.)

TABLE 1 TO § 1033.705.—PRORATION FACTORS FOR LINE-HAUL LOCOMOTIVES

Locomotive age (years)	Proration factor (F <sub>p</sub> )
1 .....	0.96
2 .....	0.92
3 .....	0.88
4 .....	0.84
5 .....	0.81
6 .....	0.77
7 .....	0.73
8 .....	0.69
9 .....	0.65
10 .....	0.61
11 .....	0.57
12 .....	0.54
13 .....	0.50
14 .....	0.47
15 .....	0.43
16 .....	0.40
17 .....	0.36
18 .....	0.33
19 .....	0.30
20 .....	0.27

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TABLE 2 TO § 1033.705.—PRORATION FACTORS FOR SWITCH LOCOMOTIVES

Locomotive age (years)	Proration factor (F <sub>p</sub> )
1	0.98
2	0.96
3	0.94
4	0.92
5	0.90
6	0.88
7	0.86
8	0.84
9	0.82
10	0.80
11	0.78
12	0.76
13	0.74
14	0.72
15	0.70
16	0.68
17	0.66
18	0.64
19	0.62
20	0.60
21	0.58
22	0.56
23	0.54
24	0.52
25	0.50
26	0.48
27	0.46
28	0.44
29	0.42
30	0.40
31	0.38
32	0.36
33	0.34
34	0.32
35	0.30
36	0.28
37	0.26
38	0.24
39	0.22
40	0.20

(3) Locomotives not subject to the requirements of this part, such as those excluded under § 1033.5.

(4) Any other locomotives, where we indicate elsewhere in this part 1033 that they are not to be included in the calculations of this subpart.

§ 1033.710 Averaging emission credits.

(a) Averaging is the exchange of emission credits among your engine families. You may average emission credits only as allowed by § 1033.740.

(b) You may certify one or more engine families to an FEL above the applicable emission standard, subject to the FEL caps and other provisions in subpart B of this part, if you show in your application for certification that your projected balance of all emission-credit transactions in that model year is greater than or equal to zero.

(c) If you certify an engine family to an FEL that exceeds the otherwise applicable emission standard, you must obtain enough emission credits to offset the engine family's deficit by the due date for the final report required in § 1033.730. The emission credits used to address the deficit may come from your other engine families that generate emission credits in the same model year, from emission credits you have banked, or from emission credits you obtain through trading or by transfer.

(e) In your application for certification, base your showing of compliance on projected production volumes for locomotives that will be placed into service in the United States. As described in § 1033.730, compliance with the requirements of this subpart is determined at the end of the model year based on actual production volumes for locomotives that will be placed into service in the United States. Do not include any of the following locomotives to calculate emission credits:

(1) Locomotives permanently exempted under subpart G of this part or under 40 CFR part 1068.

(2) Exported locomotives. You may ask to include locomotives sold to Mexican or Canadian railroads if they will likely operate within the United States and you include all such locomotives (both credit using and credit generating locomotives).

§ 1033.715 Banking emission credits.

(a) Banking is the retention of emission credits by the manufacturer/remanufacturer generating the emission credits (or owner/operator, in the case of transferred credits) for use in averaging, trading, or transferring in future model years. You may use banked emission credits only as allowed by § 1033.740.

(b) You may use banked emission credits from the previous model year for averaging, trading, or transferring before we verify them, but we may revoke these emission credits if we are unable to verify them after reviewing your reports or auditing your records.

(c) Reserved credits become actual emission credits only when we verify them after reviewing your final report.