

**§ 1033.255**

available. We may review them at any time.

(e) Send us copies of any locomotive maintenance instructions or explanations if we ask for them.

**§ 1033.255 EPA decisions.**

(a) If we determine your application is complete and shows that the engine family meets all the requirements of this part and the Clean Air Act, we will issue a certificate of conformity for your engine family for that model year. We may make the approval subject to additional conditions.

(b) We may deny your application for certification if we determine that your engine family fails to comply with emission standards or other requirements of this part or the Clean Air Act. Our decision may be based on a review of all information available to us. If we deny your application, we will explain why in writing.

(c) In addition, we may deny your application or suspend or revoke your certificate if you do any of the following:

(1) Refuse to comply with any testing or reporting requirements.

(2) Submit false or incomplete information (paragraph (e) of this section applies if this is fraudulent).

(3) Render inaccurate any test data.

(4) Deny us from completing authorized activities. This includes a failure to provide reasonable assistance.

(5) Produce locomotives for importation into the United States at a location where local law prohibits us from carrying out authorized activities.

(6) Fail to supply requested information or amend your application to include all locomotives being produced.

(7) Take any action that otherwise circumvents the intent of the Clean Air Act or this part.

(d) We may void your certificate if you do not keep the records we require or do not give us information when we ask for it.

(e) We may void your certificate if we find that you intentionally submitted false or incomplete information.

(f) If we deny your application or suspend, revoke, or void your certificate, you may ask for a hearing (see § 1033.920).

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**Subpart D—Manufacturer and Remanufacturer Production Line Testing and Audit Programs**

**§ 1033.301 Applicability.**

The requirements of this part apply to manufacturers/remanufacturers of locomotives certified under this part, with the following exceptions:

(a) The requirements of §§ 1033.310, 1033.315, 1033.320, and 1033.330 apply only to manufacturers of freshly manufactured locomotives or locomotive engines (including those used for repowering). We may also apply these requirements to remanufacturers of any locomotives for which there is reason to believe production problems exist that could affect emission performance. When we make a determination that production problems may exist that could affect emission performance, we will notify the remanufacturer(s). The requirements of §§ 1033.310, 1033.315, 1033.320, and 1033.330 will apply as specified in the notice.

(b) The requirements of § 1033.335 apply only to remanufacturers.

(c) As specified in § 1033.1(d), we may apply the requirements of this subpart to manufacturers/remanufacturers that do not certify the locomotives. However, unless we specify otherwise, the requirements of this subpart apply to manufacturers/remanufacturers that hold the certificates for the locomotives.

**§ 1033.305 General requirements.**

(a) Manufacturers (and remanufacturers, where applicable) are required to test production line locomotives using the test procedures specified in § 1033.315. While this subpart refers to locomotive testing, you may ask to test locomotive engines instead of testing locomotives.

(b) Remanufacturers are required to conduct audits according to the requirements of § 1033.335 to ensure that remanufactured locomotives comply with the requirements of this part.

(c) If you certify an engine family with carryover emission data, as described in § 1033.235, and these equivalent engine families consistently pass the production-line testing requirements over the preceding two-year period, you may ask for a reduced testing

rate for further production-line testing for that family. If we reduce your testing rate, we may limit our approval to any number of model years. In determining whether to approve your request, we may consider the number of locomotives that have failed emission tests.

(d) You may ask to use an alternate program or measurement method for testing production-line engines. In your request, you must show us that the alternate program gives equal assurance that your engines meet the requirements of this part. We may waive some or all of this subpart's requirements if we approve your alternate program.

**§ 1033.310 Sample selection for testing.**

(a) At the start of each model year, begin randomly selecting locomotives from each engine family for production line testing at a rate of one percent. Make the selection of the test locomotive after it has been assembled. Perform the testing throughout the entire model year to the extent possible, unless we specify a different schedule for your tests. For example, we may require you to disproportionately select locomotives from the early part of a model year for a new locomotive model that has not been subject to PLT previously.

(1) The required sample size for an engine family (provided that no locomotive tested fails to meet applicable emission standards) is the lesser of five tests per model year or one percent of projected annual production, with a minimum sample size for an engine family of one test per model year. See paragraph (d) of this section to determine the required number of test locomotives if any locomotives fail to comply with any standards.

(2) You may elect to test additional locomotives. All additional locomotives must be tested in accordance with the applicable test procedures of this part.

(b) You must assemble the test locomotives using the same production process that will be used for locomotives to be introduced into commerce. You may ask us to allow special assembly procedures for catalyst-equipped locomotives.

(c) Unless we approve it, you may not use any quality control, testing, or assembly procedures that you do not use during the production and assembly of all other locomotives of that family. This applies for any test locomotive or any portion of a locomotive, including engines, parts, and subassemblies.

(d) If one or more locomotives fail a production line test, then you must test two additional locomotives from the next fifteen produced in that engine family for each locomotive that fails. These two additional locomotives do not count towards your minimum number of locomotives. For example, if you are required to test a minimum of four locomotives under paragraph (a) of this section and the second locomotive fails to comply with one or more standards, then you must test two additional locomotives from the next fifteen produced in that engine family. If both of those locomotives pass all standards, you are required to test two additional locomotives to complete the original minimum number of four. If they both pass, you are done with testing for that family for the year since you tested six locomotives (the four originally required plus the two additional locomotives).

**§ 1033.315 Test procedures.**

(a) *Test procedures.* Use the test procedures described in subpart F of this part, except as specified in this section.

(1) You may ask to use other test procedures. We will approve your request if we determine that it is not possible to perform satisfactory testing using the specified procedures. We may also approve alternate test procedures under § 1033.305(d).

(2) If you used test procedures other than those in subpart F of this part during certification for the engine family (other than alternate test procedures necessary for testing a development engine or a low hour engine instead of a low mileage locomotive), use the same test procedures for production line testing that you used in certification.

(b) *Modifying a test locomotive.* Once an engine is selected for testing, you may adjust, repair, maintain, or modify it or check its emissions only if one of the following is true: