

the engine family for which they were originally intended to be included.

(ii) Where the locomotives are to be included in an engine family that was certified to an FEL above the applicable standard, you must reserve credits to cover the locomotives covered by this allowance and include the required information for these locomotives in the end-of-year report required by subpart H of this part.

(c) In granting relief under this section, we may also set other conditions as appropriate, such as requiring payment of fees to negate an economic gain that such relief would otherwise provide.

§ 1033.625 Special certification provisions for non-locomotive-specific engines.

You may certify freshly manufactured or remanufactured locomotives using non-locomotive-specific engines (as defined in (1033.901) using the normal certification procedures of this part. Locomotives certified in that way are generally treated the same as other locomotives, except where specified otherwise. The provisions of this section provide for design certification to the locomotive standards in this part for locomotives using engines included in engine families certified under 40 CFR part 1039 (or part 89) in limited circumstances.

(a) Remanufactured or freshly manufactured switch locomotives powered by non-locomotive-specific engines may be certified by design without the test data required by 1033.235 if all of the following are true:

(1) Before being installed in the locomotive, the engines were covered by a certificate of conformity issued under 40 CFR Part 1039 (or part 89) that is effective for the calendar year in which the manufacture or remanufacture occurs. You may use engines certified during the previous year if it is subject to the same standards. You may not make any modifications to the engines unless we approve them.

(2) The engines were certified to standards that are numerically lower than the applicable locomotive standards of this part.

(3) More engines are reasonably projected to be sold and used under the

certificate for non-locomotive use than for use in locomotives.

(4) The number of such locomotives certified under this section does not exceed 30 in any three-year period. We may waive this sales limit for locomotive models that have previously demonstrated compliance with the locomotive standards of § 1033.101 in-use.

(5) We approved the application as specified in paragraph (d) of this section.

(b) To certify your locomotives by design under this section, submit your application as specified in § 1033.205, except include the following instead of the locomotive test data otherwise required:

(1) A description of the engines to be used, including the name of the engine manufacturer and engine family identifier for the engines.

(2) A brief engineering analysis describing how the engine's emission controls will function when installed in the locomotive throughout the locomotive's useful life.

(3) The emission data submitted under 40 CFR part 1039 (or part 89).

(c) Locomotives certified under this section are subject to all of the same requirements of this part unless specified otherwise in this section. The engines used in such locomotives are not considered to be included in the otherwise applicable engines family of 40 CFR part 1039 (or part 89).

(d) We will approve or deny the application as specified in subpart C of this part. For example, we will deny your application for certification by design under this section in any case where we have evidence that your locomotives will not conform to the requirements of this part throughout their useful lives.

§ 1033.630 Staged-assembly and delegated assembly exemptions.

(a) *Staged assembly.* You may ask us to provide a temporary exemption to allow you to complete production of your engines and locomotives at different facilities, as long as you maintain control of the engines until they are in their certified configuration. We may require you to take specific steps to ensure that such locomotives are in their certified configuration before

reaching the ultimate purchaser. You may request an exemption under this paragraph (a) in your application for certification, or in a separate submission. If you include your request in your application, your exemption is approved when we grant your certificate. Note that no exemption is needed to ship an engine that has been assembled in its certified configuration, is properly labeled, and will not require an aftertreatment device to be attached when installed in the locomotive.

(b) *Delegated assembly.* This paragraph (b) applies where the engine manufacturer/remanufacturer does not complete assembly of the locomotives and the engine is shipped after being manufactured or remanufactured (partially or completely). The provisions of this paragraph (b) apply differently depending on who holds the certificate of conformity and the state of the engine when it is shipped. You may request an exemption under this paragraph (b) in your application for certification, or in a separate submission. If you include your request in your application, your exemption is approved when we grant your certificate. A manufacturer/remanufacturer may request an exemption under 40 CFR 1068.260 instead of under this section.

(1) In cases where an engine has been assembled in its certified configuration, properly labeled, and will not require an aftertreatment device to be attached when installed in the locomotive, no exemption is needed to ship the engine. You do not need an exemption to ship engines without specific components if they are not emission-related components identified in Appendix I of 40 CFR part 1068.

(2) In cases where an engine has been properly labeled by the certificate holder and assembled in its certified configuration except that it does not yet have a required aftertreatment device, an exemption is required to ship the engine. You may ask for this exemption if you do all of the following:

(i) You note on the Engine Emission Control Information label that the locomotive must include the aftertreatment device to be covered by the certificate.

(ii) You make clear in your emission-related installation instructions that

installation of the aftertreatment device is required for the locomotive to be covered by the certificate.

(3) In cases where an engine will be shipped to the certificate holder in an uncertified configuration, an exemption is required to ship the engine. You may ask for this exemption under 40 CFR 1068.262.

(c) *Other exemptions.* In unusual circumstances, you may ask us to provide an exemption for an assembly process that is not covered by the provisions of paragraphs (a) and (b) of this section. We will make the exemption conditional based on you complying with requirements that we determine are necessary to ensure that the locomotives are assembled in their certified configuration before being placed (back) into service.

§ 1033.640 Provisions for repowered and refurbished locomotives.

(a) The provisions of this section apply for locomotives that are produced from an existing locomotive so that the new locomotive contains both previously used parts and parts that have never been used before.

(1) Repowered locomotives are used locomotives in which a freshly manufactured propulsion engine is installed. As described in this section, a repowered locomotive is deemed to be either remanufactured or freshly manufactured, depending on the total amount of unused parts on the locomotive. It may also be deemed to be a refurbished locomotive.

(2) Refurbished locomotives are locomotives that contain more unused parts than previously used parts. As described in this section, a locomotive containing more unused parts than previously used parts may be deemed to be either remanufactured or freshly manufactured, depending on the total amount of unused parts on the locomotive. Note that § 1033.101 defines refurbishment of a pre-1973 locomotive to be an upgrade of the locomotive.

(b) A single existing locomotive cannot be divided into parts and combined with new parts to create more than one remanufactured locomotive. However, any number of locomotives can be divided into parts and combined with