

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

new parts to create more than one remanufactured locomotive, provide the number of locomotives created (remanufactured and freshly manufactured) does not exceed the number of locomotives that were disassembled.

(c) You may determine the relative amount of previously used parts consistent with the specifications of the Federal Railroad Administration. Otherwise, determine the relative amount of previously used parts as follows:

(1) Identify the parts in the fully assembled locomotive that have been previously used and those that have never been used before.

(2) Weight the unused parts and previously used parts by the dollar value of the parts. For example, a single part valued at \$1200 would count the same as six parts valued at \$200 each. Group parts by system where possible (such as counting the engine as one part) if either all the parts in that system are used or all the parts in that system are unused. Calculate the used part values using dollar values from the same year as the new parts.

(3) Sum the values of the unused parts. Also sum the values of the previously used parts. The relative fraction of used parts is the total value of previously used parts divided by the combined value of the unused parts and previously used parts.

(c) If the weighted fraction of the locomotive that is comprised of previously used parts is greater than or equal to 25 percent, then the locomotive is considered to be a remanufactured locomotive and retains its original date of manufacture. Note, however, that if the weighted fraction of the locomotive that is comprised of previously used parts is less than 50 percent, then the locomotive is also considered to be a refurbished locomotive.

(d) If the weighted fraction of the locomotive that is comprised of previously used parts is less than 25 percent, then the locomotive is deemed to be a freshly manufactured locomotive and the date of original manufacture is the most recent date on which the locomotive was assembled using less than 25 percent previously used parts. For example:

(1) If you produce a new locomotive that includes a used frame, but all other parts are unused, then the locomotive would likely be considered to be a freshly manufactured locomotive because the value of the frame would likely be less than 25 percent of the total value of the locomotive. Its date of original manufacture would be the date on which you complete its assembly.

(2) If you produce a new locomotive by replacing the engine in a 1990 locomotive with a freshly manufactured engine, but all other parts are used, then the locomotive would likely be considered to be a remanufactured locomotive and its date of original manufacture is the date on which assembly was completed in 1990. (NOTE: such a locomotive would also be considered to be a repowered locomotive.)

(e) Locomotives containing used parts that are deemed to be freshly manufactured locomotives are subject to the same provisions as all other freshly manufactured locomotives. Other refurbished locomotives are subject to the same provisions as other remanufactured locomotives, with the following exceptions:

(1) *Switch locomotives.* (i) Prior to January 1, 2015, remanufactured Tier 0 switch locomotives that are deemed to be refurbished are subject to the Tier 0 line-haul cycle and switch cycle standards. Note that this differs from the requirements applicable to other Tier 0 switch locomotives, which are not subject to the Tier 0 line-haul cycle standards.

(ii) Beginning January 1, 2015, remanufactured Tier 3 and earlier switch locomotives that are deemed to be refurbished are subject to the Tier 3 switch standards.

(2) *Line-haul locomotives.* Remanufactured line-haul locomotives that are deemed to be refurbished are subject to the same standards as freshly manufactured line-haul locomotives, except that line-haul locomotives with rated power less than 3000 hp that are refurbished before January 1, 2015 are subject to the same standards as refurbished switch locomotives under paragraph (e)(1)(i) of this section. However, line-haul locomotives less than 3000 hp

may not generate emission credits relative to the standards specified in paragraph (e)(1)(i) of this section.

(3) *Labels for switch and line-haul locomotives.* Remanufacturers that refurbish a locomotive must add a secondary locomotive label that includes the following:

(i) The label heading: "REFURBISHED LOCOMOTIVE EMISSION CONTROL INFORMATION."

(ii) The statement identifying when the locomotive was refurbished and what standards it is subject to, as follows: "THIS LOCOMOTIVE WAS REFURBISHED IN [year of refurbishment] AND MUST COMPLY WITH THE TIER [applicable standard level] EACH TIME THAT IT IS REMANUFACTURED, EXCEPT AS ALLOWED BY 40 CFR 1033.750.".

§ 1033.645 Non-OEM component certification program.

This section describes a voluntary program that allows you to get EPA approval of components you manufacture for use during remanufacturing.

(a) *Applicability.* This section applies only for components replaced during remanufacturing. It does not apply for other components that are replaced during a locomotive's useful life.

(1) The following components are eligible for approval under this section:

- (i) Cylinder liners.
- (ii) Pistons.
- (iii) Piston rings.
- (iv) Heads.
- (v) Fuel injectors.
- (vi) Turbochargers.
- (vii) Aftercoolers and intercoolers.

(2) Catalysts and electronic controls are not eligible for approval under this section.

(3) We may determine that other types of components can be certified under this section, consistent with good engineering judgment.

(b) *Approval.* To obtain approval, submit your request to the Designated Compliance Officer.

(1) Include all of the following in your request:

- (i) A description of the component(s) for which you are requesting approval.
- (ii) A list of all engine/locomotive models and engine families for which your component would be used. You

may exclude models that are not subject to our standards or will otherwise not be remanufactured under a certificate of conformity.

(iii) A copy of the maintenance instructions for engines using your component. You may reference the other certificate holder's maintenance instructions in your instructions. For example, your instructions may specify to follow the other certificate holder's instructions in general, but list one or more exceptions to address the specific maintenance needs of your component.

(iv) An engineering analysis (including test data in some cases) demonstrating to us that your component will not cause emissions to increase. The analysis must address both low-hour and end-of-useful life emissions. The amount of information required for this analysis is less than is required to obtain a certificate of conformity under subpart C of this part and will vary depending on the type of component being certified.

(v) The following statement signed by an authorized representative of your company: We submit this request under 40 CFR 1033.645. All the information in this report is true and accurate to the best of my knowledge. I know of the penalties for violating the Clean Air Act and the regulations. (Authorized Company Representative)

(2) If we determine that there is reasonable technical basis to believe that your component is sufficiently equivalent that it will not increase emissions, we will approve your request and you will be a certificate holder for your components with respect to actual emissions performance for all locomotives that use those components (in accordance with this section).

(c) *Liability.* Being a certificate holder under this section means that if in-use testing indicates that a certified locomotive using one or more of your approved components does not comply with an applicable emission standard, we will presume that you and other certificate holders are liable for the noncompliance. However, we will not hold you liable in cases where you convince us that your components did not cause the noncompliance. Conversely, we will not hold other certificate holders liable for noncompliance caused