

this part, and count those locomotives toward both your testing obligations of that subpart and this section.

(3) *Option 3.* You may ask us to allow you to test locomotives that use parts covered under §1033.645. If we do, it does not change the number of locomotives that you must test.

(4) *Option 4.* We may require that you test specific locomotives, including locomotives that do not meet the criteria specified in any of the options in this section. If we do, we will specify which locomotives to test by January 1 of the calendar year for which testing is required.

(d) *Reporting requirements.* Report all testing done in compliance with the provisions of this section to us within 45 calendar days after the end of each calendar year. At a minimum, include the following:

(1) Your full corporate name and address.

(2) For each locomotive tested, all the following:

(i) Corporate name of the manufacturer and last remanufacturer(s) of the locomotive (including both certificate holder and installer, where different), and the corporate name of the manufacturer or last remanufacturer(s) of the engine if different than that of the manufacturer/remanufacturer(s) of the locomotive.

(ii) Year (and month if known) of original manufacture of the locomotive and the engine, and the manufacturer's model designation of the locomotive and manufacturer's model designation of the engine, and the locomotive identification number.

(iii) Year (and month if known) that the engine last underwent remanufacture, the engine remanufacturer's designation that reflects (or most closely reflects) the engine after the last remanufacture, and the engine family identification.

(iv) The number of MW-hrs and miles (where available) the locomotive has been operated since its last remanufacture.

(v) The emission test results for all measured pollutants.

(e) You do not have to submit a report for any year in which you performed no emission testing under this section.

(f) You may ask us to allow you to submit equivalent emission data collected for other purposes instead of some or all of the test data required by this section. If we allow it in advance, you may report emission data collected using other testing or sampling procedures instead of some or all of the data specified by this section.

(g) Submit all reports to the Designated Compliance Officer.

(h) Failure to comply fully with this section is a violation of 40 CFR 1068.101(a)(2).

§ 1033.815 Maintenance, operation, and repair.

All persons who own, operate, or maintain locomotives are subject to this section, except where we specify that a requirement applies to the owner.

(a) Unless we allow otherwise, all owners of locomotives subject to the provisions of this part must ensure that all emission-related maintenance is performed on the locomotives, as specified in the maintenance instructions provided by the certifying manufacturer/remanufacturer in compliance with §1033.125 (or maintenance that is equivalent to the maintenance specified by the certifying manufacturer/remanufacturer in terms of maintaining emissions performance).

(b) Perform unscheduled maintenance in a timely manner. This includes malfunctions identified through the locomotive's emission control diagnostics system and malfunctions discovered in components of the diagnostics system itself. For most repairs, this paragraph (b) requires that the maintenance be performed no later than the locomotive's next periodic (92-day) inspection. See paragraph (e) of this section, for reductant replenishment requirements in a locomotive equipped with an SCR system.

(c) Use good engineering judgment when performing maintenance of locomotives subject to the provisions of this part. You must perform all maintenance and repair such that you have a reasonable technical basis for believing the locomotive will continue (after the maintenance or repair) to meet the applicable emission standards and FELs to which it was certified.

(d) The owner of the locomotive must keep records of all maintenance and repairs that could reasonably affect the emission performance of any locomotive subject to the provisions of this part. Keep these records for eight years.

(e) For locomotives equipped with emission controls requiring the use of specific fuels, lubricants, or other fluids, proper maintenance includes complying with the manufacturer/remanufacturer's specifications for such fluids when operating the locomotives. This requirement applies without regard to whether misfueling permanently disables the emission controls. The following additional provisions apply for locomotives equipped with SCR systems requiring the use of urea or other reductants:

(1) You must plan appropriately to ensure that reductant will be available to the locomotive during operation.

(2) If the SCR diagnostic indicates (or you otherwise determine) that either reductant supply or reductant quality in the locomotive is inadequate, you must replace the reductant as soon as practical.

(3) If you operate a locomotive without the appropriate urea or other reductant, you must report such operation to us within 30 days. Note that such operation violates the requirement of this paragraph (e); however, we may consider mitigating factors (such as how long the locomotive was operated without the appropriate urea or other reductant) in determining whether to assess penalties for such violations.

(f) Failure to fully comply with this section is a violation of 40 CFR 1068.101(b).

§ 1033.820 In-use locomotives.

(a) We may require you to supply in-use locomotives to us for testing. We will specify a reasonable time and place at which you must supply the locomotives and a reasonable period during which we will keep them for testing. We will make reasonable allowances for you to schedule the supply of locomotives to minimize disruption of your operations. The number of locomotives that you must supply is limited as follows:

(1) We will not require a Class I railroad to supply more than five locomotives per railroad per calendar year.

(2) We will not require a non-Class I railroad (or other entity subject to the provisions of this subpart) to supply more than two locomotives per railroad per calendar year. We will request locomotives under this paragraph (a)(2) only for purposes that cannot be accomplished using locomotives supplied under paragraph (a)(1) of this section.

(b) You must make reasonable efforts to supply manufacturers/remanufacturers with the test locomotives needed to fulfill the in-use testing requirements in subpart E of this part.

(c) Failure to fully comply with this section is a violation of 40 CFR 1068.101(a)(2).

§ 1033.825 Refueling requirements.

(a) If your locomotive operates using a volatile fuel, your refueling equipment must be designed and used to minimize the escape of fuel vapors. This means you may not use refueling equipment in a way that renders any refueling emission controls inoperative or reduces their effectiveness.

(b) If your locomotive operates using a gaseous fuel, the hoses used to refuel it may not be designed to be bled or vented to the atmosphere under normal operating conditions.

(c) Failing to fully comply with the requirements of this section is a violation of 40 CFR 1068.101(b).

Subpart J—Definitions and Other Reference Information

§ 1033.901 Definitions.

The following definitions apply to this part. The definitions apply to all subparts unless we note otherwise. All undefined terms have the meaning the Clean Air Act gives to them. The definitions follow:

Adjustable parameter means any device, system, or element of design that someone can adjust (including those which are difficult to access) and that, if adjusted, may affect emissions or locomotive performance during emission testing or normal in-use operation. This includes, but is not limited to, parameters related to injection timing