

testing for certification, production-line testing, or in-use testing.

*Tier 0 or Tier 0+* means relating to the Tier 0 emission standards, as shown in § 1033.101.

*Tier 1 or Tier 1+* means relating to the Tier 1 emission standards, as shown in § 1033.101.

*Tier 2 or Tier 2+* means relating to the Tier 2 emission standards, as shown in § 1033.101.

*Tier 3* means relating to the Tier 3 emission standards, as shown in § 1033.101.

*Tier 4* means relating to the Tier 4 emission standards, as shown in § 1033.101.

*Total hydrocarbon* has the meaning given in 40 CFR 1065.1001. This generally means the combined mass of organic compounds measured by the specified procedure for measuring total hydrocarbon, expressed as a hydrocarbon with an atomic hydrogen-to-carbon ratio of 1.85:1.

*Total hydrocarbon equivalent* has the meaning given in 40 CFR 1065.1001. This generally means the sum of the carbon mass contributions of non-oxygenated hydrocarbons, alcohols and aldehydes, or other organic compounds that are measured separately as contained in a gas sample, expressed as exhaust hydrocarbon from petroleum-fueled locomotives. The hydrogen-to-carbon ratio of the equivalent hydrocarbon is 1.85:1.

*Ultimate purchaser* means the first person who in good faith purchases a new locomotive for purposes other than resale.

*Ultra low-sulfur diesel fuel* means one of the following:

(1) For in-use fuels, *ultra low-sulfur diesel fuel* means a diesel fuel marketed as ultra low-sulfur diesel fuel having a maximum sulfur concentration of 15 parts per million.

(2) For testing, *ultra low-sulfur diesel fuel* has the meaning given in 40 CFR part 1065.

*Upcoming model year* means for an engine family the model year after the one currently in production.

*Upgrade* means one of the following types of remanufacturing.

(1) Repowering a locomotive that was originally manufactured prior to January 1, 1973.

(2) Refurbishing a locomotive that was originally manufactured prior to January 1, 1973 in a manner that is not freshly manufacturing.

(3) Modifying a locomotive that was originally manufactured prior to January 1, 1973 (or a locomotive that was originally manufactured on or after January 1, 1973, and that is not subject to the emission standards of this part), such that it is intended to comply with the Tier 0 standards. See § 1033.615.

*Useful life* means the period during which the locomotive engine is designed to properly function in terms of reliability and fuel consumption, without being remanufactured, specified as work output or miles. It is the period during which a new locomotive is required to comply with all applicable emission standards. See § 1033.101(g).

*Void* has the meaning given in 40 CFR 1068.30. In general this means to invalidate a certificate or an exemption both retroactively and prospectively.

*Volatile fuel* means a volatile liquid fuel or any fuel that is a gas at atmospheric pressure. Gasoline, natural gas, and LPG are volatile fuels.

*Volatile liquid fuel* means any liquid fuel other than diesel or biodiesel that is a liquid at atmospheric pressure and has a Reid Vapor Pressure higher than 2.0 pounds per square inch.

*We (us, our)* means the Administrator of the Environmental Protection Agency and any authorized representatives.

#### § 1033.905 Symbols, acronyms, and abbreviations.

The following symbols, acronyms, and abbreviations apply to this part:

AECD auxiliary emission control device.  
 AESS automatic engine stop/start  
 CFR Code of Federal Regulations.  
 CO carbon monoxide.  
 CO<sub>2</sub> carbon dioxide.  
 EPA Environmental Protection Agency.  
 FEL Family Emission Limit.  
 g/bhp-hr grams per brake horsepower-hour.  
 HC hydrocarbon.  
 hp horsepower.  
 LPG liquefied petroleum gas.  
 LSD low sulfur diesel.  
 MW megawatt.  
 NIST National Institute of Standards and Technology.  
 NMHC nonmethane hydrocarbons.  
 NO<sub>x</sub> oxides of nitrogen.  
 PM particulate matter.  
 rpm revolutions per minute.

## § 1033.915

SAE Society of Automotive Engineers.  
SCR selective catalytic reduction.  
SEA Selective Enforcement Audit.  
THC total hydrocarbon.  
THCE total hydrocarbon equivalent.  
UL useful life.  
ULSD ultra low sulfur diesel.  
U.S.C. United States Code.

### § 1033.915 Confidential information.

(a) Clearly show what you consider confidential by marking, circling, bracketing, stamping, or some other method.

(b) We will store your confidential information as described in 40 CFR part 2. Also, we will disclose it only as specified in 40 CFR part 2. This applies both to any information you send us and to any information we collect from inspections, audits, or other site visits.

(c) If you send us a second copy without the confidential information, we will assume it contains nothing confidential whenever we need to release information from it.

(d) If you send us information without claiming it is confidential, we may make it available to the public without further notice to you, as described in 40 CFR 2.204.

### § 1033.920 How to request a hearing.

(a) You may request a hearing under certain circumstances, as described elsewhere in this part. To do this, you must file a written request, including a description of your objection and any supporting data, within 30 days after we make a decision.

(b) For a hearing you request under the provisions of this part, we will approve your request if we find that your request raises a substantial factual issue.

(c) If we agree to hold a hearing, we will use the procedures specified in 40 CFR part 1068, subpart G.

## PART 1039—CONTROL OF EMISSIONS FROM NEW AND IN-USE NONROAD COMPRESSION-IGNITION ENGINES

### Subpart A—Overview and Applicability

Sec.

1039.1 Does this part apply for my engines?  
1039.2 Who is responsible for compliance?

## 40 CFR Ch. I (7–1–08 Edition)

1039.5 Which engines are excluded from this part's requirements?

1039.10 How is this part organized?

1039.15 Do any other regulation parts apply to me?

1039.20 What requirements from this part apply to excluded stationary engines?

### Subpart B—Emission Standards and Related Requirements

1039.101 What exhaust emission standards must my engines meet after the 2014 model year?

1039.102 What exhaust emission standards and phase-in allowances apply for my engines in model year 2014 and earlier?

1039.104 Are there interim provisions that apply only for a limited time?

1039.105 What smoke standards must my engines meet?

1039.107 What evaporative emission standards and requirements apply?

1039.110 [Reserved]

1039.115 What other requirements apply?

1039.120 What emission-related warranty requirements apply to me?

1039.125 What maintenance instructions must I give to buyers?

1039.130 What installation instructions must I give to equipment manufacturers?

1039.135 How must I label and identify the engines I produce?

1039.140 What is my engine's maximum engine power?

### Subpart C—Certifying Engine Families

1039.201 What are the general requirements for obtaining a certificate of conformity?

1039.205 What must I include in my application?

1039.210 May I get preliminary approval before I complete my application?

1039.220 How do I amend the maintenance instructions in my application?

1039.225 How do I amend my application for certification to include new or modified engines or to change an FEL?

1039.230 How do I select engine families?

1039.235 What emission testing must I perform for my application for a certificate of conformity?

1039.240 How do I demonstrate that my engine family complies with exhaust emission standards?

1039.245 How do I determine deterioration factors from exhaust durability testing?

1039.250 What records must I keep and what reports must I send to EPA?

1039.255 What decisions may EPA make regarding my certificate of conformity?

### Subpart D [Reserved]

### Subpart E—In-use Testing

1039.401 General provisions.