

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

(2) You may separately submit some of the information required by § 1033.205, consistent with the provisions of § 1033.1(d). For example, this may be an appropriate way to submit detailed information about proprietary engine software. Note that this allowance to separately submit some of the information required by § 1033.205 is also available for applications not submitted under this section.

(c) Locomotives certified under this section are subject to all the requirements of this part except as specified in paragraph (b) of 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.

[73 FR 37197, June 30, 2008, as amended at 75 FR 22986, Apr. 30, 2010]

#### § 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 1068.261 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

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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.

[73 FR 37197, June 30, 2008, as amended at 73 FR 59190, Oct. 8, 2008]

### § 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 §1033.901 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, provided 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.