

specified in subpart F of this part (including the applicable test procedures in 40 CFR part 1065). As specified in this paragraph (h), you may use a combination of the test procedures specified in this part and the test procedures specified in 40 CFR part 92 prior to January 1, 2015. After this date, you must use only the test procedures specified in this part.

(1) Prior to January 1, 2015, you may ask to use some or all of the procedures specified in 40 CFR part 92 for locomotives certified under this part 1033.

(2) If you ask to rely on a combination of procedures under this paragraph (h), we will approve your request only if you show us that it does not affect your ability to demonstrate compliance with the applicable emission standards. Generally this requires that the combined procedures would result in emission measurements at least as high as those that would be measured using the procedures specified in this part. Alternatively, you may demonstrate that the combined effects of the different procedures is small relative to your compliance margin (the degree to which your emissions are below the applicable standards).

(i) *Certification testing.* Prior to model year 2014, you may use the simplified steady-state engine test procedure specified in this paragraph (i) for certification testing. The normal certification procedures and engine testing procedures apply, except as specified in this paragraph (i).

(1) Use good engineering judgment to operate the engine consistent with its expected operation in the locomotive, to the extent practical. You are not required to exactly replicate the transient behavior of the engine.

(2) You may delay sampling during notch transition for up to 20 seconds after you begin the notch change.

(3) We may require you provide additional information in your application for certification to support the expectation that production locomotives will meet all applicable emission standards when tested as locomotives.

(4) You may not use this simplified procedure for production-line or in-use testing.

(j) *Administrative requirements.* For model years 2008 and 2009, you may use

a combination of the administrative procedures specified in this part and the test procedures specified in 40 CFR part 92. For example, this would allow you to use the certification procedures of 40 CFR part 92 to apply for certifies under this part 1033.

(k) *Test fuels.* Testing performed during calendar years 2008 and 2009 may be performed using test fuels that meet the specifications of 40 CFR 92.113. If you do, adjust PM emissions downward by 0.04 g/bhp-hr to account for the difference in sulfur content of the fuel.

(1) *Refurbished switch locomotives.* In 2008 and 2009 remanufactured Tier 0 switch locomotives that are deemed to be refurbished may be certified as remanufactured switch locomotives under 40 CFR part 92.

(m) *Assigned deterioration factors.* The provisions of this paragraph (m) apply for Tier 0 and Tier 1 locomotives to the standards of this part during model years 2008 or 2009. Remanufacturers certifying such locomotives to the standards of this part during these model years may use an assigned deterioration factor of 0.03 g/bhp-hr for PM and an assigned deterioration factor of zero for other pollutants. For purposes of determining compliance other than for certification or production-line testing, calculate the applicable in-use compliance limits for these locomotives by adjusting the applicable PM standards/FELs upward by 0.03 g/bhp-hr.

[73 FR 37197, June 30, 2008, as amended at 73 FR 59189, Oct. 8, 2008; 74 FR 8423, Feb. 24, 2009; 75 FR 22983, Apr. 30, 2010]

### Subpart C—Certifying Engine Families

#### § 1033.201 General requirements for obtaining a certificate of conformity.

Certification is the process by which you demonstrate to us that your freshly manufactured or remanufactured locomotives will meet the applicable emission standards throughout their useful lives (explaining to us how you plan to manufacture or remanufacture locomotives, and providing test data showing that such locomotives will comply with all applicable emission

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standards). Anyone meeting the definition of manufacturer in §1033.901 may apply for a certificate of conformity for freshly manufactured locomotives. Anyone meeting the definition of remanufacturer in §1033.901 may apply for a certificate of conformity for remanufactured locomotives.

(a) You must send us a separate application for a certificate of conformity for each engine family. A certificate of conformity is valid starting with the indicated effective date, but it is not valid for any production after December 31 of the model year for which it is issued. No certificate will be issued after December 31 of the model year.

(b) The application must contain all the information required by this part and must not include false or incomplete statements or information (see §1033.255).

(c) We may ask you to include less information than we specify in this subpart, as long as you maintain all the information required by §1033.250.

(d) You must use good engineering judgment for all decisions related to your application (see 40 CFR 1068.5).

(e) An authorized representative of your company must approve and sign the application.

(f) See §1033.255 for provisions describing how we will process your application.

(g) We may require you to deliver your test locomotives to a facility we designate for our testing (see §1033.235(c)).

(h) By applying for a certificate of conformity, you are accepting responsibility for the in-use emission performance of all properly maintained and used locomotives covered by your certificate. This responsibility applies without regard to whether you physically manufacture or remanufacture the entire locomotive. If you do not physically manufacture or remanufacture the entire locomotive, you must take reasonable steps (including those specified by this part) to ensure that the locomotives produced under your certificate conform to the specifications of your application for certification. Note that this paragraph does not limit any liability under this part or the Clean Air Act for entities that

do not obtain certificates. This paragraph also does not prohibit you from making contractual arrangements with noncertifiers related to recovering damages for noncompliance.

(i) The provisions of this subpart describe how to obtain a certificate that covers all standards and requirements. Manufacturer/remanufacturers may ask to obtain a certificate of conformity that does not cover the idle control requirements of §1033.115 or one that only covers the idle control requirements of §1033.115. Remanufacturers obtaining such partial certificates must include a statement in their installation instructions that two certificates and labels are required for a locomotive to be in a fully certified configuration. We may modify the certification requirements for certificates that will only cover idle control systems.

### § 1033.205 Applying for a certificate of conformity.

(a) Send the Designated Compliance Officer a complete application for each engine family for which you are requesting a certificate of conformity.

(b) [Reserved]

(c) You must update and correct your application to accurately reflect your production, as described in §1033.225.

(d) Include the following information in your application:

(1) A description of the basic engine design including, but not limited to, the engine family specifications listed in §1033.230. For freshly manufactured locomotives, a description of the basic locomotive design. For remanufactured locomotives, a description of the basic locomotive designs to which the remanufacture system will be applied. Include in your description, a list of distinguishable configurations to be included in the engine family. Note whether you are requesting a certificate that will or will not cover idle controls.

(2) An explanation of how the emission control system operates, including detailed descriptions of:

(i) All emission control system components.

(ii) Injection or ignition timing for each notch (i.e., degrees before or after top-dead-center), and any functional