§ 1037.640 Qualifying criteria.

Vocational vehicles intended for off-road use meeting either the criteria of paragraph (a)(1) or (a)(2) of this section are exempt without request, subject to the provisions of this section.

(a)(1) Vehicles are exempt if the tires installed on the vehicle have a maximum speed rating at or below 55 mph.

(a)(2) Vehicles are exempt if they were primarily designed to perform work off-road (such as in oil fields, forests, or construction sites), and they meet at least one of the criteria of paragraph (a)(2)(i) of this section and at least one of the criteria of paragraph (a)(2)(ii) of this section.

(i) The vehicle must have affixed components designed to work in an off-road environment (i.e., hazardous material equipment or off-road drill equipment) or be designed to operate at low speeds such that it is unsuitable for normal highway operation.

(ii) The vehicle must meet one of the following criteria:

(A) Have an axle that has a gross axle weight rating (GAWR) of 29,000 pounds.

(B) Have a speed attainable in 2 miles of not more than 33 mph.

(C) Have a speed attainable in 2 miles of not more than 45 mph, an unloaded vehicle weight that is not less than 95 percent of its gross vehicle weight rating (GVWR), and no capacity to carry occupants other than the driver and operating crew.

(b) Tractors.

The regulations of this part do not constrain how you may design VSLs for your vehicles. For example, you may design your VSL to have a single fixed speed limit or a soft-top speed limit. You may also design your VSL to expire after accumulation of a predetermined number of miles. However, designs with soft tops or expiration features are subject to proration provisions under this section that do not apply to fixed VSLs that do not expire.

(c) Recordkeeping and reporting.

(1) You must keep records to document that your exempted vehicle configurations meet all applicable requirements of this section. Keep these records for at least eight years after you stop producing the exempted vehicle model. We may review these records at any time.

(2) You must also keep records of the individual exempted vehicles you produce, including the vehicle identification number and a description of the vehicle configuration.

(3) Within 90 days after the end of each model year, you must send to the Designated Compliance Officer a report with the following information:

(i) A description of each exempted vehicle configuration, including an explanation of why it qualifies for this exemption.

(ii) The number of vehicles exempted for each vehicle configuration.

(d) Labeling.

You must include the following additional statement on the vehicle’s emission control information label under §1037.135: “THIS VEHICLE WAS EXEMPTED UNDER 40 CFR 1037.631.”.

§ 1037.640 Variable vehicle speed limiters.

This section specifies provisions that apply for vehicle speed limiters (VSLs) that you model under §1037.520. This does not apply for VSLs that you do not model under §1037.520.

(a) General.

The regulations of this part do not constrain how you may design VSLs for your vehicles. For example, you may design your VSL to have a single fixed speed limit or a soft-top speed limit. You may also design your VSL to expire after accumulation of a predetermined number of miles. However, designs with soft tops or expiration features are subject to proration provisions under this section that do not apply to fixed VSLs that do not expire.

(b) Definitions.

The following definitions apply for purposes of this section:

(1) Default speed limit means the speed limit that normally applies for the vehicle, except as follows:

(i) The default speed limit for adjustable VSLs must represent the speed limit that applies when the VSL is adjusted to its highest setting under paragraph (c) of this section.

(ii) For VSLs with soft tops, the default speed does not include speeds possible only during soft-top operation.

(iii) For expiring VSLs, the default does not include speeds that are possible only after expiration.

(2) Soft-top speed limit means the highest speed limit that applies during soft-top operation.

(3) Maximum soft-top duration means the maximum amount of time that a vehicle could operate above the default speed limit.

(4) Certified VSL means a VSL configuration that applies when a vehicle is new and until it expires.
(5) Expiration point means the mileage at which a vehicle’s certified VSL expires (or the point at which tamper protections expire).

(6) Effective speed limit has the meaning given in paragraph (d) of this section.

(c) Adjustments. You may design your VSL to be adjustable; however, this may affect the value you use in the GEM.

(1) Except as specified in paragraph (c)(2) of this section, any adjustments that can be made to the engine, vehicle, or their controls that change the VSL’s actual speed limit are considered to be adjustable operating parameters. Compliance is based on the vehicle being adjusted to the highest speed limit within this range.

(2) The following adjustments are not adjustable parameters:

(i) Adjustments made only to account for changing tire size or final drive ratio.

(ii) Adjustments protected by encrypted controls or passwords.

(iii) Adjustments possible only after the VSL’s expiration point.

(d) Effective speed limit. (1) For VSLs without soft tops or expiration points that expire before 1,259,000 miles, the effective speed limit is the highest speed limit that results by adjusting the VSL or other vehicle parameters consistent with the provisions of paragraph (c) of this section.

(2) For VSLs with soft tops and/or expiration points, the effective speed limit is calculated as specified in this paragraph (d)(2), which is based on 10 hours of operation per day (394 miles per day for day cabs and 551 miles per day for sleeper cabs). Note that this calculation assumes that a fraction of this operation is speed limited (3.9 hours and 252 miles for day cabs, and 7.3 hours and 474 miles for sleeper cabs). Use the following equation to calculate the effective speed limit, rounded to the nearest 0.1 mph:

\[
\text{Effective speed} = \text{ExF} \times (\text{STF} \times \text{STSL} + (1-\text{STF}) \times \text{DSL}) + (1-\text{ExF}) \times 65 \text{ mph}
\]

Where:

- \(\text{ExF}\) = expiration point miles/1,259,000 miles
- \(\text{STF}\) = maximum number of allowable soft top operation hours per day/7.3 hours for sleeper cabs (or maximum miles per day/474)
- \(\text{STSL}\) = the soft top speed limit
- \(\text{DSL}\) = the default speed limit

§ 1037.645 In-use compliance with family emission limits (FELs).

You may ask us to apply a higher in-use FEL for certain in-use vehicles, subject to the provisions of this section. Note that §1037.225 contains provisions related to changing FELs during a model year.

(a) Purpose. This section is intended to address circumstances in which it is in the public interest to apply a higher in-use FEL based on forfeiting an appropriate number of emission credits.

(b) FELs. We may apply higher in-use FELs to your vehicles as follows:

(1) Where your vehicle family includes more than one sub-family with different FELs, we may apply a higher FEL within the family than was applied to the vehicle’s configuration in your final ABT report. For example, if your vehicle family included three sub-families with FELs of 200 g/ton-mile, 210 g/ton-mile, and 220 g/ton-mile, we may apply a 220 g/ton-mile in-use FEL to vehicles that were originally designated as part of the 200 g/ton-mile or 210 g/ton-mile sub-families.

(2) Without regard to the number of sub-families in your certified vehicle family, we may specify new sub-families with higher FELs than were included in your final ABT report. We may apply these higher FELs as in-use FELs for your vehicles. For example, if your vehicle family included three sub-families with FELs of 200 g/ton-mile, 210 g/ton-mile, and 220 g/ton-mile, we may specify a new 230 g/ton-mile sub-family.

(3) In specifying sub-families and in-use FELs, we would intend to accurately reflect the actual in-use performance of your vehicles, consistent with the specified testing and modeling provisions of this part.

(c) Equivalent families. We may apply the higher FELs to other families in other model years if they used equivalent emission controls.

(d) Credit forfeiture. Where we specify higher in-use FELs under this section, you must forfeit CO₂ emission credits.