

(a) You must have a contractual agreement with the other company that obligates that company to take the following steps:

(1) Meet the emission warranty requirements that apply under §1042.120. This may involve a separate agreement involving reimbursement of warranty-related expenses.

(2) Report all warranty-related information to the certificate holder.

(b) In your application for certification, identify the company whose trademark you will use.

(c) You remain responsible for meeting all the requirements of this chapter, including warranty and defect-reporting provisions.

**§1042.650 Exemptions for migratory vessels and auxiliary engines on Category 3 vessels.**

The provisions of this section apply for Category 1 and Category 2 engines, including auxiliary engines installed on vessels with Category 3 propulsion engines. These provisions do not apply for any Category 3 engines. All engines exempted under this section must comply with the applicable requirements of 40 CFR part 1043.

(a) *Temporary exemption.* A vessel owner may ask us for a temporary exemption from the tampering prohibition in 40 CFR 1068.101(b)(1) for a vessel if it will operate only in areas outside the United States where ULSD is not available. In your request, describe where the vessel will operate, how long it will operate there, why ULSD will be unavailable, and how you will modify the engine, including its emission controls. If we approve your request, you may modify the engine, but only as needed to disable or remove the emission controls needed for meeting the Tier 4 standards. You must return the engine to its original certified configuration before the vessel returns to the United States to avoid violating the tampering prohibition in 40 CFR 1068.101(b)(1). We may set additional conditions to prevent circumvention of the provisions of this part.

(b) *SOLAS exemption.* We may approve a permanent exemption from the prohibitions in 40 CFR 1068.101(a)(1) for an engine that is subject to Tier 4 standards as described in this paragraph (b).

(1) Vessel owners may ask for a permanent exemption from the Tier 4 standards for an engine that will be installed on vessels that will operate for extended periods outside the United States, provided they demonstrate all of the following are true:

(i) Prior to introduction into service, the vessel will comply with applicable certification requirements for international safety pursuant to the U.S. Coast Guard and the International Convention for the Protection of Life at Sea (SOLAS). The vessel owner must maintain compliance with these requirements for the life of the exempted engine.

(ii) The vessel will be used in areas outside of the United States where ULSD will not be available.

(iii) The mix of vessels with engines certified to Tier 3 or earlier standards in the owner's current fleet and the owner's current business operation of those vessels makes the exemption necessary. Note that because of the large fraction of pre-Tier 4 engines in the fleet prior to 2021, a request for a Tier 4 exemption prior to that year must clearly demonstrate that unusual circumstances apply.

(2) An engine exempted under this paragraph (b) must meet the Tier 3 emission standards described in §1402.101, subject to the procedural requirements of 40 CFR 1068.265.

(3) If you introduce an engine into U.S. commerce under this section, you must meet the labeling requirements in §1042.135, but add the following statement instead of the compliance statement in §1042.135(c)(10):

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.650 AND IS FOR USE SOLELY IN SOLAS VESSELS. INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

(4) Operating a vessel containing an engine exempted under this paragraph (b) violates the prohibitions in 40 CFR 1068.101(a)(1) if the vessel is not in full compliance with applicable requirements for international safety specified in paragraph (b)(1)(i) of this section.

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(c) *Vessels less than 500 gross tons.* In unusual circumstances for vessels less than 500 gross tons, we may approve a vessel owner's request for a permanent exemption from the prohibitions in 40 CFR 1068.101(a)(1) for an engine that is subject to Tier 4 standards that will operate for extended periods outside the United States without it being in compliance with applicable certification requirements for international safety. We may set appropriate additional conditions on such exemptions, and may void the exemption if those conditions are not met.

(d) *Auxiliary engines on Category 3 vessels.* As specified in this paragraph (d), auxiliary engines on vessels with Category 3 propulsion engines are exempt from the standards of this part.

(1) To be eligible for this exemption, the engine must meet all of the following criteria.

(i) The engine must conform fully to the applicable NO<sub>x</sub> standards of Annex VI and meet all other applicable requirements of 40 CFR part 1043. Engines installed on vessels constructed on or after January 1, 2016 must conform fully to the Annex VI Tier III NO<sub>x</sub> standards under 40 CFR part 1043 and meet all other applicable requirements in 40 CFR part 1043. Engines that would otherwise be subject to the Tier 4 standards of this part must also conform fully to the Annex VI Tier III NO<sub>x</sub> standards under 40 CFR part 1043.

(ii) The engine may not be used for propulsion (except for emergency engines).

(iii) The engine may be equipped with on-off NO<sub>x</sub> controls, provided it conforms to the requirements of §1042.115(g).

(2) You must notify the Designated Compliance Officer of your intent to use this exemption when applying for the EIAPP certificate for the engine under 40 CFR part 1043.

(3) The remanufactured engine requirements of subpart I of this part do not apply.

(4) If you introduce an engine into U.S. commerce under this paragraph (d), you must meet the labeling requirements in §1042.135, but add the following statement instead of the compliance statement in §1042.135(c)(10):

THIS ENGINE DOES NOT COMPLY WITH CURRENT U.S. EPA EMISSION STANDARDS UNDER 40 CFR 1042.650 AND IS FOR USE SOLELY IN VESSELS WITH CATEGORY 3 PROPULSION ENGINES. INSTALLATION OR USE OF THIS ENGINE IN ANY OTHER APPLICATION MAY BE A VIOLATION OF FEDERAL LAW SUBJECT TO CIVIL PENALTY.

[73 FR 37243, June 30, 2008, as amended at 75 FR 23007, Apr. 30, 2010]

**§1042.655 Special certification provisions for—Category 3 engines with aftertreatment.**

This section describes an optional approach for demonstrating for certification that catalyst-equipped engines (or engines equipped with other aftertreatment devices) comply with applicable emission standards. You must use good engineering judgment for all aspects of this allowance.

(a) *Eligibility.* You may use the provisions of this section without our prior approval to demonstrate that aftertreatment-equipped Category 3 engines meet the Tier 3 standards. In unusual circumstances, we may also allow you to use this approach to demonstrate that aftertreatment-equipped Category 2 engines meet the Tier 4 standards. We will generally approve this for Category 2 engines only if the engines are too large to be practically tested in a laboratory with a fully assembled aftertreatment system. If we approve this approach for a Category 2 engine, interpret references to Tier 3 in this section to mean Tier 4, and interpret references to Tier 2 in this section to mean Tier 3.

(b) *Required testing.* The emission-data engine must be tested as specified in Subpart F to verify that the engine-out emissions comply with the Tier 2 standards. The catalyst material or other aftertreatment device must be tested under conditions that accurately represent actual engine conditions for the test points. This catalyst or aftertreatment testing may be performed on a benchscale.

(c) *Engineering analysis.* Include with your application a detailed engineering analysis describing how the test data collected for the engine and aftertreatment demonstrate that all