§ 1042.605 Dressing engines already certified to other standards for nonroad or heavy-duty highway engines for marine use.

(a) General provisions. If you are an engine manufacturer (including someone who marinizes a land-based engine), this section allows you to introduce new marine engines into U.S. commerce if they are already certified to the requirements that apply to compression-ignition engines under 40 CFR parts 85 and 86 or 40 CFR part 89, 92, 1033, or 1039 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 86, 89, 92, 1033, or 1039 for each engine to also be a valid certificate of conformity under this part 1042 for its model year, without a separate application for certification under the requirements of this part 1042. This section does not apply for Category 3 engines.

(b) Vessel-manufacturer provisions. If you are not an engine manufacturer, you may install an engine certified for the appropriate model year under 40 CFR part 86, 89, 92, 1033, or 1039 in a marine vessel as long as you do not make any of the changes described in paragraph (d)(3) of this section and you meet the requirements of paragraph (e) of this section. If you modify the non-marine engine in any of the ways described in paragraph (d)(3) of this section, we will consider you a manufacturer of a new marine engine. Such engine modifications prevent you from using the provisions of this section.

(c) You may not circumvent the requirements of this part or the Clean Air Act by manufacturing a vessel outside the United States or initially flagging a vessel in another country. The definition of “new marine engine” in §1042.901 includes provisions for U.S.-flagged vessels that are manufactured or reflagged outside of U.S. waters. These provisions have the effect of applying the prohibitions of 40 CFR 1068.101(a)(1) to such vessels no later than when they first enter U.S. waters.

The inclusion of these provisions does not affect requirements or prohibitions of the Clean Air Act or other statutes that may apply to the vessel before it first enters U.S. waters.

(c) Liability. Engines for which you meet the requirements of this section are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines exempted under this section must meet all the applicable requirements from 40 CFR parts 85 and 86 or 40 CFR part 89, 92, 1033, or 1039. This paragraph (c) applies to engine manufacturers, vessel manufacturers that use such an engine, and all other persons as if the engine were used in its originally intended application. The prohibited acts of 40 CFR 1068.101(a)(1) apply to these new engines and vessels; however, we consider the certificate issued under 40 CFR part 86, 89, 92, 1033, or 1039 for each engine to also be a valid certificate of conformity under this part 1042 for its model year. If we make a determination that these engines do not conform to the regulations during their useful life, we may require you to recall them under 40 CFR part 85, 89, 92, or 1068.

(d) Specific criteria and requirements. If you are an engine manufacturer and meet all the following criteria and requirements regarding your new marine engine, the engine is eligible for an exemption under this section:

(i) You must produce it by marinizing an engine covered by a valid certificate of conformity from one of the following programs:

(ii) Heavy-duty highway engines (40 CFR part 86).

(iii) Land-based compression-ignition nonroad engines (40 CFR part 89 or 1039).

(iv) Locomotives (40 CFR part 92 or 1033). To be eligible for dressing under this section, the engine must be from a locomotive certified to standards that are at least as stringent as either the standards applicable to new marine engines or freshly manufactured locomotives in the model year that the engine is being dressed.

(ii) The engine must have the label required under 40 CFR part 86, 89, 92, 1033, or 1039.

(iii) You must not make any changes to the certified engine that could reasonably be expected to increase its emissions. For example, if you make any of the following changes to one of these engines, you do not qualify for the engine dressing exemption:

(i) Change any fuel system parameters from the certified configuration, or change, remove, or fail to properly install any other component, element of design, or calibration specified in the engine manufacturer’s application for certification. This includes aftertreatment devices and all related components.

(ii) Replacing an original turbocharger, except that small-volume engine manufacturers may replace an original turbocharger on a recreational engine with one that matches the performance of the original turbocharger.

(iii) Modify or design the marine engine cooling or aftercooling system so that temperatures or heat rejection rates are outside the original engine manufacturer’s specified ranges.

(4) You must show that fewer than 10 percent of the engine family’s total sales in the United States are used in marine applications. This includes engines used in any application, without regard to which company manufactures the vessel or equipment. Show this as follows:

(i) If you are the original manufacturer of the engine, base this showing on your sales information.

(ii) In all other cases, you must confirm this based on your best estimate of the original manufacturer’s sales information.

(e) Labeling and documentation. If you are an engine manufacturer or vessel manufacturer using this exemption, you must do all of the following:

(1) Make sure the original engine label will remain clearly visible after installation in the vessel.

(2) Add a permanent supplemental label to the engine in a position where it will remain clearly visible after installation in the vessel. In your engine label, do the following:

(i) Include the heading: “Marine Engine Emission Control Information”.

(ii) Include your full corporate name and trademark.

(iii) State: “This engine was marinized without affecting its emission controls.”.

(iv) State the date you finished marinizing the engine (month and year).

(3) Send the Designated Compliance Officer a signed letter by the end of
§ 1042.610  
40 CFR Ch. I (7–1–12 Edition)

Certifying auxiliary marine engines to land-based standards.

This section applies to auxiliary marine engines that are identical to certified land-based engines. See §1042.605 for provisions that apply to propulsion marine engines or auxiliary marine engines that are modified for marine applications. This section does not apply for Category 3 engines.

(a) General provisions. If you are an engine manufacturer, this section allows you to introduce new marine engines into U.S. commerce if they are already certified to the requirements that apply to compression-ignition engines under 40 CFR part 89 or 1039 for the appropriate model year. If you comply with all the provisions of this section, we consider the certificate issued under 40 CFR part 89 or 1039 for each engine to also be a valid certificate of conformity under this part 1042.

(b) Vessel-manufacturer provisions. If you are not an engine manufacturer, you may install an engine certified for land-based applications in a marine vessel as long as you meet all the qualifying criteria and requirements specified in paragraphs (d) and (e) of this section. If you modify the non-marine engine, we will consider you a manufacturer of a new marine engine. Such engine modifications prevent you from using the provisions of this section.

(c) Liability. Engines for which you meet the requirements of this section are exempt from all the requirements and prohibitions of this part, except for those specified in this section. Engines exempted under this section must meet all the applicable requirements from 40 CFR part 89 or 1039. This paragraph (c) applies to engine manufacturers, vessel

§ 1042.610  
40 CFR Ch. I (7–1–12 Edition)

each calendar year (or less often if we tell you) with all the following information:

(i) Identify your full corporate name, address, and telephone number.

(ii) List the engine models for which you expect to use this exemption in the coming year and describe your basis for meeting the sales restrictions of paragraph (d)(4) of this section.

(iii) State: “We prepare each listed engine model for marine application without making any changes that could increase its certified emission levels, as described in 40 CFR 1042.605.”

(f) Failure to comply. If your engines do not meet the criteria listed in paragraph (d) of this section, they will be subject to the standards, requirements, and prohibitions of this part 1042 and the certificate issued under 40 CFR part(s) 86, 89, 92, 1033, or 1039 will not be deemed to also be a certificate issued under this part 1042. Introducing these engines into U.S. commerce as marine engines without a valid exemption or certificate of conformity under this part violates the prohibitions in 40 CFR 1068.101(a).

(g) Data submission. (1) If you are both the original manufacturer and marinerizer of an exempted engine, you must send us emission test data on the appropriate marine duty cycles. You can include the data in your application for certification or in the letter described in paragraph (e)(3) of this section.

(2) If you are the original manufacturer of a listed engine that is marinerized by a post-manufacture marinerizer, you may be required to send us emission test data on the appropriate marine duty cycles. If such data are requested you will be allowed a reasonable amount of time to collect the data.

(h) Participation in averaging, banking and trading. Engines adapted for marine use under this section may not generate or use emission credits under this part 1042. These engines may generate credits under the ABT provisions in 40 CFR part(s) 86, 89, 92, 1033, or 1039, as applicable. These engines must use emission credits under 40 CFR part(s) 86, 89, 92, 1033, or 1039 as applicable if they are certified to an FEL that exceeds an emission standard.