

## § 85.1512

## 40 CFR Ch. I (7-1-10 Edition)

The following exemptions or exclusions are permitted by this paragraph:

(1) *National security exemption.* Vehicles may be imported under the national security exemption found at 40 CFR 85.1708. Only persons who are manufacturers may import a vehicle under a national security exemption.

(2) *Hardship exemption.* The Administrator may exempt on a case-by-case basis certain motor vehicles from Federal emission requirements to accommodate unforeseen cases of extreme hardship or extraordinary circumstances. Some examples are as follows:

(i) Handicapped individuals who needs a special vehicle unavailable in a certified configuration;

(ii) Individuals who purchase a vehicle in a foreign country where resale is prohibited upon the departure of such as individual;

(iii) Individuals emigrating from a foreign country to the U.S. in circumstances of severe hardship.

(d) Foreign diplomatic and military personnel may import nonconforming vehicles without bond. At the time of admission, the importer shall submit to the Administrator the written report required in § 85.1504(a)(1) (except for information required by § 85.1504(a)(1)(v)). Such vehicles may not be sold in the United States.

(e) *Racing exclusion.* Racing vehicles may be imported by any person provided the vehicles meet one or more of the exclusion criteria specified in 40 CFR 85.1703. Racing vehicles may not be registered or licensed for use on or operated on public roads and highways in the United States.

(f) *Exclusions/exemptions based on date of original manufacture.* (1) Notwithstanding any other requirements of this subpart, the following motor vehicles or motor vehicle engines are excluded from the requirements of the Act in accordance with section 216(3) of the Act and may be imported by any person:

(i) Gasoline-fueled light-duty vehicles and light-duty trucks originally manufactured prior to January 1, 1968.

(ii) Diesel-fueled light-duty vehicles originally manufactured prior to January 1, 1975.

(iii) Diesel-fueled light-duty trucks originally manufactured prior to January 1, 1976.

(iv) Motorcycles originally manufactured prior to January 1, 1978.

(v) Gasoline-fueled and diesel-fueled heavy-duty engines originally manufactured prior to January 1, 1970.

(2) Notwithstanding any other requirements of this subpart, a motor vehicle or motor vehicle engine not subject to an exclusion under § 85.1511(f)(1) but greater than twenty OP years old is entitled to an exemption from the requirements of the Act, provided that it is imported into the United States by a certificate holder. At the time of admission, the certificate holder shall submit to the Administrator the written report required in § 85.1504(a)(1) (except for information required by § 85.1504(a)(1)(v)).

(g) Applications for exemptions and exclusions provided for in paragraphs (b) and (c) of this section shall be mailed to: Investigation/Imports Section (EN-340F), Office of Mobile Sources, U.S. Environmental Protection Agency, Washington, DC 20460.

(h) Vehicles conditionally or finally admitted under paragraphs (b)(2), (b)(4), (c)(1), (c)(2), and (f)(2) of this section must still comply with all applicable requirements, if any, of the Energy Tax Act of 1978, the Energy Policy and Conservation Act and any other Federal or state requirements.

[52 FR 36156, Sept. 25, 1987; 52 FR 43827, Nov. 16, 1987]

### § 85.1512 Admission of catalyst and O<sub>2</sub> sensor-equipped vehicles.

(a)(1) Notwithstanding other provisions of this subpart, any person may conditionally import a vehicle which:

(i) Was covered by a certificate of conformity at the time of original manufacture or had previously been admitted into the United States under § 85.1505 or § 85.1509 (after June 30, 1988).

(ii) Was certified, or previously admitted under § 85.1505 or § 85.1509 (after June 30, 1988), with a catalyst emission control system and/or O<sub>2</sub> sensor;

(iii) Is labeled in accordance with 40 CFR part 86, subpart A or subpart S, or, where applicable, § 85.1510(c); and

(iv) Has been driven outside the United States, Canada and Mexico or

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such other countries as EPA may designate.

(2) Such vehicle must be entered under bond pursuant to 19 CFR 12.73 unless it is included in a catalyst and O<sub>2</sub> sensor control program approved by the Administrator upon such terms as may be deemed appropriate. Catalyst and O<sub>2</sub> sensor programs conducted by manufacturers may be approved each model year.

(b) For the purpose of this section, "catalyst and O<sub>2</sub> sensor control program" means a program instituted and maintained by a manufacturer, or any U.S. Government Agency for the purpose of preservation, replacement, or initial installation of catalytic converters and cleaning and/or replacement of O<sub>2</sub> sensors and, if applicable, restricted fuel filler inlets.

(c) For the purpose of this section, "driven outside the United States, Canada and Mexico" does not include mileage accumulated on vehicles solely under the control of manufacturers of new motor vehicles or engines for the purpose of vehicle testing and adjustment, and preparation for shipment to the United States.

(d) Vehicles conditionally imported pursuant to this section and under bond must be modified in accordance with the certificate of conformity applicable at the time of manufacture. In the case of vehicles previously imported under § 85.1509 or § 85.1504 (prior to July 1, 1988), the replacement catalyst and O<sub>2</sub> sensor, if applicable, must be equivalent (in terms of emission reduction) to the original catalyst and O<sub>2</sub> sensor. Such vehicles may be granted final admission upon application to the Administrator, on forms specified by the Administrator. Such application shall contain the information required in § 85.1504(a)(1) (i) through (v) and shall contain both an attestation by a qualified mechanic that the catalyst has been replaced and the O<sub>2</sub> sensor has been replaced, if necessary, and that both parts are functioning properly, and a copy of the invoice for parts and labor.

[52 FR 36156, Sept. 25, 1987, as amended at 64 FR 23919, May 4, 1999]

### § 85.1513 Prohibited acts; penalties.

(a) The importation of a motor vehicle or motor vehicle engine which is not covered by a certificate of conformity other than in accordance with this subpart and the entry regulations of the U.S. Customs Service at 19 CFR 12.73 is prohibited. Failure to comply with this section is a violation of section 203(a)(1) of the Act.

(b) Unless otherwise permitted by this subpart, during a period of conditional admission, the importer of a vehicle shall not:

(1) Operate the vehicle on streets or highways,

(2) Sell or offer the vehicle or engine for sale, or

(3) Store the vehicle on the premises of a dealer.

(c) Any vehicle or engine conditionally admitted pursuant to § 85.1504, § 85.1511 or § 85.1512, and not granted final admission within 120 days of such conditional admission, or within such additional time as the U.S. Customs Service may allow, shall be deemed to be unlawfully imported into the United States in violation of section 203(a)(1) of the Act, unless such vehicle or engine shall have been delivered to the U.S. Customs Service for export or other disposition under applicable Customs laws and regulations. Any vehicles or engines not so delivered shall be subject to seizure by the U.S. Customs Service.

(d) Any importer who violates section 203(a)(1) of the Act is subject to a civil penalty under section 205 of the Act of not more than \$32,500 for each vehicle or engine subject to the violation. In addition to the penalty provided in the Act, where applicable, under the exemption provisions of § 85.1511(b), or under § 85.1512, any person or entity who fails to deliver such vehicle or engine to the U.S. Customs Service is liable for liquidated damages in the amount of the bond required by applicable Customs laws and regulations.

(e)(1) A certificate holder whose vehicles or engines imported under § 85.1505 or § 85.1509 fail to conform to Federal emission requirements after modification and/or testing under the Federal Test Procedure (FTP) or who fails to comply with applicable provisions of