

EPA Declaration Form 3520-1 must be retained by the importer for a period of at least five (5) years in accordance with §163.4 of this chapter and must be provided to CBP upon request.

(6) *Documentation for diplomatic or foreign military personnel exemption.* In order for a diplomat or foreign military personnel to claim an exemption pursuant to paragraph (g)(2) of this section, CBP must receive a Department of State-approved form DS-1504 ("Request for Customs Clearance of Merchandise") or its electronic equivalent.

(j) *Release under bond.* If an EPA declaration form filed in accordance with paragraph (i)(3) of this section states that the entry is being filed under one or more of the exemptions and exclusions identified in paragraph (h)(1), (2), (3), or (4) of this section, the entry will be accepted only if the importer, consignee, or surety, as appropriate, files a basic importation and entry bond containing the bond conditions set forth in §113.62 of this chapter, or files electronically in ACE or via any other CBP-authorized electronic data interchange system. The importer or consignee must deliver to CBP, either at the port of entry or electronically, documentation of EPA approval before the exemption or exclusion indicated on the EPA declaration form expires, or before some later deadline specified by the Center director based on good cause. If the EPA approval is not delivered to CBP, either to the port of entry or electronically, within the specified period, the importer or consignee must deliver or cause to be delivered to the port director those vehicles which were released under a bond required by this paragraph (j). In the event that the vehicle or engine is not redelivered within five (5) days following the date the exemption or exclusion indicated on the EPA declaration form expires, or any later deadline specified by the Center director, whichever is later, liquidated damages will be assessed in the full amount of the bond, if it is a single entry bond, or if a continuous bond is used, in the amount that would have been assessed under a single entry bond.

(k) *Notices of inadmissibility or detention.* If a motor vehicle is determined to be inadmissible before or after re-

lease from CBP custody, the importer or consignee will be notified in writing of the inadmissibility determination and/or redelivery requirement. However, if a motor vehicle cannot be released from CBP custody merely because the importer has failed to attach to the entry the documentation required by paragraph (i) of this section, the vehicle will be held in detention by the port director for a period not to exceed 30-calendar days after filing of the entry at the risk and expense of the importer pending submission of the missing documentation. An additional 30-calendar day extension may be granted by the port director upon application for good cause shown. If the requisite EPA declaration form required pursuant to paragraph (i)(3) of this section has not been filed within this deadline, which must not exceed 60 days from the date of entry, CBP will issue a notice of inadmissibility.

(l) *Disposal of vehicles not entitled to admission.* A motor vehicle denied admission under any provision of this section will be disposed of in accordance with applicable CBP laws and regulations. However, a motor vehicle or engine will not be disposed of in a manner in which it may ultimately either directly or indirectly reach a consumer in a condition in which it is not in conformity with applicable EPA emission requirements.

(m) *Prohibited importations.* The importation of motor vehicles other than in accordance with this section and the EPA regulations in 40 CFR parts 85, 86, 600, 1036, 1037, and 1068 is prohibited.

[T.D. 88-40, 53 FR 26240, July 12, 1988, as amended by T.D. 01-14, 66 FR 8767, Feb. 2, 2001; CBP Dec. 16-26, 81 FR 93015, Dec. 20, 2016; CBP Dec. 16-29, 81 FR 94977, Dec. 27, 2016; CBP Dec. 19-11, 84 FR 46677, Sept. 5, 2019]

§12.74 Importation of nonroad and stationary engines, vehicles, and equipment.

(a) *Applicability of EPA regulations.* The requirements governing the importation of nonroad and stationary engines subject to conformance with applicable emission standards of the U.S. Environmental Protection Agency (EPA) are contained in 40 CFR parts 1033 through 1068. These EPA regulations should be consulted for detailed

information as to the admission requirements for subject nonroad and stationary engines. EPA emission regulations also apply to vehicles and equipment with installed engines and all references in this section to nonroad or stationary engines include the vehicles and equipment in which the engines are installed. Nothing in this section may be construed as limiting or changing in any way the applicability of the EPA regulations.

(b) *Documentation requirements*—(1) *Exception for certain companies that manufacture and import nonroad or stationary engines, including engines incorporated into vehicles and equipment.* The special documentation requirements of this paragraph (b) do not apply to the importation of nonroad or stationary engines, including engines incorporated into vehicles or equipment, by the company that manufactures the engines, provided that the engines are covered by a valid EPA Certificate of Conformity (COC) held by the importing manufacturer and bear the manufacturer's label showing such conformity and other EPA-required information.

(2) *Release.* CBP will not release engines, vehicles, or equipment from custody unless the importer has submitted all required documents to demonstrate that the engines, vehicles, or equipment meet all applicable requirements.

(3) *Required EPA documentation.* Importers of nonroad or stationary engines, including engines incorporated into vehicles and equipment, must submit EPA Declaration Form 3520–21, “Importation of Engines, Vehicles, and Equipment Subject to Federal Air Pollution Regulations,” to CBP at the time of entry, or when filing a weekly entry from an FTZ in accordance with §146.63(c)(1) of this chapter at the time of entry summary.

(4) *Filing method.* EPA Declaration Form 3520–21 may be filed with CBP electronically in the Automated Commercial Environment (ACE) or via any other CBP-authorized electronic data interchange system, or as a paper filing, at the time of entry, or when filing a weekly entry from an FTZ in accordance with §146.63(c)(1) of this chapter at the time of entry summary.

(5) *Recordkeeping.* Documents supporting the information required in EPA Declaration Form 3520–21 must be retained by the importer for a period of at least five (5) years in accordance with §163.4 of this chapter and must be provided to CBP upon request.

(c) *Release under bond*—(1) *Conditional admission.* If the EPA declaration form states that the entry for a nonconforming nonroad engine is being filed under one of the exemptions described in paragraph (c)(3) of this section, under which the engine may be conditionally admitted under bond, the entry will be accepted only if the importer, consignee, or surety, as appropriate, files a basic importation and entry bond containing the bond conditions set forth in §113.62(c) of this chapter, or files electronically in ACE or via any other CBP-authorized electronic data interchange system.

(2) *Final admission.* Should final admission be sought and granted pursuant to EPA regulations for an engine conditionally admitted initially under one of the exemptions described in paragraph (c)(3) of this section, the importer or consignee must deliver to the port director the prescribed statement. The statement must be delivered within the period authorized by EPA for the specific exemption, or such additional period as the port director of CBP may allow for good cause shown. Otherwise, the importer or consignee must deliver or cause to be delivered to the port director the subject engine, either for export or other disposition under applicable CBP laws and regulations (see paragraph (e) of this section). If such engine is not redelivered within five (5) days following the allotted period, liquidated damages will be assessed in the full amount of the bond, if a single entry bond, or if a continuous bond, the amount that would have been assessed under a single entry bond (see 40 CFR 1068.335).

(3) *Exemptions.* EPA regulations in 40 CFR parts 60 and 1033 through 1068 allow for exempting or excluding imported engines from certification requirements (see especially 40 CFR part 1068, subpart D). The specific exemptions under which a nonconforming nonroad engine may be conditionally

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admitted, and for which a CBP bond is required, are as follows:

- (i) Repairs or alterations (*see* 40 CFR 1068.325(a)).
- (ii) Testing (*see* 40 CFR 1068.325(b)).
- (iii) Display (*see* 40 CFR 1068.325(c)).
- (iv) Export (*see* 40 CFR 1068.325(d)).
- (v) Diplomatic or military (*see* 40 CFR 1068.325(e)).
- (vi) Delegated assembly (*see* 40 CFR 1068.325(f)).
- (vii) Partially complete engines, vehicles, or equipment (*see* 40 CFR 1068.325(g)).

(d) *Notice of inadmissibility or detention.* If an engine is found to be inadmissible either before or after release from CBP custody, the importer or consignee will be notified in writing of the inadmissibility determination and/or redelivery requirement. If the inadmissibility is due to the fact that the importer or consignee did not file the EPA Declaration Form 3520-21 at the time of entry, or when filing a weekly entry from an FTZ in accordance with §146.63(c)(1) of this chapter at the time of entry summary, the port director may hold the subject engine in detention at the importer's risk and expense for up to 30 days from the entry filing date. The port director may grant the importer's request for a 30-day extension for good cause. The port director will issue a notice of inadmissibility if documentation is still incomplete after this deadline, which must not exceed 60 days from the filing date for importation.

(e) *Disposal of engines not entitled to admission; prohibited importations.* A nonroad or stationary engine denied admission under EPA regulations must be disposed of consistent with such EPA regulations and in accordance with applicable CBP laws and regulations. The importation of nonroad or stationary engines other than as prescribed under EPA regulations is prohibited.

[T.D. 98-50, 63 FR 29122, May 28, 1998, as amended by T.D. 01-14, 66 FR 8767, Feb. 2, 2001; CBP Dec. 10-29, 75 FR 52451, Aug. 26, 2010; CBP Dec. 16-29, 81 FR 94979, Dec. 27, 2016]

MOTOR VEHICLES AND MOTOR VEHICLE EQUIPMENT MANUFACTURED ON OR AFTER JANUARY 1, 1968

§ 12.80 Federal motor vehicle safety standards.

(a) *Standards prescribed by the Department of Transportation.* Motor vehicles and motor vehicle equipment manufactured on or after January 1, 1968, offered for sale, or introduction or delivery for introduction in interstate Commerce, or importation into the United States are subject to Federal motor vehicle safety standards ("safety standards") prescribed by the Secretary of Transportation under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1392, 1407) ("the Act"), and set forth in 49 CFR part 571. A motor vehicle ("vehicle") or item of motor vehicle equipment ("equipment item"), manufactured on or after January 1, 1968, is not permitted entry into the Customs territory of the United States unless (with certain exceptions set forth in paragraph (b) of this section) it is in conformity with applicable safety standards in effect at the time the vehicle or equipment item was manufactured.

(b) *Requirements for entry and release.* (1) Unless the requirement for filing is waived by the port director as provided for in paragraph (f) of this section, each vehicle or equipment item offered for introduction into the Customs territory of the United States shall be denied entry unless the importer or consignee files with the entry a declaration, in duplicate, which declares or affirms one of the following:

(i) The vehicle or equipment item was manufactured on a date when no applicable safety standards were in effect.

(ii) The vehicle or equipment item conforms to all applicable safety standards (or, the vehicle does not conform solely because readily attachable equipment items which will be attached to the vehicle before it is offered for sale to the first purchaser for purposes other than resale are not attached) and bears a certification label or tag to that effect permanently affixed by the original manufacturer to the vehicle or to the equipment item,