

## § 1068.335

## 40 CFR Ch. I (7–1–23 Edition)

(5) Acknowledge that EPA enforcement officers may conduct inspections or testing as allowed under the Clean Air Act.

(6) Include any additional information we specify for demonstrating that you qualify for the exemption.

[76 FR 57489, Sept. 15, 2011; 81 FR 74231, Oct. 25, 2016; 88 FR 4717, Jan. 24, 2023]

### § 1068.335 Penalties for violations.

(a) *All imported engines/equipment.* Unless you comply with the provisions of this subpart, importation of nonconforming engines/equipment violates sections 203 and 213(d) of the Clean Air Act (42 U.S.C. 7522 and 7547(d)). You may then have to export the engines/equipment, pay civil penalties, or both. U.S. Customs and Border Protection may seize unlawfully imported engines and equipment.

(b) *Temporarily imported engines/equipment.* If you do not comply with the provisions of this subpart for a temporary exemption under § 1068.325, you may forfeit the total amount of the bond in addition to the sanctions we identify in paragraph (a) of this section. We will consider an engine or piece of equipment to be exported if it has been destroyed or delivered to U.S. Customs and Border Protection for export or other disposition under applicable Customs laws and regulations. EPA or U.S. Customs and Border Protection may offer you a grace period to allow you to export temporarily exempted engines/equipment without penalty after the exemption expires.

### § 1068.360 Restrictions for assigning a model year to imported engines and equipment.

This section includes limitations on assigning a model year to engines and equipment that are imported in a year later than the model year in which they were manufactured, except as specified in paragraph (e) of this section.

(a) The term “model year” is defined in each of the standard-setting parts. These definitions may vary slightly to address the different categories of engines and equipment. Except as specified in paragraphs (b) and (c) of this section, the emission standards and other emission-related requirements

that apply for an imported engine or piece of equipment are determined by the model year as defined in the applicable standard-setting part and the provisions of 40 CFR 1068.105(a).

(b) This paragraph (b) applies for the importation of engines and equipment that have not been placed into service, where the importation occurs in any calendar year that is more than one year after the named model year of the engine or equipment when emission control requirements applying to current engines are different than for engines or equipment in the named model year, unless they are imported under special provisions for Independent Commercial Importers as allowed under the standard-setting part. Regardless of what other provisions of this subchapter U specify for the model year of the engine or equipment, such engines and equipment are deemed to have an applicable model year no more than one year earlier than the calendar year in which they are imported. For example, a new engine identified as a 2007 model-year product that is imported on January 31, 2010 will be treated as a 2009 model-year engine; the same engine will be treated as a 2010 model-year engine if it is imported any time in calendar year 2011.

(c) If you claim that an engine or piece of equipment is not subject to standards—or is subject to standards less stringent than those currently in place—based on its original manufacture date because it has already been placed into service, you must provide clear and convincing evidence that it has already been placed into service. Such evidence must generally include, but not be limited to, documentary evidence of purchase and maintenance history and visible wear that is consistent with the reported manufacture date. Importing products for resale or importing more than one engine or piece of equipment at a time would generally require a greater degree of evidence under this paragraph (c). If you do not satisfactorily demonstrate that the engine or equipment has already been placed into service, the provisions of paragraph (b) of this section apply.

(d) Nothing in this section should be interpreted to allow circumvention of the requirements of this part by mis-