

§ 12.74

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the bond, if it is a single entry bond, or if a continuous bond is used, the amount that would have been taken under a single entry bond.

(k) *Notices of inadmissibility or detention.* If a motor vehicle is determined to be inadmissible before release from Customs custody, or inadmissible after release from Customs custody, the importer or consignee shall be notified in writing of the inadmissibility determination and/or redelivery requirement. However, if a motor vehicle cannot be released from Customs custody merely because the importer has failed to attach to the entry the documentation required by paragraph (i) of this section, the vehicle shall be held in detention by the director of a period not to exceed 30 days after filing of the entry at the risk and expense of the importer pending submission of the missing documentation. An additional 30-day extension may be granted by the port director upon application for good cause shown. If at the expiration of a period not over 60 days the documentation has not been filed, a notice of inadmissibility will be issued.

(l) *Disposal of vehicles not entitled to admission.* A motor vehicle denied admission under any provision of this section shall be disposed of in accordance with applicable Customs 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 otherwise than in accordance with this section and the regulations of EPA in 40 CFR parts 80, 85, 86 and 600 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]

§ 12.74 Nonroad engine compliance with Federal antipollution emission requirements.

(a) *Applicability of EPA regulations.* The requirements governing the importation of nonroad engines subject to conformance with applicable emissions standards of the U.S. Environmental Protection Agency (EPA) are contained

in EPA regulations, issued under the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*). These EPA regulations should be consulted for detailed information as to the admission requirements for subject nonroad engines, as follows:

(1) For nonroad compression-ignition engines at or above 37 kilowatts, see 40 CFR part 89, subpart G;

(2) For nonroad spark-ignition engines at or below 19 kilowatts, see 40 CFR part 90, subpart G; and

(3) For marine spark-ignition engines, see 40 CFR part 91, subpart H.

(b) *Admission of nonconforming nonroad engines.* (1) *EPA declaration required.* EPA Form 3520-21, "Importation of Nonroad Engines and Nonroad Engines Incorporated Into Nonroad Equipment or Vehicles, Subject to Federal Air Pollution Regulations", must be completed by the importer and retained on file by him before making a customs entry for such nonroad engines/equipment/vehicles.

(2) *Retention and submission of records to Customs.* Documents supporting the information required in the EPA declaration must be retained by the importer for a period of at least 5 years in accordance with § 163.4 of this chapter and shall be provided to Customs upon request.

(c) *Release under bond.* (1) *Conditional admission.* If the EPA declaration states that the entry for a nonconforming nonroad engine is being filed under one of the exemptions described in paragraphs (c)(3)(i) through (c)(3)(iv) of this section, under which the engine must be conditionally admitted under bond, the entry for such engine shall be accepted only if a bond is given on Customs Form 301 containing the conditions set forth in § 113.62 of this chapter for the presentation of an EPA statement that the engine has been brought into conformity with Federal emissions requirements.

(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 paragraphs (c)(3)(i) through (c)(3)(iv) of this section, the importer or consignee shall deliver to the port director the prescribed statement. The statement

shall be delivered within the period authorized by EPA for the specific exemption, or such additional period as the port director of Customs may allow for good cause shown. Otherwise, the importer or consignee shall deliver or cause to be delivered to the port director the subject engine, either for export or other disposition under applicable Customs laws and regulations (see paragraph (e) of this section). If such engine is not redelivered within 5 days following the allotted period, liquidated damages shall 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 taken under a single entry bond (see 40 CFR 89.612-96(d), 90.613(c) & (d), 91.705(c) & (d)).

(3) *Exemptions.* The specific exemptions under which a nonconforming nonroad engine may be conditionally admitted, and for which a Customs bond is required, are as follows:

(i) Repairs or alterations (see 40 CFR 89.611-96(b)(1), 90.612(b)(1), 91.704(b)(1));

(ii) Testing (see 40 CFR 89.611-96(b)(2), 90.612(b)(2), 91.704(b)(2));

(iii) Precertification (see 40 CFR 89.611-96(b)(3), 89.906); and

(iv) Display (see 40 CFR 89.611-96(b)(4), 90.612(b)(3), 91.704(b)(3)).

(d) *Notice of inadmissibility or detention.* If an engine is found to be inadmissible either before or after release from Customs custody, the importer or consignee shall be notified in writing of the inadmissibility determination and/or redelivery requirement. However, an engine which cannot be released merely due to a failure to furnish with the entry any documentary information as required by EPA shall be held in detention by the port director for a period not to exceed 30 days after filing of the entry at the risk and expense of the importer pending submission of the missing information. An additional 30-day extension may be granted by the port director upon application for good cause shown. If at the expiration of a period not over 60 days the required documentation has not been filed, a notice of inadmissibility will be issued.

(e) *Disposal of engines not entitled to admission; prohibited importations.* A nonroad engine denied admission under

EPA regulations shall be disposed of consistent with such EPA regulations and in accordance with applicable Customs laws and regulations. The importation of nonroad engines otherwise 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]

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.