

Mini Trucks: Importing Used Motor Vehicles as Nonroad Vehicles

What

EPA revised regulations that affect the importation of vehicles that have been converted to nonroad use but were originally built and used as motor vehicles. These regulatory provisions were published in the Federal Register at 73 FR 59053 (October 8, 2008), www.epa.gov/otaq/regs/nonroad/marinesi-equiplt/bondfrm.pdf. Under these regulations, EPA requires certification of converted engines and vehicles for products imported on or after December 8, 2008.

Who

Japanese Kei-class light duty trucks that have been modified to limit speed to 25 mph (mini trucks) are the most popular vehicles impacted by the new regulations. Speed limiters may include electronic governors or physical restrictions to limit forward gears. Generally, mini trucks are small trucks or vans, with engine displacement below 1000 cubic centimeters and maximum engine power less than 30 kilowatts (kW) with a maximum speed of 25 miles per hour or less.

How

The revised regulations apply when someone modifies a motor vehicle (or motor-vehicle engine) so that it qualifies as a nonroad vehicle or engine. The regulation also clarifies how “model year” applies to modified and imported products. (See the definitions for “new nonroad engine” and “model year” in the Code of Federal Regulations (CFR) section 1048.801.)

The revised regulations specify that an engine is subject to current nonroad emission standards per 40 CFR 1048 if it installed in either of the following: CFR Part 86-certified motor vehicles built in 2004 and later model years, or non-EPA certified motor vehicles, such as the Japanese mini trucks, converted for nonroad use. These mini trucks must also be certified by EPA.

The revised regulations address cases where the conversion happened several years prior to importation by resetting the model year to no more than one year before the calendar year of importation (40 CFR section 1068.360). Engines that are subject to emission standards must be certified to demonstrate compliance with those standards.

To Import

The revised regulations do not abolish importation of these products, but they do add the requirement to certify engines before importation. Certification of nonroad engines generally involves testing engines to show that emission levels are below the standards, applying to EPA for a certificate of conformity, and complying with other requirements specified in the regulations for certified engines.

Small volume manufacturers (including importers): are eligible to use an assigned deterioration factor, so no laboratory aging would be necessary as part of a durability demonstration.

If the imported engine/vehicle was originally equipped with automotive-type emission controls, we expect that only minor modifications will be needed to meet nonroad engine emission standards. If the engine/vehicle does not have emission controls, extensive modifications may be needed to reduce emissions. None of the regulatory changes abolish the importation of any particular engines or vehicles.

The revised regulations do not change EPA's motor vehicle exclusion determinations per 40 CFR 85.1703 for mini trucks. EPA has determined that only mini trucks that have been permanently modified from the original motor vehicle design so that the resulting vehicle speed is 25 mph or less are considered nonroad vehicles. All others are classified as motor vehicles.

Exception

We now specify that modifying an EPA CFR Part 86-certified motor vehicle (or motor vehicle engine) for nonroad use makes the engine a "new nonroad engine," but the model year of the "new nonroad engine" is based on the original build date. Such nonroad vehicles or engines certified to Part 86 standards are not subject to the nonroad standards if they are above 19 kW and were built before 2004. Since no additional EPA requirements apply to these vehicles, they may be imported as is, without violating the Clean Air Act.

However, when importing such a vehicle the importer should note that the vehicle is a nonroad spark-ignition engine that is not yet subject to emission standards on the importation declaration form (Form 3520-21).

Frequently Asked Questions

Q: When did this change take effect?

A: This rule change took effect December 8, 2008. All products covered by the change in regulation that reached Customs on or after December 8, 2008, require a certificate of conformity.

Q: Is an extension to the certification requirement possible?

A: Yes. Under the regulations in 40 CFR §1068.40 a party may request a temporary delay in compliance from the new requirements for up to 12 months (from December 8, 2008). EPA determines if “unusual circumstances” exist to justify the delay. In making this determination, EPA will consider all relevant factors including, but not limited to, the following items:

- 1) We will consider the dates you purchased (or committed to purchasing) vehicles and the dates you committed to supply vehicles to customers in the United States.
- 2) We will consider whether the vehicles are equipped with catalytic converters or other emission controls that would make it likely for these vehicles to meet otherwise applicable emissions standards.
- 3) We will consider whether the vehicles have a permanent, tamper-proof speed governor installed before importation.
- 4) We will consider the potential for adverse environmental impacts (i.e., whether the importation of large numbers of uncertified mini-trucks will result in harm to the environment).

Note: We will grant no extensions allowing importation of uncertified products beyond December 8, 2009, unless EPA finds special situations meriting further time. These decisions will be made on a case-by case basis after evaluating whether unusual circumstances exist in each case.

Q: How do I apply for an extension?

A: To apply for the temporary extension submit documentation outlining purchase and supply commitments, the emission controls installed on the vehicle (specifically type and efficiency of catalysts), as well as specific information regarding installed governors. In addition to the information detailing the unusual circumstance that warrants relief (1-4 above), information regarding plans for achieving certification should also be submitted. Certification plans should include the regulatory category the mini truck engines will be certified to (Small SI or Large SI) and a timeline for completing testing and application submission. All required information should be submitted to the Compliance and Innovative Strategies Division at Imports@epa.gov.

Q: What requirements apply to nonroad mini trucks?

A: Mini truck engines are classified as Nonroad Spark-Ignition Engines and are required to meet the applicable nonroad standards. If the maximum engine power is 19 kW or less, the engines must meet the emission standards and other requirements specified in 40 CFR part 90 (see especially §90.103). We refer to these as Small SI engines.

If the maximum engine power is above 19 kW and at or below 30 kW and the engine displacement is at or below 1,000 cc, these engines are subject to more stringent standards under part 1048. However, they may alternatively be certified to the Small SI emission standards under 40 CFR part 90 (see §1048.615). Most mini truck engines fall within this range.

If the maximum engine power is above 30 kW (or if total displacement is over 1000 cc), the engines must meet the emission standards and other requirements specified in 40 CFR part 1048 (see especially §1048.101). These engines and vehicles must also control evaporative emissions and have diagnostic systems as described in §1048.105 and §1048.110.

Q: Are there any new standards or requirements for Small SI engines under the revised regulations?

A: Yes. Vehicles imported on or after January 1, 2010, are subject to the bonding provisions specified in §1054.690. This includes a provision for waiving the bonding requirements based on fixed assets in the United States. Also, starting with the 2010 model year, certified vehicles are subject to the provisions in §1054.120(f) that require certain steps to ensure that owners will be able to get warranty service for certified products.

The Phase 3 standards in 40 CFR part 1054 apply starting with the 2011 model year. This includes more stringent exhaust emission standards and additional evaporative emission standards. We plan to share additional information about these standards in the future.

Q: How do I certify a mini truck that has been modified to limit the vehicle speed to 25 mph or below to EPA standards as a nonroad vehicle?

A: Follow the certification and test procedures found in 40 CFR Parts 90, 1048, and 1054 as applicable. Additional guidance is available on EPA's web site. See www.epa.gov/dis/display_file.jsp?docid=17816&flag=1.

Q: What if I modified my vehicles prior to this regulatory change (December 8, 2008)? Do they still have to be certified before I import them?

A: Generally, yes. For example, uncertified motor vehicles that were modified into nonroad vehicles in calendar year 2007 are classified as 2007 model year nonroad vehicles. Also, vehicles become "new" when they are imported. Standards apply for nonroad spark-ignition engines above 19 kW. As a result, mini trucks with a model year of 2004 or later must meet the emission standards that apply.

Q: If I modified an uncertified motor vehicle to limit the vehicle speed to below 25 mph in 2003, but imported it in 2009, does the vehicle still have to be EPA certified?

A: Generally, yes. The regulatory revision addresses uncertified older model year engines. By definition, an engine in an uncertified motor vehicle that was converted to a nonroad vehicle in 2003 would be designated as a model year 2003 nonroad engine. However, upon importation in 2009, the nonroad engine would be deemed to be a model year no older than one year prior to the calendar year of importation. Thus, in this example, the nonroad vehicle would be considered a 2008 model year and the engine would have to be certified to meet standards for 2008 model year nonroad spark-ignition engines.

Q: What if I import a certified mini truck but then subsequently remove the mechanism that restricts vehicle speed to 25 mph or below? Have I violated the Clean Air Act?

A: Yes. If you make any modifications to a certified engine or vehicle you violate the tampering prohibitions of the Clean Air Act. This is a federal offense. You would be tampering if you converted a nonroad vehicle into a motor vehicle by removing the device that restricts vehicle speed without having certified the converted vehicle to highway standards.

Q: I am just an importer. How can I get the vehicles I import certified?

A: EPA permits importers to certify the vehicles they import by following the certification procedures described for manufacturers. You are eligible to take advantage of provisions for small volume manufacturers provided that you meet all qualifications in the regulations.

Q: What is a small volume manufacturer?

A: For the Small SI standards, a small volume manufacturer is one that produces (or imports) 10,000 Small SI engines or less in a given calendar year. Some special provisions may also apply for small volume emission families, which include certified families with sales at or below 5,000 units in a given year.

For the Large SI standards, a small volume manufacturer is one with fewer than 200 employees or one that produces (or imports) 2,000 Large SI engines or less in a given calendar year. Some special provisions may also apply for emission families with sales below 150 or 300 units in a given year.

Q: Do I have to offer a warranty for the vehicles or engines that I certify?

A: Yes. The warranty requirements are specified in 40 CFR 1048.120 or 40 CFR 90.1103, as applicable.

Q: What laboratories conduct the required testing?

A: EPA does not endorse any emission laboratory or certification consultant companies. However, a list of laboratories that conduct the required testing in the United States can be found at: www.epa.gov/otaq/consumer/420b11026.pdf.

Q: Can I import mini trucks under the regulations that apply to Independent Commercial Importers?

A: No. Independent Commercial Importers are allowed to use streamlined certification procedures for motor vehicles. There are no provisions in the regulation allowing them to certify or import nonroad spark-ignition engines. Anyone certifying nonroad spark-ignition engines would need to go through the certification process in the same way as companies that manufacture new engines and vehicles.

Q: How can I get more information?

A: Visit www.epa.gov/otaq/regs/nonroad/marinesi-equiplt/420f08013.htm or call our Imports Line at (734) 214-4100.