

New Phase 3 Engine Standards Affecting Retailers and Importers of Lawn and Garden Equipment

The Environmental Protection Agency (EPA) has adopted new regulations for nonroad spark-ignition engines that operate at or below 19 kW (www.epa.gov/otaq/regs/nonroad/marinesi-equipld/bondfrm.pdf). These engines, often called Small SI engines, are used in lawn and garden equipment and a wide range of other residential and commercial equipment. This fact sheet answers questions about these new standards for retailers, dealers, distributors and importers of this equipment.

What are the new regulations, and when do they go into effect?

The new regulations put in place a set of more stringent exhaust standards and establish new evaporative emission standards for the fuel tanks and fuel lines used in this equipment. We refer to these as the Phase 3 standards. They apply starting in the 2011 model year for Class II engines (above 225 cc) and in the 2012 model year for Class I engines (less than 225 cc, used in nonhandheld applications). The Phase 3 standards generally start in 2010 for handheld products.

Who should read this fact sheet?

Manufacturers, retailers, dealers and distributors of Small SI engines should read this fact sheet to learn about their responsibilities under the new regulations, and to learn some practical steps to ensure compliance.

In the case of imported engines and equipment, this fact sheet is addressed primarily to retailers that are not the importer of record. Because retailers that are the importer of record are subject to all the requirements that apply for importers under the Clean Air Act and the regulations, they have additional responsibilities beyond what we describe in this fact sheet.

How do these new regulations impact U.S. manufacturers of Small SI engines?

In order to sell this equipment in the U.S., manufacturers must first apply to EPA for a certificate of conformity (certificate). To obtain a certificate, manufacturers must perform tests and complete a certification process to ensure they meet emission standards. Each engine covered by a certificate must have an EPA emission label that describes its certification status.

The new regulations also clarify that retailers, dealers, and distributors have responsibilities under the Clean Air Act to ensure that Small SI engines conform to the regulations.

What are the general responsibilities of retailers, dealers and distributors under these new regulations?

The new regulations clarify that it is a violation of the federal Clean Air Act to “cause someone to commit a prohibited act,” such as importing or manufacturing noncompliant engines, equipment or regulated fuel-system components. For example, in certain circumstances we may hold you responsible for causing the importation of uncertified engines or equipment. We may also hold you responsible if the manufacturer failed to properly label the engines or equipment or if they have not met other requirements under the regulations. We may assess a civil penalty of up to \$37,500 for each engine or piece of equipment in violation.

In assessing whether you have committed a violation, we will consider your particular efforts or influence that may have caused or could have prevented the prohibited act from occurring. Accordingly, you should take reasonable precautions to ensure that your suppliers and their products comply fully with the regulations.

How can I ensure compliance?

You can take some or all of the following steps to confirm that you are not in violation by causing a prohibited act:

- Request copies of the EPA certificates of conformity before you commit to purchasing engine-powered equipment.
- Review certification information on our web site at www.epa.gov/otaq/certdata.htm. This web site identifies the engines and equipment models that have received a certificate of conformity from EPA. EPA updates this information on a routine basis, but there can be some lag time from when certificates are issued to when they are posted.
- Ask the manufacturer or importer to send a picture of the EPA emission label before you purchase their products. You may also want to inspect shipped products to confirm that proper emission labels are in place.
- Starting January 1, 2010 for 2010 model year products, the regulations require manufacturers or importers to post a bond for their products if they don't meet certain criteria. Ask your supplier to show how they either have arranged for a bond or they qualify for an exemption.
- Starting with 2010 model year products, manufacturers or importers must maintain a repair network and meet other requirements to ensure compliance with warranty requirements. Ask your supplier to show how they meet these requirements.

What are the labeling requirements in the new regulations?

Emission labels are one of the most important tools for EPA or U.S. Customs inspectors to determine whether products meet regulatory requirements. These labels can also help you avoid a situation where you purchase products that do not conform to the regulations.

The new Phase 3 regulations require that engines, fuel-system components and evaporative emission control systems must be properly labeled with permanent and legible labels to indicate that they meet all applicable EPA requirements.

For the last several years, certified engines have included labels describing how they comply with exhaust emission standards. This label contains basic information such as the manufacturer's name and EPA family name. Starting with the Phase 3 standards, manufacturers must also include the regulatory useful life of the engine on the label. See the complete list of engine label requirements for Phase 3 engines at §1054.135 (<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=670538974a7fa304d732ffc6067a8ef7&rgn=div8&view=text&node=40:32.0.1.1.8.2.1.11&idno=40>).

The equipment and fuel system components must also be labeled to demonstrate compliance with evaporative emission standards. See §1060.135 (<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=670538974a7fa304d732ffc6067a8ef7&rgn=div8&view=text&node=40:32.0.1.1.9.2.1.9&idno=40>) for requirements related to labeling equipment.

See §1060.137 (<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=670538974a7fa304d732ffc6067a8ef7&rgn=div8&view=text&node=40:32.0.1.1.9.2.1.10&idno=40>) for requirements related to labeling fuel tanks, fuel lines, and fuel caps.

What are the warranty service and repair network requirements in the new regulations?

The new Phase 3 regulations require that certificate holders must provide a two-year warranty (from the point of retail sale) for all engine components whose failure would increase exhaust emissions. The certifying engine manufacturer must maintain a supply of replacement parts in the United States and provide and monitor a toll-free telephone number and e-mail address to respond to warranty claims.

EPA has expanded its warranty coverage requirements to ensure that product owners have guaranteed access to free emission warranty repair work. For example, we generally require that manufacturers or importers maintain a network of authorized service centers with locations in all cities with a population of 100,000 or more. Manufacturers may also meet this requirement by locating their authorized service centers so that owners do not have to drive more than 100 miles to obtain warranty service (excluding several western states with high-altitude areas). In cases where affected customers are more than 100 miles from an authorized service center, the manufacturer or importer may alternatively meet warranty obligations by offering free shipping of defective products, sending a service technician to the owner's location, or providing reimbursement for service at a local repair shop.

Manufacturers or importers may in some circumstances look to retailers to help them meet the requirement to maintain an adequate network of authorized repair centers. In any case, you would do well to understand specifically how your suppliers intend to meet these requirements related to their warranty service.

What are the bond requirements in the new regulations?

In some cases, the Phase 3 regulations require manufacturers or importers of certified engines to post a bond to cover the cost of any potential compliance or enforcement actions under the Clean Air Act. Manufacturers or importers are exempted from the bond requirement if they have a specified level of fixed assets in the United States (\$3 million, \$6 million, or \$10 million, depending on the type of company) and they have a specified number of authorized service centers to respond to warranty claims and product recalls (100 service centers or one for every 5,000 engines, whichever is less). Manufacturers or importers that are not exempt will need to post a bond to cover the potential costs of an emission-related recall or penalties. Where a retailer is the importer of record for imported engines or equipment, the need for a bond may be determined based on the retailer's service centers and level of fixed assets.

EPA will require bonds of at least \$500,000 before products may be introduced into U.S. commerce. The bond requirements apply for 2010 and later model year products that are introduced in U.S. commerce starting January 1, 2010. For more detailed information on the bond requirements, see our bond fact sheet at www.epa.gov/otaq/certdat2.htm.

Where can I get more information?

More information on these regulations can be found on our web site at www.epa.gov/otaq/equipment.htm. If you have questions, you may contact us at:

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