



Enforcement Alert

Volume 8, Number 2

Office of Civil Enforcement

September 2006

EPA Enforcing Stringent Standards for All Nonroad Engines

Agency Assesses \$819,000 in Penalties for More Than 55,000 Pieces of Illegal Equipment

Imports are surging, mostly from China, of small engines used in nonroad equipment such as small tractors, lawnmowers, off-road motorcycles and generators. A disturbing portion of these engines are not certified to meet emission standards under the Clean Air Act. The situation is made worse by the dramatic increase in the number of foreign manufacturers of the equipment and the increase in inexperienced U.S. companies and individuals who import it. Illegal equipment is being offered for sale to customers in this country through retail outlets and, increasingly, over the Internet. The U.S. Environmental Protection Agency (EPA) and the U.S. Customs and Border Protection (CBP) have teamed up to intercept this influx of illegal imports at the border.

The Clean Air Act (CAA) prohibits the manufacture or importation of all types of nonroad engines and equipment unless the engines are certified by EPA as meeting emission standards and display the appropriate EPA emissions label. Imported equipment containing nonroad engines that fail to meet all CAA requirements is subject to seizure and export outside of North America. The importer of such illegal equipment or engines will be required to pay a substantial penalty (as much as \$32,500 per engine).

EPA is strongly committed to enforcing its nonroad mobile source regulations. In cooperation with

CBP, the agency has stepped up interception of illegal imports. EPA has also increased its inspections nationwide at dealerships and of online companies that import and/or sell nonroad equipment. Over a recent ten-month period alone, EPA assessed \$819,155 in penalties for the importation

of 55,832 pieces of illegal nonroad equipment valued at nearly \$13 million. the United States is caused by on-road and nonroad engines. These mobile sources of air pollution include cars, trucks and buses, as well as the wide range of gasoline and diesel engines found in nonroad equipment used in construction, agriculture, and lawn and garden equipment, in dirt bikes, and as marine engines. The air pollutants emitted by mobile sources include particulate matter, volatile organic compounds (VOC), air toxics and oxides of nitrogen (NOx). These pollutants cause serious health and environmental problems. They have been linked to many respiratory health problems, such as asthma, heart disease and cancer. Recent CAA emissions standards, in conjunction with advances in combustion technology and fuels, are significantly reducing these emissions. For example, certified engines now emit two to three times fewer emissions than uncertified engines.

For more pollutant information see <http://www.epa.gov/otaq/inventory/overview/pollutants/index.htm>

of 55,832 pieces of illegal nonroad equipment valued at nearly \$13 million.

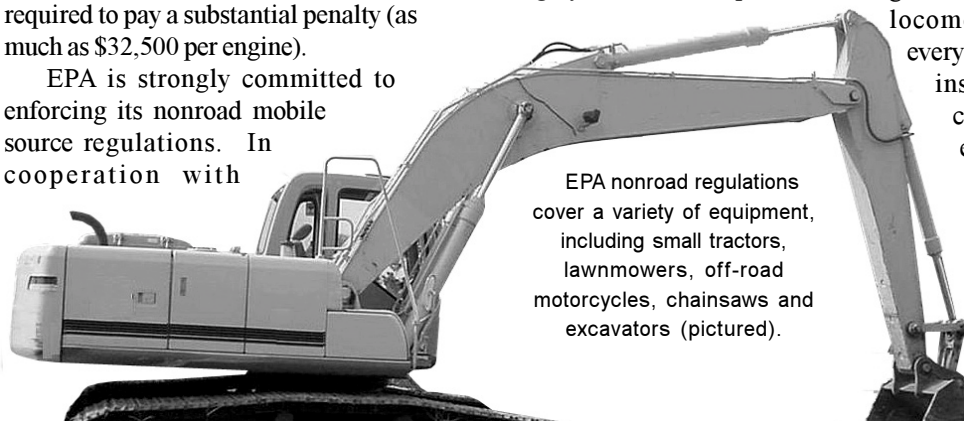
Emissions Impact

Roughly half of the air pollution in

Nonroad Regulations

Regulated nonroad mobile sources are a highly diverse group of engines and equipment, ranging from small handheld gasoline engines used in garden equipment to very large locomotive diesel engines, and everything in between. (See Table 1 inside for an overview of these categories.) The regulations set emission limits for each category of nonroad engines and establish testing, certification, labeling, warranty, recall and record-keeping requirements. Some nonroad engine categories have phase-in

EPA nonroad regulations cover a variety of equipment, including small tractors, lawnmowers, off-road motorcycles, chainsaws and excavators (pictured).



>>>

Enforcement Alert

provisions and effective dates that vary by engine size. An engine must be certified by EPA that it meets emissions standards and must bear a permanently affixed EPA emissions label before it can be imported into the United States or produced domestically for use in this country. For more information on nonroad engines and the applicable federal regulations please see: <http://www.epa.gov/otaq/inventory/overview/examples.htm>

Please note that emissions certification requirements also apply to stationary diesel engines, and have been proposed for stationary gasoline engines. For more information, see <http://www.epa.gov/ttn/atw/nsps/cinsps/cinspspg.html> and <http://www.epa.gov/ttn/atw/nsps/sinsps/sinspspg.html>

Importer and Manufacturer Responsibility

Both the original engine manufacturer (the company that assembles the engine) and the importer are responsible for ensuring that engines imported to the United States comply with all certification standards and requirements. For example, importers and manufacturers are prohibited from importing or manufacturing engines that are not properly EPA-certified and labeled. EPA highly recommends that importers inspect the engines they intend to import to verify that they are EPA-certified and labeled. Importers are also responsible for ensuring that the engine manufacturer will honor the emissions warranty. (This warranty is separate and apart from any other manufacturer warranty.) Depending on engine type and size, the warranty period may vary from two to five years. The importer also bears responsibility for any requirements not met by the original engine manufacturer. For more information, see: <http://epa.gov/otaq/imports>

Table 1: Nonroad Engine Regulations

CATEGORY	DESCRIPTION	SIZE	MODEL YEAR*
Locomotive Engines 40 CFR Part 92	Engines built or rebuilt	All	2000
Marine Diesel Engines 40 CFR Part 94	Commercial ships, recreational diesel	≥ 50 Hp	2004
Diesel Engines 40 CFR Parts 89, 1039, 1068	Farm, construction, mining	All	1996
Marine Gas Engines 40 CFR Part 91	Boats (outboard engines) personal watercraft (jet skis)	All All	1998 1999
Recreational Vehicles 40 CFR Parts 1051,1068	Snowmobiles, dirt bikes, all-terrain vehicles	All	2006
Small Gas Engines 40 CFR Part 90	lawn mowers, chainsaws, generators, pumps	≤ 25 Hp	1997
Large Gas Engines 40 CFR Parts 1048, 1068	forklifts, generators, mini-vehicles	> 25 Hp	2004

* Engines must be certified by EPA to meet emissions standards beginning in the model year.

Importer Must Complete EPA Declaration Form

Importers of gasoline and diesel-powered nonroad equipment must demonstrate that the engines comply with all applicable standards and requirements. As part of this process, they must complete EPA Declaration Form 3520-21, which requires confirmation of EPA certification or a description of the applicable exemption. Form 3520-21 must be submitted to CBP upon request along with other CBP entry documents; see 42 U.S.C. § 7601, and 19 C.F.R. § 12.74.

The importer must also present the completed form to EPA officials upon request and retain a copy for five years after

importation. Some exemptions require EPA approval before importation. The importer Form 3520-21, with instructions, is available at: <http://www.epa.gov/otaq/imports/forms/3520-21.pdf>

Emissions Certification Requirements

EPA emissions certification requirements apply to engines manufactured in the United States and to engines that are imported for sale in this >>>

Mobile generators are among the most common types of nonroad equipment regulated by EPA.



country. Ordinarily, the engine manufacturer, not the importer, obtains EPA certification for imported engines. However, an engine importer also may apply to EPA for a certificate if the importer assumes all the responsibilities of the manufacturer.

For specific citations for each nonroad regulation refer to Table 1. For certification requirements, refer to Table 2.

Enforcement Process When an Importation Violation is Found

When EPA or CBP determines that imported equipment does not meet the EPA emissions certification requirements, CBP detains or seizes the equipment. EPA and CBP then coordinate on enforcement to address the CAA violations, including collection of a penalty and exportation of the illegal equipment. The maximum penalty is \$32,500 for each illegal engine, although penalties may be reduced for first-time violators and for importers who voluntarily disclose and remedy the violation and all prior violations. CBP or EPA may also initiate a criminal action against an importer who knowingly makes false or fraudulent statements, or who omits material information required in CBP entry documents. Persons who commit these crimes are subject to a fine of up to \$250,000 or imprisonment for up to two years, or both, see 42 U.S.C. § 7413(c) (2).

Don't Let This Happen to You . . .

♦ An owner of a business in Florida was sentenced to six months house arrest and two years probation for attempting to smuggle generators with uncertified gasoline and diesel engines into Port Everglades and Miami. The owner forfeited the generators valued at \$26,885. For more information on this case, see:

<http://www.usdoj.gov/usao/fls/PressReleases/060504-01.html>

♦ A company in Puerto Rico paid a civil penalty of \$100,000 for importing more than 2,000 uncertified and unlabeled diesel and gasoline generators. The generators were seized

Sample Emission Label for Small Gasoline Engines

Important Engine Information

XYZ Manufacturing, Inc.

This engine is certified to operate on gasoline.

This engine conforms to 2006 U.S. EPA regulations for small nonroad engines.

Emission Compliance Period: 500 hours

Engine Family: 6XYZS: 1451AB

Engine Displacement: 145 cc

Date of Manufacture: 4/2006

Exhaust Emission Control: TWC

Lubricant Requirements: SF 15W-40

by CBP during September 2005. The company had declared, without proof, that regulated mobile generators were for unregulated stationary use.

♦ A company in Ohio paid a civil penalty of \$86,000 to EPA and CBP for importing seven uncertified and falsely labeled pieces of nonroad construction equipment with large diesel engines. The company had claimed the equipment was certified.

♦ A company in North Carolina paid a civil penalty of \$62,000 for importing forty-three uncertified and unlabeled small diesel tractors. Three of the tractors were seized by CBP in Portland, Ore., in January 2006. The company had claimed the tractors were certified.

For more information on Mobile Source Importation Settlements, see: <http://cfpub.epa.gov/compliance/civil/programs/caa/importation/>

Compliance Assistance

EPA is also committed to providing compliance assistance and outreach to the regulated community so that the public and the environment can be protected from the harmful health effects of emissions from illegal nonroad equipment. For more information, see: <http://www.epa.gov/compliance/monitoring/programs/caa/mobile.html> and <http://www.epa.gov/OTAQ/actions.htm> and <http://www.epa.gov/otaq/nonroad.htm>

>>>

Table 2: General Emissions Certification Steps

- ♦ Register with EPA
- ♦ Conduct emissions testing of prototypes
- ♦ Submit certification applications to EPA each year for each engine family in order to obtain an EPA certificate
- ♦ Build and label to the certified specifications
- ♦ Conduct emissions tests on production vehicles if EPA orders
- ♦ Provide warranty information and maintenance instructions to purchasers
- ♦ Conduct and pay for emissions warranty repairs
- ♦ Submit defect reports and conduct recalls, if necessary

For more certification information, contact the Imports and Certification Hotline: (734) 214-4100 or <http://www.epa.gov/otaq/certdata.htm>

Enforcement Alert

Policies That Reward Compliance

EPA has two policies that reward companies that bring themselves into compliance with environmental laws. Both EPA's Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations (Audit Policy) and its Policy on Compliance Incentives for Small Businesses (Small Business Policy) encourage greater compliance and environmental audits by substantially reducing or eliminating penalties for entities that voluntarily discover, disclose and expeditiously correct violations of environmental law. For more information, see the following websites:

<http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html>

<http://www.epa.gov/compliance/incentives/smallbusiness/index.html>

Frequently Asked Questions

Question: Does a missing EPA label on a nonroad diesel or gasoline engine matter?

Answer: Yes. If an engine is not properly labeled, the engine is presumed to be uncertified. Therefore, the importer would not be permitted to import the engine or sell it in the U.S.

Question: May an uncertified engine with similar or even identical emission

characteristics as a certified engine be legally imported as "certified?"

Answer: No. Manufacturers may produce uncertified versions of engines that are identical to United States' certified versions as long as the engines are not intended for the U.S. market. These engines are not legal for importation into this country because they are not produced under an EPA-issued certificate, are not properly labeled, do not have the required EPA emissions warranty, and are not subject to EPA audits during manufacturing and potential recall for defects.

Question: May an uncertified engine be imported for export without documenting that the engine is merely making an intermediate stop and without posting of a bond?

Answer: No. Uncertified engines that are destined for a foreign country must be labeled for export on the engine and the container. An EPA Declaration Form 3520-21 must be completed and an appropriate bond must be paid.



Report a Violation!

Protecting the environment is everyone's responsibility. Help EPA fight pollution by reporting potential environmental violations.

www.epa.gov/compliance



Dirt bikes are regulated under EPA's recreational vehicles provisions, 40 CFR parts 1051 and 1068.

About Enforcement Alert

Enforcement Alert is published periodically by EPA's Office of Enforcement and Compliance Assurance, Office of Civil Enforcement, to inform the public and regulated community about environmental enforcement issues, trends and significant enforcement actions. This information should help the regulated community avoid violations of federal environmental law. Please reproduce and share this publication. To receive this newsletter electronically, see www.epa.gov/compliance/resources/newsletters/civil/enfalert/index.html.

Office of Civil Enforcement: Director, Walker B. Smith

Compliance Assistance Resources

EPA's Air Enforcement Office

Mark Siegler
siegler.mark@epa.gov
(202) 564-8673

Anne Wick
wick.anne@epa.gov
(202) 564-2063

EPA's Air Program Office

Imports and Certification
Hotline: (734) 214-4100
Imports (Imports@epa.gov)
Fax requests to (732) 214-1MPO (4676)

Important Information:
www.epa.gov/otaq/imports/index.htm

Certification Test Results:
www.epa.gov/otaq/crtest.htm
Nonroad Certification Data:
www.epa.gov/otaq/certdata.htm

Other Resources

CBP (Customs/ Imports)
www.cbp.gov

California Air Resources Board
The State of California has separate emissions certifications requirements for nonroad engines.
General Number (800) 242-4450

Disclaimer

This document attempts to clarify in plain language some EPA provisions. Nothing in this Enforcement Alert revises or replaces any regulatory provision in the cited part, any other part of the Code of Federal Regulations, the Federal Register or the Clean Air Act, as amended. For more information: www.epa.gov/compliance