



# Enforcement Alert

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Office of Civil Enforcement

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## EPA Steps Up Enforcement Against Illegal Mini-Trucks

### *Law Requires All Vehicles to Meet Federal Emissions Standards*

Over the last several years, the importation of used mini-trucks that fail to meet Clean Air Act (CAA) requirements has grown. The Environmental Protection Agency is taking enforcement action to address this problem.

EPA estimates that approximately 3,000 – 4,000 mini-trucks are brought into the United States each month. The vast majority of the mini-trucks inspected by EPA in 2008 were illegal because they lacked a required EPA-issued certificate of conformity with CAA emission standards. The illegal mini-trucks were small Japanese vehicles with engines around 600 cc.

#### Compliance is Critical

Mobile sources of pollution, including cars, trucks, mini-trucks, recreational vehicles, generators and garden equipment, account for more than half of the air pollution in the United States. The pollutants they emit have been linked to serious health conditions such as asthma, heart disease and cancer, and to environmental problems such as smog. Uncertified mini-trucks emit regulated pollutants at significantly higher levels than motor vehicles certified by EPA as meeting CAA requirements. EPA estimates that uncertified mini-trucks emit at least four times



Pickup Style Mini-Truck

more nitrogen oxide, a contributor to ground level ozone pollution, than light duty trucks that are certified to current standards.

#### Applicable Regulations

In general terms, the CAA defines “motor vehicles” as vehicles designed for on-road use, and capable of traveling over 25 mph. Most imported mini-trucks have been modified in an attempt to prevent them from going over 25 mph, to render them “non-road vehicles” subject to less stringent emissions requirements. *See* EPA regulations at 40 C.F.R. § 85.1703(a). These speed modifications must be permanent. Only modifications approved in writing by EPA can be used to convert a mini-truck to a non-road vehicle.

#### Vehicle Requirements

Vehicles must be certified (*i.e.*, covered by a Certificate of Conformity from EPA) to be in compliance with federal emission standards.

An EPA emission label must be permanently affixed to each engine/vehicle.

Vehicles, when imported, must be declared using EPA Form 3520-1 for motor vehicles or EPA Form 3520-21 for non-road vehicles.

Certifications, exemptions or exclusions must be obtained before importation and supported by the required design and documentation.

For motor vehicles that were never EPA-certified, such as many Japanese mini-trucks, installing tamper-resistant, EPA-approved speed limiting governors to convert the vehicles to a non-road vehicle subjects them to the non-road emission standards specified in 40 C.F.R. Part 1048. Converted mini-trucks must now obtain a certificate of conformity with Part 1048 before importation.

EPA recently published regulations on importation of vehicles that were originally built as motor vehicles, but have been converted for non-road use. Federal Register at 73 FR 59053 (October 8, 2008); see <http://www.epa.gov/otaq/regs/nonroad/marinesi-equipld/bondfrm.pdf>. The regulations do not prohibit importation of mini-trucks, but they do require certification as well as installation of an approved speed governor before importation.

The new regulations apply to converted vehicles imported on or after December 8, 2008. Japanese mini-trucks are among the vehicles affected by this change. The year of importation of converted vehicles usually dictates which emission standards apply. Where the importer can prove conversion several years prior to importation, the emission standards in effect in the year before importation may be applicable (40 C.F.R. §1068.360).

To delay compliance with certification requirements until December 8, 2009, an importer must apply for the delay and demonstrate unusual circumstances, among other factors, and the delay must be approved in writing by EPA before importation occurs. Information on how to certify mini-trucks and how to apply for a delay is available at: <http://www.epa.gov/otaq/imports/420f09014.htm>.

#### Importer Must Complete EPA Declaration Form

Before importation, non-road mini-truck importers (or their suppliers) must certify their vehicles by demonstrating that they are non-road vehicles and comply with applicable emission standards. As part of this process, the exact design of any speed governor must be approved by EPA in writing prior to importation. Importers must also complete an EPA Declaration Form 3520-21 to indicate the means of compliance with the CAA. The Form must be submitted

to U.S. Department of Homeland Security Bureau of Customs and Border Protection (CBP), along with other CBP entry documents (see 42 U.S.C. § 7601, and 19 C.F.R. § 12.74). The imported vehicles must also be made available to CBP for examination.

The importer must also present the completed Form 3520-21 to CBP and EPA officials upon request and must retain a copy for five years after importation. EPA Form 3520-21 and instructions are available at: <http://www.epa.gov/otaq/imports/forms/3520-21.pdf>.

## Penalties for Violations

Importing, or causing the importation, of an illegal mini-truck can result in a penalty of up to \$37,500 per vehicle and its exportation. Anyone who removes, or causes the removal of, a mini-truck's approved speed governor is also subject to this penalty. To knowingly make a false or fraudulent statement, or omit material information required upon importation of a mini-truck, can subject a person to criminal prosecution. Convictions can result in fines of up to \$250,000 or imprisonment for up to two years, or both.

## Enforcement: Don't Let This Happen to You ...

EPA and CBP are inspecting mini-trucks at various ports, dealerships and other business locations throughout the United States. Both agencies are pursuing enforcement actions against importers of illegally imported vehicles. Only modifications installed before importation and approved by EPA in writing are sufficient to render a mini-truck a legal non-road vehicle.

One importer paid an \$82,500 civil penalty for importing 63 mini-trucks into the United States. The importer claimed the mini-trucks were non-road vehicles. The vehicles were inspected by CBP after importation and determined by EPA to be uncertified motor vehicles under the CAA.

## Policies That Reward Compliance

EPA has two policies that substantially reduce or eliminate penalties for entities that voluntarily discover, and expeditiously disclose and correct violations of environmental laws. For more information, see EPA's Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations (Audit Policy) at: <http://www.epa.gov/compliance/incentives/auditing/auditpolicy.html> and EPA's Policy on Compliance Incentives for Small Businesses at: <http://www.epa.gov/compliance/incentives/smallbusiness/index.html>.

Disclaimer: This document attempts to clarify in plain language some EPA regulatory provisions. Nothing in the Enforcement Alert revises or replaces any regulatory provisions in the cited part, any other part of the Code of Federal Regulations, the Federal Register, or the Clean Air Act. For more information go to: [www.epa.gov/compliance](http://www.epa.gov/compliance)

## Compliance Assistance Resources

### EPA's Air Enforcement Division

Mark Siegler  
[siegler.mark@epa.gov](mailto:siegler.mark@epa.gov)  
(202) 564-8673

David Alexander  
[alexander.david@epa.gov](mailto:alexander.david@epa.gov)  
(202) 564-2109

### EPA's Air Program

Imports and Certification  
Hotline: (734) 214-4100  
[Imports \(Imports@epa.gov\)](mailto:Imports@epa.gov)

### Other Resources

CBP (Customs/Importation)  
<http://www.cbp.gov>

California Air Resources Board  
The State of California has separate emissions certification requirements  
General Number (800) 242-4450  
Fax request to (732) 214-IMPO (4676)

## Key EPA Mobile Source Web Sites

Compliance Monitoring Air Mobile Sources Program  
<http://www.epa.gov/compliance/monitoring/programs/caa/mobile.html>

Nonroad Engines, Equipment, and Vehicles  
<http://www.epa.gov/nonroad>

Importing Vehicles and Engines  
<http://www.epa.gov/otaq/imports/index.htm>

Certification Test Results  
<http://www.epa.gov/otaq/crttst.htm>

Non-road Certification Data  
<http://www.epa.gov/otaq/certdata.htm>

Health effects of emissions from illegal non-road equipment  
<http://www.epa.gov/OTAQ/actions.htm>

## Enforcement Alert

Enforcement Alerts are published periodically by EPA's Office of Enforcement and Compliance Assurance, Office of Civil Enforcement, to inform the public and the 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.

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## Report a Violation!

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[www.epa.gov/compliance](http://www.epa.gov/compliance)



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