

Mini Trucks: Questions & Answers for State Inspection and Maintenance Programs

Significant numbers of used mini trucks and vans (also known as Kei-class vehicles) are being imported into the United States. Originally built and used as on-road motor vehicles in Japan, most of these mini trucks do not have U.S. Environmental Protection Agency (EPA) motor vehicle certification. Without EPA certification mini trucks cannot be imported as motor vehicles for on-road use in the United States.

Used mini trucks can be imported as nonroad vehicles if they have been properly and permanently modified to have a maximum governed speed of 25 mph and a Certificate of Conformity (if required). Beginning December 8, 2008, all mini trucks were required to be certified prior to importation as meeting applicable EPA nonroad engine emission standards.

EPA has recently learned that several states that are required by the Clean Air Act (CAA) to adopt vehicle Inspection and Maintenance (I/M) programs to help reduce emissions from on-road motor vehicles in need of repair have begun to see an influx of mini trucks in their I/M programs. EPA wants states to be aware that even if a mini-truck passes a state's I/M test it may still be in violation of the CAA because I/M test results do not meet mandatory federal certification and/or import requirements.

EPA has prepared the following questions and answers to assist state I/M programs in dealing with these vehicles.

Questions & Answers

1. What is a Mini truck?

Mini trucks are smaller versions of standard trucks originally built and used as on-road motor vehicles, primarily in Japan. U.S. companies importing these used mini trucks market them as nonroad vehicles, designed for hauling heavy loads over off-road terrain, among other tasks. Mini trucks are available with a wide variety of features. In general they are around 10 feet long and 4-6 feet wide, weigh approximately 1,000-1,800 pounds, and have a carrying capacity of 400-1,400 pounds. They were built originally with 4 or 5 speed manual transmissions, with liquid cooled 3-cylinder 550cc-660cc gasoline engines (25-45 horsepower). To be imported legally in almost all instances they must have speed governors installed to prevent them from exceeding 25 miles per hour (mph). Most mini trucks achieve between 30-50 miles per gallon (mpg). Mini trucks are for sale principally online and through trade magazines from a variety of U.S. importers. The original vehicle manufacturers are abroad with no dealer presence in the U.S.

2. Are mini trucks subject to state emissions inspections?

Mini trucks have not been federally certified for on-road use and thus states should not register them for on-road use or subject them to state on-road Inspection and Maintenance (I/M) requirements.

EPA's I/M regulations allow a state discretion about the vehicle types and model years covered by I/M regulations if the state can demonstrate the ability to meet a certain minimum level of emission reductions (known as the I/M performance standard). As a practical matter, the vehicles covered by a given state I/M program are usually a subset of the vehicles which have been legally registered for on-road use. However, not all legally registered vehicles are subject to I/M testing.

3. In general, do mini trucks violate the Clean Air Act?

Mini trucks that are not certified to EPA on-highway standards (and none we have seen were ever so certified) violate the Clean Air Act when imported without necessary modifications (generally speed governing modifications).

Under the CAA, EPA is charged with regulating emissions from light-duty vehicles, light-duty trucks, motorcycles, engines used in heavy-duty vehicles and heavy-duty trucks, and nonroad engines. The CAA prohibits the introduction into U.S. commerce (including through importation) any vehicle or engine that is not covered by a Certificate of Conformity unless that vehicle or engine is excluded or exempted from coverage under the CAA.

EPA believes that mini trucks, in their configurations at the time of importation, are "motor vehicles" as that term is defined by the CAA. Mini trucks must therefore be covered by a certificate showing compliance with on-road standards, or must be properly and permanently modified into a nonroad vehicle configuration before importation.

A recent revision to EPA's regulations generally prohibits the importation of uncertified mini trucks, even those that were originally manufactured for nonroad use or converted to nonroad use. It should be noted that the standards for nonroad engines are not as stringent

as EPA on-road motor vehicle standards, so even mini trucks with certified nonroad engines cannot be converted to on-road configurations.

4. Are all mini trucks that have been modified to nonroad use acceptable under the Clean Air Act?

No. The only acceptable modifications from on-road to nonroad are those that allow mini-vehicles to perform in a manner consistent with EPA-issued guidance; have been determined by EPA to be sufficiently permanent and tamper-proof; and that have been approved by EPA in writing. Vehicles meeting these criteria may qualify for an exclusion from the CAA. See www.epa.gov/otaq/imports/index.htm#contacts.

5. Which specific varieties of mini trucks are in violation of the Clean Air Act?

In general, the following mini trucks are in violation of the Act:

- Mini trucks MY 2004 or newer without an EPA certificate
- Mini trucks MY 2003 or older imported after December 8, 2008 without an EPA certificate
- Mini trucks MY 2003 or older imported before December 8, 2008 that do not have a written exclusion from the motor vehicle requirements from EPA
 - Mini trucks with a temporary or easily altered speed control
- Mini trucks capable of **on-road** use
 - Mini trucks without a speed limiting device

6. What is the penalty for violating the emissions certification requirements?

When imported equipment does not meet EPA emissions requirements U.S. Customs detains or seizes the equipment. EPA and U.S. Customs 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 or vehicle, although penalties may be reduced for first-time violators and for importers who voluntarily disclose and remedy the violation and all prior violations. U.S. Customs 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 U.S. Customs entry documents. Persons who commit these crimes are subject to fines up to \$250,000 or imprisonment for up to two years, or both. (42 U.S.C. § 7413(c)(2)).

7. What if the mini-truck has been modified to operate as an on-road vehicle?

Imported mini trucks subsequently altered so that they are capable of exceeding the 25 mph threshold (with the speed governing limiters removed) must be regulated as “motor vehicles” under the CAA and therefore must be certified either as Light Duty Vehicles or Light Duty Trucks. Unless these vehicles have been so certified, their conversion is in violation of the Clean Air Act.

8. What are the consequences for converting a nonroad vehicle to an on-road vehicle?

Any alteration from the original certified configuration (or a configuration which has been specifically excluded) of a vehicle may constitute tampering, a federal offense. It is tampering to convert a nonroad vehicle into a motor vehicle by removing the device that restricts vehicle speed without having certified the converted vehicle to motor vehicle emission standards. The converter of the vehicle may be considered to be a manufacturer of a new motor vehicle and subject to a penalty of \$25,000 per day for failure to meet EPA emission requirements.

9. What if the mini-truck has been registered or licensed with the state?

All motor vehicles manufactured, sold or distributed within the U.S. must satisfy the federal emissions requirements of the CAA. Therefore, the vehicle must either be certified, exempted, or otherwise qualify for an exclusion to the certification requirement (See Question #3) regardless of any state registration or licensing.

10. Do mini trucks need to be insured?

Motor vehicle insurance requirements vary by state. Check with your state's department of motor vehicles to determine whether insurance is required.

11. What about "low-speed vehicles?"

"Low speed-vehicles" are four-wheeled vehicles with a gross vehicle weight of less than 3,000 pounds, capable of 20 mph but not capable of exceeding 25 mph on a paved level surface, and certified for on-road use. Low-speed vehicles must additionally meet the Federal Motor Vehicle Safety Standards of Title 49 part 571 of the Federal Code of Regulations administered by the National Highway Traffic Safety Association. At this time no mini-truck has been certified for on-road use and therefore no mini-truck has yet been classified as a low-speed vehicle.

12. What about three wheelers?

In general, three wheeled vehicles weigh 700-1200 pounds, have 2-4 stroke gasoline liquid cooled engines, 180-650cc, reverse gears, brake systems and maximum speeds around 40-55 mph. They are regulated as on-road motorcycles under the Federal Code of Regulations Title 49 part 86. Three wheeled vehicles must meet those certification standards and meet the applicable state's I/M requirements for motorcycles.