

Import Information

Importing Motorcycles (MCs) and Limited Speed Motorcycles (LSMs) into Canada

Both MMIC and COHV receive many calls from Canadians wishing to import motorcycles (including enclosed motorcycle, open motorcycle, limited-speed motorcycle or motor tricycle), and Restricted-use Motorcycles (including All-Terrain Vehicle, off-road motorcycle) into Canada from foreign countries. Many of these potential importers are surprised to learn that there are regulations that must be met as a condition of admitting these vehicles into Canada. The Motor Vehicle Safety Act and regulations administered by Transport Canada, is the legislation that establishes the safety standards for vehicles manufactured and imported into Canada. The Canadian Environment Protection Act 1999 and regulations administered by Environment Canada is the legislation that establish the exhaust emission standards for vehicles manufactured and imported into Canada,

Motor Vehicle Safety Act

- [Motor Vehicle Safety Regulations#](#)
- [Motor Vehicle Tire Safety Regulations, 1995#](#)

Canadian Environmental Protection Act 1999

- [On-Road Vehicle and Engine Emission Regulations](#)
Canadian Environmental Protection Act, 1999: Part 7: Controlling Pollution and Managing Wastes - Division 5: Vehicle, Engine and Equipment Emissions
- [Compliance and Enforcement Policy for the Canadian Environmental Protection Act, 1999 \(March 2001\)](#)
- [A guidance document](#) regarding the fleet averaging and end of model year reporting requirements for on-road motorcycles.

Under these Acts, an importer is responsible to ensure that the vehicles imported comply with the applicable standards, prior to their importation into Canada; and is also responsible for issuing a notice of defect (recall) for any defect in the design or manufacture of the vehicle after it is sold in Canada.

The legislation is complex and comprehensive. It is essential that a company has someone who is familiar with the applicable Canadian regulations, and that this person has direct contact with somebody in the technical department at the foreign manufacturing plant who is entirely familiar with Canadian regulations. Alternatively, the company may wish to join the MMIC and/or COHV for assistance.

The MMIC has developed a special program – Import Assistance Program (IAP) to assist its members to understand and to comply with the applicable legislation and regulations.

Importer of Record

Referenced in both Motor Vehicle Safety Act and Canadian Environmental Protection Act 1999 as a “Company”, the Company that is engaged in motor vehicle importation should register with Transport Canada for safety compliance, and register with Environment Canada for Emission compliance as an Importer of Record.

This should apply to all persons importing vehicles.

“company” means a person

- (a) who is engaged in the business of manufacturing vehicles or equipment in Canada,*
- (b) who is engaged in the business of selling to other persons, for the purpose of resale by those persons, vehicles or equipment obtained directly from a person described in paragraph (a) or the agent of such a person, or*
- (c) who imports a vehicle or article of equipment into Canada for the purpose of sale;*

Under the Motor Vehicle Safety Act

The company as referred above is responsible for compliance

Compliance by companies

5. (1) No company shall apply a national safety mark to any vehicle or equipment, sell any vehicle or equipment to which a national safety mark has been applied, or import into Canada any vehicle or equipment of a prescribed class unless

(a) the vehicle or equipment conforms to the standards prescribed for vehicles or equipment of its class at the time the main assembly of the vehicle was completed or the equipment was manufactured;

(b) evidence of such conformity has been obtained and produced in the prescribed form and manner or, where the regulations so provide, in a form and manner satisfactory to the Minister;

(c) [Repealed, 1999, c. 33, s. 351]

(d) prescribed information is marked on the vehicle or equipment in the prescribed form and manner and on the prescribed place;

(e) where required by the regulations, prescribed documentation or prescribed accessories accompany the vehicle or equipment;

(f) prescribed information relating to the operation of the vehicle or equipment is disseminated in the prescribed form and manner;

(g) records are maintained and furnished in the prescribed form and manner in relation to the design, manufacture, testing and field performance of the vehicle or equipment, for the purpose of

(i) enabling an inspector to determine whether the vehicle or equipment conforms to all prescribed standards applicable to it, and

(ii) facilitating the identification and analysis of defects referred to in subsection 10(1); and

(h) in the case of equipment, the company maintains a registration system in the prescribed form and manner by which any person who has purchased equipment manufactured, imported or sold by the company and who wishes to be identified may be identified.

Maintenance of records

(2) A person who maintains records referred to in paragraph (1)(g) or a registration system referred to in paragraph (1)(h) shall cause information therein to be retained for the prescribed period.

Time of compliance

(3) Unless otherwise provided by the regulations, a company may apply a national safety mark to, or import into Canada, a vehicle that does not satisfy a requirement of subsection (1) if that requirement is satisfied before the vehicle leaves the possession or control of the company and before the vehicle is presented for registration under the laws of a province.

Certification by foreign agency

(4) Where the regulations so provide in relation to a prescribed standard that corresponds to a prescribed enactment of a foreign government, a vehicle shall be deemed to conform to the standard if a prescribed agency of that government has certified that the vehicle conforms to the enactment as applied by the agency, unless the Minister determines that the vehicle does not conform to that enactment as so applied.

1993, c. 16, s. 5; 1999, c. 33, s. 351.

Compliance by all persons importing vehicles

6. No person shall import into Canada a vehicle of a prescribed class unless the requirements of paragraphs 5(1)(a), (b), (d) and (e) are satisfied in respect of the vehicle.

Exceptions for certain importations

7. (1) Sections 5 and 6 do not apply in respect of the importation of a vehicle or equipment if

- (a) the person importing the vehicle or equipment makes a declaration in the prescribed form and manner that the vehicle or equipment will be used in Canada solely for purposes of exhibition, demonstration, evaluation or testing and will remain in Canada for not longer than one year or such other period as the Minister specifies in relation to the vehicle or equipment; or
- (b) the vehicle or equipment is being imported exclusively for use by a visitor to Canada or by a person passing through Canada to another country.

Pre-clearance program

Transport Canada has developed a Pre-clearance Program to facilitate importation by conveying shipments through Customs with minimal inspection and scrutiny. Pre-clearance was originally set up for the major automobile companies. Pre-clearance constitutes an agreement, not stipulated by law, between a foreign manufacturer, a Canadian commercial importer and Transport Canada.

Case-by-Case Importation

This importation process is for a company that is not granted a Pre-clearance status. A company needs to apply permission from Transport Canada for its importation of each shipment; a random inspection at the border may be conducted.

Importing vehicles from United States

The Registrar of Imported Vehicles (RIV) was created by Transport Canada to administer this importation process. The RIV program is supposed to apply only to individuals who purchased motor vehicles at the retail level in the United States and import the vehicle(s) permanently into Canada. Those vehicles are originally manufactured for distribution in the U.S. and may not necessarily conform to the standards in Canada. Therefore, the person importing the vehicle should make a declaration to modify/certify the vehicle to conform to Canadian regulations.

Vehicles purchased in United States

(2) Except as otherwise provided by the regulations, a vehicle that has been sold at the retail level in the United States and that fails to satisfy an applicable requirement of section 5 or 6 may be imported into Canada notwithstanding that section if the person importing the vehicle makes a declaration in the prescribed form and manner that, before the vehicle is presented for registration under the laws of a province, the vehicle

(a) will be made to conform to that requirement; and

(b) will be certified in the prescribed form and manner to so conform by such person as may be designated by the regulations

A company as defined above is responsible for Notice of Safety Defects

This is supposed to apply to all persons importing vehicles

Obligation to give notice

10. (1) A company that manufactures, sells or imports any vehicle or equipment of a class for which standards are prescribed shall, on becoming aware of a defect in the design, construction or functioning of the vehicle or equipment that affects or is likely to affect the safety of any person, cause notice of the defect to be given in the prescribed manner to

- (a) the Minister;
- (b) each person who has obtained such a vehicle or equipment from the company; and
- (c) each current owner of such a vehicle or equipment as determined
 - (i) from any warranty issued by the company with respect to the functioning of the vehicle or equipment that has, to its knowledge, been given, sold or transferred to the current owner,
 - (ii) in the case of a vehicle, from provincial motor vehicle registration records, or
 - (iii) in the case of equipment, from a registration system referred to in paragraph 5(1)(h).

Where notice previously given

(2) A company is not required to cause notice to be given of a defect of which notice has already been given under this section by another company that manufactured, sold or imported the vehicle or equipment.

Publication of notice

(3) Where the Minister is satisfied that the name of the current owner of a vehicle or equipment cannot reasonably be determined by a company in accordance with paragraph (1)(c),

- (a) the Minister may order the company to give notice of the defect by publication in the prescribed form for a period of five consecutive days in two major daily newspapers in each of the following six regions, namely, the Atlantic provinces, Quebec, Ontario, the Prairie provinces, British Columbia and the Territories, or by dissemination in an alternative medium for such period as the Minister determines; or
- (b) the Minister may order that the current owner need not be notified.

Contents of notice

(4) A notice required to be given under subsections (1) and (3) shall contain, in the form and to the extent prescribed, a description of the defect, an evaluation of the safety risk arising from it and directions for correcting it.

Particulars to provincial authorities

(5) Forthwith on receiving any notice under subsection (1), the Minister shall forward full particulars of the notice to the minister or other officer responsible for motor vehicle administration in each province.

Follow-up reports

(6) Every company that causes notice to be given under subsection (1) shall submit a report containing prescribed information respecting the defect and its correction to the Minister in the prescribed form within the prescribed period and quarterly thereafter.

Idem

(7) Unless the Minister otherwise directs, the quarterly reports referred to in subsection (6) shall be submitted for a period of two years after the day on which notice was given under subsection (1).

Under the Canadian Environment Protection Act 1999

The company as referred above is responsible for compliance

Compliance by companies

153. (1) No company shall apply a national emissions mark to any vehicle, engine or equipment, sell any vehicle, engine or equipment to which a national emissions mark has been applied or import any vehicle, engine or equipment unless

- (a) the vehicle, engine or equipment conforms to the standards prescribed for vehicles, engines or equipment of its class at the time its main assembly or manufacture was completed;
- (b) evidence of such conformity has been obtained and produced in the prescribed form and manner or, if the regulations so provide, in a form and manner satisfactory to the Minister;
- (c) prescribed information relating to standards for emissions from the vehicle, engine or equipment has been submitted to the Minister in the prescribed manner;
- (d) information is marked on the vehicle, engine or equipment in accordance with the regulations;
- (e) if required by the regulations, prescribed documentation or accessories accompany the vehicle, engine or equipment;
- (f) prescribed information relating to the operation or use of the vehicle, engine or equipment is disseminated in the prescribed form and manner;
- (g) records are maintained and furnished in the prescribed form and manner in relation to the design, manufacture, testing and field performance of the vehicle, engine or equipment, for the purpose of
 - (i) enabling an enforcement officer to determine whether the vehicle, engine or equipment conforms to all prescribed standards applicable to it, and
 - (ii) facilitating the identification and analysis of defects referred to in subsection 157(1); and

(h) in the case of engines and equipment, the company maintains a registration system in the prescribed form and manner.

The regulations further details that:

36. (1) For the purpose of paragraph 153(1)(b) of the Act, a company shall obtain and produce evidence of conformity for a vehicle or engine other than one referred to in section 35 in a form and manner satisfactory to the Minister instead of as specified in that section.

(2) For greater certainty, a company shall submit the evidence of conformity to the Minister before importing a vehicle or engine or applying a national emissions mark to it.

36.1 For greater certainty, a company that imports a vehicle or engine or applies a national emissions mark to it under subsection 153(2) of the Act is not required to provide the evidence of conformity referred to in subsection 36(1) to the Minister before importing it or applying a national emissions mark to it, but must provide that evidence in accordance with subsection 153(2) before the vehicle or engine leaves the possession or control of the company and, in the case of a vehicle, before it is presented for registration under the laws of a province or an aboriginal government.

Record keeping

(6) Every person who makes a declaration referred to in paragraph (1)(a) or subsection (2), or provides evidence referred to in paragraph (1)(b), in respect of any vehicle, engine or equipment shall keep a record of the use or disposition of the vehicle, engine or equipment in accordance with the regulations

The Regulation further details about Record - Evidence of Conformity

35. (1) In the case of a vehicle or engine that is covered by an EPA certificate and that is sold concurrently in Canada and the United States, evidence of conformity for the purpose of paragraph 153(1)(b) of the Act in respect of a company shall consist of

(a) a copy of the EPA certificate covering the vehicle or engine;

(b) a document demonstrating that vehicles or engines covered by the EPA certificate are sold concurrently in Canada and the United States;

(c) a copy of the records submitted to the EPA in support of the application for the issuance of the EPA certificate in respect of the vehicle or engine; and

(d) a U.S. emission control information label, or in the case of a heavy-duty engine a U.S. engine information label, that is permanently affixed to the vehicle or engine in the form and location set out in

(i) section 1807, subpart S, of the CFR, for the applicable model year of light-duty vehicle, light-duty truck, medium-duty passenger vehicle or complete heavy-duty vehicle,

(ii) section 413, subpart E, of the CFR for the applicable model year of the motorcycle,

(iii) section 35, subpart A, of the CFR for the applicable model year of heavy-duty vehicle, and

(iv) section 35, subpart A, of the CFR for the applicable model year of heavy-duty engine.

(2) For the purpose of subsection (1), the U.S. emission control information label may be affixed to the vehicle or engine in any other form and location that may be specified in the CFR.

A company as defined above is responsible for Notice of Defect

This is supposed to apply to all persons importing vehicles

Obligation to give notice

157. (1) A company that manufactures, sells or imports any vehicle, engine or equipment of a class for which standards are prescribed shall, on becoming aware of a defect in the design, construction or functioning of the vehicle, engine or equipment that affects or is likely to affect its compliance with a prescribed standard, cause notice of the defect to be given in the prescribed manner to

(a) the Minister;

(b) each person who has obtained such a vehicle, engine or equipment from the company; and

(c) each current owner of such a vehicle, engine or equipment.

Determining owners

- (2) *Current owners are to be determined for the purpose of subsection (1)*
- (a) *from a warranty issued by the company with respect to the functioning of the vehicle, engine or equipment that has, to its knowledge, been given, sold or transferred to the current owner;*
 - (b) *in the case of a vehicle, from registration records of a government; or*
 - (c) *in the case of an engine or equipment, from a registration system referred to in paragraph 153(1)(h).*

If notice previously given

- (3) *A company is not required to cause notice to be given of a defect of which notice has already been given under this section or under section 10 of the Motor Vehicle Safety Act.*

Publication of notice

- (4) *If the Minister is satisfied that the name of the current owner of the vehicle, engine or equipment cannot reasonably be determined by a company in accordance with subsection (2), the Minister may*

- (a) *order the company to give notice of the defect by publication in the prescribed form for a period of five consecutive days in two major daily newspapers in each of the following six regions, namely, the Atlantic provinces, Quebec, Ontario, the Prairie provinces, British Columbia and the Territories, or by dissemination in an alternative medium for any period that the Minister determines; or*
- (b) *order that the current owner need not be notified.*

Contents of notice

- (5) *A notice required to be given under subsections (1) and (4) shall contain, in the form and to the extent prescribed, a description of the defect, an evaluation of the pollution risk arising from it and directions for correcting it.*

Particulars to responsible authorities

- (6) *On receiving a notice under subsection (1), the Minister shall forward full particulars of the notice to the person responsible for vehicle or engine administration in each government.*

Follow-up reports

- (7) *Every company that causes notice to be given under subsection (1) shall submit an initial report and subsequent regular reports respecting the defect and its correction in accordance with the regulations.*

Frequency of reports

- (8) *Unless the Minister directs otherwise, the reports referred to in subsection (7) shall be submitted for a period of two years after the day on which notice was given under subsection (1).*