



EPA for the Layman

The Motorcycle Riders Foundation's (MRF) Review of the EPA's Emissions Regulations for Highway Motorcycles for 49 States (except California) issued in December, 2003

In December of 2000, the Motorcycle Riders Foundation (MRF) learned that the United States Environmental Protection Agency (EPA) was proposing California-style emissions standards for the rest of the country for all motorcycles, street and off-road models, in a single rulemaking process. The MRF, working with our Supporting State Motorcyclists' Rights Organizations (SMROs), was instrumental in having street motorcycles removed from that process in September, 2001 and placed into a separate EPA "proposed rule."

The MRF and SMROs continued to work diligently to impact the final rule through the comment period and into the rule approval process. For a complete chronological review of the many steps taken by the MRF, visit our website at www.mrf.org/epa.php.

The EPA issued their final emissions regulations for highway motorcycles for 49 states on December 23, 2003. These new regulations will become effective in stages, starting in 2006 and harmonizing with California's standards in 2010. You can view the entire 49-page EPA rule by visiting their website at <http://www.epa.gov/fedrgstr/EPA-AIR/2004/January/Day-15/a006.pdf>. While this new rule dramatically reduces tail pipe emissions, there are some exemptions written into it for kit bikes, custom motorcycles, and small volume makers.

The MRF does not believe that the exemptions are broad enough or that the rules, as written, fulfill the needs of highway motorcyclists, the small volume makers and the aftermarket. We fully intend to continue to work for revision of some parts of the rules.

Here we present some of the most frequently asked questions from street riders and an explanation of what the rules will mean to you. This explanation does not apply to California.

What will this new EPA rule mean to me?

If you are going to buy a new motorcycle at your local dealer, the only things you may notice are that by the 2006 model year, most motorcycles will come with fuel injection and will require special diagnostic tools for service work. Some may have catalytic converters in the exhaust pipes. Both are in use in some models already. There has been no change to the "anti-tampering" provision of the Clean Air Act.

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How will this rule affect the motorcycles I already own?

These new EPA regulations only apply to motorcycles built for 2006 and later. You will not be required to retrofit your current motorcycles to make them comply with the new rules.

Can I modify the engine or exhaust on my 2006 or later motorcycle?

The new EPA rule contains the same language that the old rule contained about this subject – modifying your motorcycle's engine or exhaust is considered "tampering." The Clean Air Act, Section 203(a) states that it is illegal, "for any person to remove or render inoperative any device or element of design installed on or in a motor vehicle in compliance with regulations under this title prior to its sale and delivery to the ultimate purchaser or after such sale and delivery to the ultimate purchaser."

Can I still build my own custom motorcycle?

Starting in 2006, it will be legal for you to build your own custom motorcycle. In the new EPA rules this is called a "kit bike" and it will not have to be tested to verify that it conforms to the new emissions standards. There are, however, some very specific rules that will apply to your kit bike.

- You are only allowed one emissions-exempt kit bike in your lifetime.
- You may not sell your once-in-a-lifetime emissions-exempt kit bike for five years after its final assembly.
- You may have someone else assemble your kit bike for you as long as you have purchased the components prior to the start of the assembly.
- You cannot build your kit bike by modifying a factory-built motorcycle that was certified to meet EPA emissions standards. You must start with a new engine and frame.
- Under the existing rule, all kit bikes are supposed to be tested and certified to meet the 1979 EPA rules.
- An EPA-exempt kit bike can be used on the road without any travel restrictions.

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What is meant by "one exempt kit bike for a lifetime?"

This refers to the wording of the new EPA rule that allows for the construction of your kit bike and it refers to your lifetime. You are allowed one EPA-exempt kit motorcycle that has no restrictions on how and where it may be used under this rule. The exemption is for the motorcycle owner's lifetime. When and if a new rule comes out that addresses engine certification, the lifetime exemption may be rewritten.

Do I have to assemble my EPA exempt kit bike myself?

No, you do not have to assemble your kit bike yourself. You can pay someone else to assemble your kit bike after you purchase the "kit" or components that will be assembled into the final motorcycle.

Can I build EPA-exempt kit bikes and sell them?

Under this rule, building EPA-exempt kit bikes and selling them to other people would not be allowed. The ultimate owner must own the components before the assembly process begins. You can build as many kit bikes as there are people who are willing to pay you to assemble their components. People or businesses that purchase kit bikes to assemble and then sell them are not covered under this exemption, but may be able to use the "custom motorcycle" exemption explained later in this document.

What happens if my EPA-exempt kit bike is wrecked or stolen?

The way this new EPA rule is written now, you would not be able to replace your stolen or destroyed EPA-exempt motorcycle. You are only allowed one EPA-exempt kit bike in your lifetime under the new EPA rule.

What if a court orders me to sell my EPA-exempt motorcycle?

Under this federal law, you are not allowed to sell your EPA-exempt kit bike for five years after the date of final assembly, even in case of death, bankruptcy, or divorce. After five years, your EPA-exempt motorcycle can be sold. If you do sell your EPA-exempt kit bike, you will not be allowed to own another exempt kit motorcycle.

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Will I be able to build my one EPA-exempt motorcycle whenever I choose?

That is going to depend on how the EPA looks at the data California brings to the process in 2006. The California Air Resources Board (CARB) has similar rules that take effect in 2004 and will be up for review in 2006. The EPA is planning to review this data and other exemptions when CARB reviews the effectiveness of their regulations. When that review is completed, the EPA may choose to regulate all motorcycle engine manufacturers at that time so that all engines, including those built by the aftermarket industry, will be required to meet the EPA's emissions standards when they leave the factory. If they decide on that course of action, they feel the exemption for kit bikes will no longer be needed because there will only be EPA-compliant engines available for builders. The California process will not have anything to do with the exemption. When and if the EPA sets standards for engines, the kit exemption would likely go away.

Are there any other exemptions that might affect me?

There is one other type of exemption that will apply to riders, and that is the "custom motorcycle" (CM). This is like the kit bike in that it does not have to meet the EPA emissions standards, but different in several other important ways. A builder may build 24 or fewer per year and sell them commercially by notifying the EPA and including a tag somewhere on the motorcycle stating: THIS MOTORCYCLE IS EXEMPT FROM EPA EMISSIONS REQUIREMENTS. ITS USE ON PUBLIC ROADS IS LIMITED PURSUANT TO 40 CFR 86.407-78(c). The 25th and all subsequent motorcycles built that year by that builder must all comply with the new emissions standards. An individual can own as many of the CM exemption motorcycles as he/she can afford. However, there are severe restrictions on how and where they can be used on the roads. Use on public roads is limited to display purposes, such as traveling to and from motorcycle shows. This could be a show in your hometown or a show on the other side of the country. The distance does not matter, only the reason for the travel.

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Do I have to buy the components for my CM before the assembly starts?

No, the builder can buy all the parts and build the motorcycle before he/she even has a customer for it. However, when done in this manner, the travel restrictions will apply to this motorcycle for as long as this rule is in effect. The motorcycle will have to comply with the restrictions on public road use.

Will there be limits on how many miles I can ride my CM?

No, the only limitation is the display purpose clause. The CM is not supposed to be used as a daily ride; it is intended to be a show bike that can only be ridden to shows or displays.

Where can I obtain additional copies of this document?

You can download and print as many copies of this document as you need by visiting the MRF website at www.mrf.org/epa.php and scrolling down to the link entitled "EPA For The Layman." There is access to a downloadable pdf version of this document located at the bottom of that page.

Who should I contact for more information about the new EPA rule?

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