

## **EPA for the Layman, except California**

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 rule making process. The MRF, working with our Supporting States Motorcyclist Organizations (SMROs), was able to have street motorcycles removed from that process in September 2001, and placed into a separate "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.

The EPA issued their new emissions regulations for Highway Motorcycles for 49 States on Dec 15, 2003. These new regulations will become effective in stages, starting March 15, 2004 and will be harmonized with California in 2010. While this new rule dramatically reduces tail pipe emissions, there are also 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 after market. 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 the street rider and an explanation of what the rules will mean to you. This explanation does not apply to California.

## **EPA for the Rider, except California**

### **What will the new EPA rule for mean to me?**

If you are going to buy a new motorcycle at your local dealer, the only things you may notice is 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.

### **How will this affect the motorcycles I already own?**

These new regulations only apply to motorcycles built for 2006 and later. You will not be required to retro-fit 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 as the old rule about this, it is "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 March 15, 2004 it will be legal for you to build your own custom motorcycle. In the new rules this is called a “kit bike” and it will not have to be tested to verify that it conforms to the emission standards. There are, however, some very specific rules that will apply to your kit bike;

You are only allowed one emission exempt kit bike in your lifetime.

You may not sell your 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 can not build your kit bike by modifying a factory built motorcycle that was certified to meet EPA emission 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.

### **What is meant by “one exempt kit bike for a lifetime”?**

This refers to the wording of the new 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 re-written.

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

No, you can pay someone else to assemble your kit bike after you buy 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, that 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 who purchase kit bikes to assemble and then sell are not covered under this exemption, but may use the “custom motorcycle” exemption explained later in this document.

### **What happens if my kit bike is wrecked or stolen?**

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

### **What happens if a court orders me to sell my EPA exempt motorcycle?**

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

**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 and other exemptions when CARB reviews the effectiveness of their regulations. When that review is done the EPA may choose to regulate all motorcycle engine manufacturers at that time so that all engines, including those built by the aftermarket people, will be required to meet the emission 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 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 the riders, 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 EMISSION 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 emission standards. An individual can own as many of the CM exemption motorcycles as they can afford.

There are severe restrictions on how and where they can be used on the roads though. Use on public roads is limited to display purposes, such as traveling to and from motorcycle shows. This could be a show in your home town or a show on the other side of the country. The distance does not matter, only the reason for the travel.

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

No, the builder can buy all the parts and builds the motorcycle before he even has a customer for it. Whoever, 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 I be limited to 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 be ridden to shows or displays.