



Enforcement Alert

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Office of Civil Enforcement

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Many Scooters and Off-Road Motorcycle Imports Fail to Meet EPA Standards

Surging interest among U.S. consumers in small motor cycles, marketed as scooters and dirt bikes, has manufacturers rushing to fill the demand as quickly and inexpensively as possible. Unfortunately for the environment and many U.S. businesses, some imported vehicles do not meet the emissions standards set by the U.S. government. These substandard products cost far less than their law-abiding counterparts in the competitive U.S. market. Tales of retailers and consumers stuck with sub-standard products, useless warranties and uncertified scooters and motorcycles are becoming too common. This "Enforcement Alert" lays out the U.S. requirements and provides resources to help importers, distributors, and other businesses avoid violations.

The Environmental Protection Agency (EPA), in coordination with U.S. Customs and Border Protection (CBP), is tackling the illegal import problem at the door, with investigations of importers and distributors of scooter-type motorcycles and off-road motorcycles. EPA has discovered many motorcycles being improperly described as off-road vehicles, when the engine size and safety equipment,

such as head, tail and brake lights, mean the vehicle may be headed for highway use. Many scooters and motorcycles lack the mandatory EPA emissions certification labels that demonstrate compliance with the Clean Air Act.

EPA and CBP officers are checking motorcycles at ports, warehouses and dealers throughout the United States, measuring engine size, reviewing specifications and looking for EPA certification labels, where necessary. CBP has seized or detained over 3,000 motorcycles from more than thirty importers — twenty-one shipping containers at one port alone. EPA can require importers to export all the illegal motorcycles and pay civil penalties

of up to \$32,500 for each motorcycle. Since 1978, EPA has required emissions certification for motorcycles, except for those with engines less than 50cc and "off-road" motorcycles that lack head, tail and brake lights. However, beginning in 2006, all motorcycles will be regulated.

Manufacturer Responsibility
Manufacturers of motorcycles are required to provide an emissions warranty to the consumer. The minimum length of the warranty period is five years, or 12,000 to 30,000 km (depending on the size of the engine).

The EPA emissions certification requirement applies to motorcycles manufactured in the United States and to new motorcycles that are imported for sale in this country. EPA certification for imported motorcycles normally is obtained by the motorcycle manufacturer. However, a motorcycle importer also may apply to EPA for a certificate, and thus assume all the responsibilities of the manufacturer.

How to Apply for an Emissions Certification

The motorcycle certification regulations, found at 40 C.F.R. Part 86,



An example of the popular gasoline-powered scooter-type motorcycle



Sample Emissions Label

IMPORTANT VEHICLE EMISSION CONTROL INFORMATION	
XYZ MOTOR CO TAIWAN, LTD XYZ MOTORS	
ENGINE FAMILY: 5XYZC.150EFG EVAP FAMILY 5XYZD0009NAA	
TUNE UP SPECIFICATIONS AND ADJUSTMENTS (REFER TO YOUR OWNERS MANUAL)	
DISPLACEMENT: 150cm ³	VALVE LASH (mm) 0.08-0.12
IGNITION TIMING: 10 DEG. BTDC	NO ADJUSTMENT NECESSARY
IDLE SPEED: 1500 RPM IN NEUTRAL	ADJUST STOP SCREW ON CARBURETOR
SPARK PLUG & GAP	NGK CR7D, 0.8-0.9 mm
FUEL: GASOLINE, 87 RON MIN	ENGINE OIL: SAE TYPE SE, 10W30
THIS VEHICLE CONFORMS TO U.S. EPA AND CALIFORNIA REGULATIONS APPLICABLE TO 2005 MODEL YEAR MOTORCYCLES	
THIS MOTORCYCLE MEETS 1986 AND LATER EPA NOISE REQUIREMENTS OF THE FEDERAL TEST PROCEDURE. MODIFICATIONS WHICH CAUSE THIS MOTORCYCLE TO EXCEED FEDERAL NOISE STANDARDS ARE PROHIBITED BY FEDERAL LAW. SEE OWNERS MANUAL. LIMIT: CLOSING-80dBA/7500RPM MODEL CODE XYZ5Z0150	

subpart E., require motorcycle manufacturers (or an importer assuming the responsibility of a manufacturer) to:

- Register with EPA;
- Conduct emissions testing of prototype motorcycles;
- Submit certification applications to EPA each year for each engine family in order to obtain an EPA certificate;
- Build and label motorcycles to the certified specifications;
- Conduct emissions tests on production vehicles if EPA orders;
- Provide warranty information and maintenance instructions to purchasers;
- Conduct and pay for emissions warranty repairs;
- Submit defect reports and conduct recalls, if necessary.

Importer Responsibility

Both the original motorcycle manufacturer (the company that assembles the motorcycle) and the importer are responsible for compliance with the regulations. An importer is prohibited from importing motorcycles that are not properly EPA-certified and labeled unless they are exempt from the certification requirements. Importers should inspect the motorcycles they intend to import to verify that they are either EPA-certified and labeled, or that they qualify for an exemption.

Importers are responsible for ensuring that the motorcycle manufacturer will honor the emissions warranty and comply with all other EPA-required responsibilities.

Importers should ensure that the motorcycle manufacturer has the necessary communications procedures, repair facilities and personnel, and other infrastructure necessary to conduct warranty repairs in the United States. The warranty repair process should be described in the owner's manual. EPA will hold both the importer and the manufacturer liable for penalties if these requirements are not met.

Import Declaration Form

Importers of motorcycles must complete an EPA Declaration Form 3520-1. On this form, the importer must describe the motorcycles being imported, and either state the motorcycles are EPA-certified and labeled, or describe the exemption that applies to the motorcycles. Form 3520-1 must be submitted to Customs along with other Customs entry documents; (see 42 U.S.C. § 522, 7601, and 19 C.F.R. § 12.73). The importer must also present the completed form to EPA officials upon request and retain a copy for five years after the motorcycles are imported. Some exemptions require EPA approval before importation. Alternative CBP entry



"Pocket motorcycles" are more available than ever.

procedures may apply in the case of motorcycles that are imported by the motorcycle manufacturer. Form 3520-1, along with instructions, is available at: <http://www.epa.gov/otaq/imports/index.htm>.

When a Violation Is Found

When EPA or CBP determines that imported motorcycles do not meet the EPA emissions certification requirements, CBP detains or seizes the motorcycles. EPA then contacts the importer to address the Clean Air Act violations. The statutory maximum penalty under the Act is \$32,500 for each illegal motorcycle, although penalties may be reduced for first-time violators

and for importers who disclose and remedy the violation and all prior violations. CBP 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 CBP entry documents. Persons who commit these crimes are subject to a fine of up to \$250,000 or imprisonment for up to two years, or both. (see 42 U.S.C. 7413(c)(2)).

DOT Requirements

CBP may also detain or seize motorcycles if they do not comply with the U.S. Department of Transportation (DOT) safety and highway requirements:

- DOT defines a motorcycle as a two- or three-wheeled motor vehicle equipped with a seat or saddle. DOT makes no exceptions based on engine displacement.
- All motorcycles that have attributes consistent with on-road use must be manufactured to comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS), and bear DOT compliance labels that are permanently affixed by their original manufacturer.
- The label must identify the manufacturer (actual assembler) of the vehicle, date of manufacture, and state that the vehicle conforms to all applicable FMVSS.
- The civil penalty for any person who sells, offers for sale, introduces or delivers for introduction in interstate commerce, or imports into the United States, any motor vehicle

that does not comply with the FMVSS, is up to \$5,000 for each violation.

California Requirements

California has separate emissions certification requirements for motorcycles with engines 50cc or larger. Importers should contact the California Air Resources Board to learn more about California motorcycle certification.

Excess Emissions

EPA studies show that motorcycles have much higher emissions than cars. A motorcycle emits as much hydrocarbon in 10 miles as a car driven 850 miles. Uncertified Class I motorcycles may emit three to five times as much hydrocarbon and carbon dioxide as similar certified Class I motorcycles.

These emissions form smog and contain toxic compounds such as benzene.

Summary

Manufacturers must obtain EPA certification for motorcycles or scooters that are sold in the United States unless the motorcycles qualify for an exception. See page 1 for a summary of the requirements for certification, which include emission testing obligations, record-keeping requirements and the need to supply an emissions warranty. Importers must ensure that the motorcycles and scooters they import are EPA-certified and labeled, or qualify for an exception. Importers must complete an EPA Declaration Form



“Off-road” motorcycle equipped for on-road use.

3520-1 for all imported motorcycles, whether certified or not. All motorcycles must meet DOT requirements. Importers and retailers are alerted that all motorcycles will be regulated by EPA beginning in 2006.

Other EPA Policies

EPA has adopted two policies designed to encourage greater compliance with environmental laws and regulations. The “Incentives for Self-Policing, Discovery, Disclosure, Correction and Prevention of Violations” (Audit Policy) and “Policy on Compliance Incentives for Small Businesses” (Small Business Policy) encourage environmental audits by substantially reducing or eliminating penalties for entities that voluntarily discover, disclose and expeditiously correct violations of environmental law. For more information, see the following websites:

www.epa.gov/compliance/resources/policies/incentives/smallbusiness/sbcompolicy.pdf

www.epa.gov/compliance/resources/policies/incentives/auditing/auditpolicy.pdf



United States
Environmental Protection Agency
Office of Regulatory Enforcement
(2241A)
Washington, D.C. 20460
Official Business
Penalty for Private Use \$300

About Enforcement Alert

Enforcement Alert is published periodically by EPA's Office of Enforcement and Compliance Assurance, Office of Civil Enforcement, to inform the public and 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. To receive this newsletter electronically, see www.epa.gov/compliance/resources/newsletters/civil/enfalert/index.html.

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Compliance Assistance Resources

EPA's Air Enforcement Office

Frequently Asked
Questions: [www.epa.gov/
compliance/resources/faqs/
civil/mcimports.pdf](http://www.epa.gov/compliance/resources/faqs/civil/mcimports.pdf)

Legal: Jocelyn Adair
adair.jocelyn@epa.gov
(202)564-1011

Technical: Mario Jorquera
jorquera.mario@epa.gov
(202)564-1079

EPA's Air Program Office

Annual Certification Test
Results: [www.epa.gov/otaq/
crttst.htm](http://www.epa.gov/otaq/crttst.htm)

New Highway Motorcycle
Standards for 2006:
[www.epa.gov/otaq/
roadbike.htm](http://www.epa.gov/otaq/roadbike.htm)

Imports Hotline: (734) 214-4100

Technical: David Good (734)
214-4450

New Off-Road Motorcycle and
ATV Standards for 2006:
www.epa.gov/otaq/recveh.htm

Motorcycle Certification:
www.epa.gov/otaq/cert

Other agencies

CBP (Customs/
Importations)
www.cbp.gov

U.S. Department of
Transportation:
[www.nhtsa.dot.gov/cars/
rules/import](http://www.nhtsa.dot.gov/cars/rules/import)

dick.merritt@nhtsa.dot.gov

California Air Resources
Board: (800) 242-4450

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