



## Many Small Highway and Off-Road Motorcycle Imports Fail to Meet EPA Standards

Surging interest among U.S. consumers in small motorcycles, 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.

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.

### About Enforcement Alert

Enforcement Alert is published periodically by EPA's Office of Enforcement and Compliance Assurance, Office of Civil Enforcement, to inform and educate the public and regulated community of important environmental enforcement issues, recent trends and significant enforcement actions.

This information should help the regulated community anticipate and prevent violations of federal environmental law. Please reproduce and share this publication. To receive this newsletter electronically, see <http://www.epa.gov/compliance/resources/newsletters/civil/enfalert/index.html>.

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The Environmental Protection Agency, 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

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

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### U.S. Motorcycle Certification Importation Requirements

On-road motorcycles with engines 50cc or larger must be EPA certified.

Certified motorcycles must:

- Have an EPA emissions label affixed and visible
- Be covered by an emissions warranty

Motorcycle importers must complete EPA Declaration Form 3520-1



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



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, following procedures discussed later in this Alert.

### **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 certified and labeled by EPA 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 the under-50cc or off-road 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.

### **EPA Certificates for Importers**

Under EPA regulations, importers may apply to EPA for an emissions Certificate of Conformity for the motorcycles they intend to import. Importers who choose this approach are required to comply with all of the manufacturer's certification requirements and demonstrate full knowledge of the motorcycle production process prior to importing regulated motorcycles. The importer also must register with EPA and provide proof of a contractual arrangement

### **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.

with the motorcycle manufacturer that establishes the importer as the manufacturer's authorized U.S. sales representative. In addition, the importer must test prototype motorcycles to ensure they meet emissions standards and receive a Certificate of Conformity from EPA. The importer then is responsible for ensuring the motorcycles intended for importation are manufactured to

conform to the certified configuration before they arrive at the U.S. port of entry. This includes the installation of all emission controls, tamper-proof elements and the EPA emissions certification label. The importer is responsible for meeting all emissions warranty and recall requirements.

### **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 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>.

A single Form 3520-1 may be used for an import shipment of many motorcycles, provided that the importer includes an attachment that provides the information required on the form for each motorcycle. The accuracy of all declarations made on the Form 3520-1 is the responsibility of the importer, even if a Customs



broker completes the form.

### 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.



*“Pocket bikes” are more available than ever.*

### 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.

### In Summary

Importers must ensure that the motorcycles and scooters they import are EPA-certified and labeled, or meet the exception either for under 50cc engines or for off-

road motorcycles. Importers must complete an EPA Declaration Form 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:

<http://www.epa.gov/compliance/resources/policies/incentives/smallbusiness/sbcompmpolicy.pdf>

<http://www.epa.gov/compliance/resources/policies/incentives/auditing/auditpolicy.pdf>

## Frequently Asked Questions About Motorcycle Imports

**Q. Can I import motorcycles with engine displacements below 50 cc and modify the engine to increase the displacements to 50 cc or greater?**

**A.** On-road motorcycles with engines of 50 cc or greater must be EPA-certified, whether the motorcycle is fully assembled or in parts. For more information, see EPA's Kit Car Policy at: <http://www.epa.gov/otaq/imports/kitcar.htm>.

### Motorcycle Facts

An on-highway motorcycle is any motor vehicle with two or three wheels, a headlight, taillight and stoplight and a curb weight less than 1,749 pounds.

Until Jan. 1, 2006, motorcycles are exempt from EPA certification requirements if:

- the engine is less than 50 cc; or
- it cannot exceed a speed of 25 miles per hour; or
- it cannot start from a dead stop using only the engine.

Beginning with the 2006 model year, all motorcycles must be EPA-certified, including off-highway motorcycles, regardless of engine size or speed.

**Q. If I know my motorcycle engine meets the EPA emission standards, can I import it legally?**

**A.** Even though a motorcycle with an engine displacement 50 cc or greater meets the emission standards, it is illegal to import it into the United States unless it is certified by EPA. Certified motorcycles bear a readily visible EPA emission label. EPA certification carries with it important responsibilities beyond meeting emissions standards, such as emissions warranty and recall requirements.

**Q. Can emissions control labels be added after the motorcycle has been imported?**

**A.** Emissions control labels must be affixed to EPA-certified motorcycles at the time of manufacture. Importation of certified motorcycles that do not bear EPA emission labels is prohibited.

**Q. Can I import an uncertified motorcycle with an engine displacement 50 cc or greater as long as I claim it is not for road use?**

**A.** Motorcycles are classified as on-road motorcycles based on whether they are, or can readily be, equipped with brake lights, taillights and headlights, and are capable of speeds of 25 mph or greater. A motorcycle with these attributes is

an on-road motorcycle even if the manufacturer calls it an off-road motorcycle.

**Q. Can I import parts of a motorcycle with engine displacement of 50 cc or greater and assemble them in the United States without certification?**

**A.** A company that modifies motorcycles to increase the engine size, or that sells motorcycles and upgrade kits, is considered to be the manufacturer of the motorcycles. As a consequence, if the modified motorcycles have engines that are 50 cc or greater, the company must obtain an EPA emissions certification for the motorcycle. This is true regardless of whether the company modifies the motorcycles, or only sells motorcycles with the upgrade kits. Manufacturers that violate the certification requirements are subject to penalties of up to \$32,500 per vehicle.



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



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

### Compliance Assistance Resources

For more information on motorcycle requirements, contact:

#### **EPA's Enforcement Office:**

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)

New Off-Road Motorcycle and ATV Standards for 2006: [www.epa.gov/otaq/recveh.htm](http://www.epa.gov/otaq/recveh.htm)

Motorcycle Certification Information:  
[www.epa.gov/otaq/cert](http://www.epa.gov/otaq/cert)

Imports Hotline (734) 214-4100

Technical - David Good (734) 214-4450

#### **For other information contact:**

• CBP (Customs/Importations)  
[www.cbp.gov](http://www.cbp.gov)

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

email : [dick.merritt@nhtsa.dot.gov](mailto: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, visit: [www.epa.gov/compliance](http://www.epa.gov/compliance)