
Committee Resolutions

ENVIRONMENT & RECREATION

E&R-2009-02: REGULATION OF ILLEGAL AND INTRUSIVE MOTORCYCLE NOISE

1. WHEREAS, long standing federal Environmental Protection Agency (EPA) laws require that motorcycles be manufactured to be as quiet as a normal automobile, but most owners of street motorcycles install illegal exhaust systems (mufflers) which produce at least 10 to 100 times the noise emissions allowed by EPA, the state of Virginia, and Fairfax County regulations, and in addition, the low frequency noise generated by the use of illegal exhaust systems is particularly intrusive of solid structures such as homes.

2. WHEREAS, these illegal modifications, referred to as "tampering" by several federal regulations created to regulate motorcycle noise (Title 40, Volume 24, Part 205, Subpart D and Subpart E / Noise Control Act) and air pollution (Clean Air Act), make newer motorcycles non compliant with EPA regulations governing air emissions; each illegally equipped motorcycle generates more hydrocarbon air pollution than 80 automobiles (in addition to varying amounts of other air pollutants).

3. WHEREAS, Fairfax County is densely populated with a great deal of traffic and existing air pollution issues in the Mount Vernon area, and the noise generated by loud motorcycles equipped with illegal exhaust systems is recognized to be particularly intrusive of homes, with acute and chronic exposure to this noise having a variety of negative health effects including hearing damage, increased stress levels leading to cardiovascular disease, decreased rates of learning, lack of sleep, and a large impact on general well-being and quality of life of many people.

4. WHEREAS, certain segments of the population are particularly sensitive to this illegal and intrusive noise including but not limited to children with autism, veterans with post traumatic stress disorders, young children, and people who work at night and sleep during the day.

5. WHEREAS, all motorcycles and motorcycle mufflers manufactured for sale in the U.S.A for street use must meet the federally set noise limit of 80 decibels, and must be properly labeled (EPA Label Match Up Program) for easy identification by law enforcement (improperly or non-labeled products are subject to a product recall); Fairfax County ordinance Article 6, Section 82-6-26 and VA state law (§ 46.2-1049) state that, "An exhaust system shall not be deemed to prevent excessive or unusual noise if it permits or

allows the escape of noise in excess of that permitted by the standard factory equipment exhaust system."

6. WHEREAS, to combat excessive noise pollution, the EPA has codified a motorcycle and a motorcycle exhaust system labeling program, 40C.F.R. §§205.158, 205.169 respectively, which requires motorcycle and motorcycle exhaust system manufacturers to attach a permanent label to their manufactured products stating that the product meets the EPA's noise emission requirements - the purpose of the labels is to ensure that motorcycles and exhaust systems fully comply with their tested noise emission requirements and to provide police with an easy enforcement mechanism.

7. WHEREAS, cities including Denver, Boston and NYC have adopted or are considering adopting ordinances which require that motorcycles use EPA labeled mufflers; Denver has a first fine of \$500 and second fine of \$750, Boston has a fine of \$300 per incident, and NYC intends to allow parking enforcement personnel to write tickets starting at \$1000 for improperly labeled motorcycle mufflers.

8. WHEREAS, requiring that motorcycles use EPA labeled exhaust systems would allow for easy and flexible enforcement by Fairfax County, and if the same requirement is adopted by the state, would allow inspection stations to easily check for legal mufflers; requiring EPA labeled mufflers made for the motorcycle combined with regular enforcement would result in a very large decrease in both noise and air pollution generated by motorcycles (noting that many motorcyclists will temporarily install legal mufflers for the purpose of an inspection and then put the loud mufflers back on).

9. WHEREAS, the Fairfax County Police Department has found the current county law unenforceable, stating that only about 1 in 300 loud motorcycles can be ticketed; Fairfax County Police Department uses a decibel meter to determine the noise level, and decibel readers are widely cited as being an ineffective tool for traffic related noise enforcement, often suggested as an enforcement method by special interests who do not want enforceable laws, are not capable of detecting high intensity / low frequency sound unless the dB(C) standard is used and the test is conducted in a controlled area (impractical).

10. WHEREAS, it is commonly acknowledged that many police officers personally own illegally equipped loud motorcycles, county police operate loud motorcycles, and county law enforcement provides an escort each year for "Rolling Thunder" which brings thousands of illegally equipped motorcycles into the Washington DC area.

11. WHEREAS, the Noise Control Act allows local jurisdictions to enact their own laws to regulate noise regardless of state law; The "supremacy clause" of the U.S. Constitution gives boroughs, cities

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and townships the authority to conflict with state law, if it is Congress's intent and the U.S. Supreme Court has repeatedly touched upon this issue of preemption in other noise and Noise Control Act litigation.

12. WHEREAS, according to VA State law (§ 15.2-919), "Any locality may, by ordinance, regulate noise from a motorcycle, moped, or motorized skateboard or scooter, as defined in § 46.2-100, which is not equipped with a muffler and exhaust system conforming to §§ 46.2-1047 and 46.2-1049, if such noise may be hazardous to the health and well-being of its citizens."

13. WHEREAS, the National Park Service Soundscape Management Policy 4.9 states that, "The Service will preserve, to the greatest extent possible, the natural soundscapes of parks" the National Park Service Soundscape Program recognizes that loud motorcycles are a widespread problem, that the EPA labeling requirement is probably the easiest way to ensure compliance, and has spoken with the EPA noise abatement office which is heavily involved in helping various local police and governments with enforceable regulations and compliance.

A. THEREFORE, BE IT RESOLVED, that the Mount Vernon Council of Citizen's Associations (MVCCA) urges the Fairfax County Board of Supervisors (FCBOS) to change the current county ordinance to include the wording, "No person shall, nor shall the owner allow any person to, operate a motorcycle manufactured after December 31, 1982 that is not equipped with an exhaust muffler bearing the Federal EPA required labeling applicable to the motorcycle's model year, as set out in Code of Federal Regulations Title 40, Volume 24, Part 205, Subpart D and Subpart E."

B. BE IT FURTHER RESOLVED, that the MVCCA requests that Fairfax County adopt a fine structure similar to that imposed by the city of Boston - \$300 per incident, and provide consistent enforcement on an ongoing basis throughout warm weather months, noting that residents have suggestions for enforcement strategies.

C. BE IT FURTHER RESOLVED, that the MVCCA requests that the Superintendent of the George Washington Parkway amend the park compendium to require that motorcycles use EPA labeled exhaust systems designed for the motorcycle, and ensure that the GW parkway police rigorously enforce this regulation.

D. BE IT FINALLY RESOLVED, that the MVCCA requests that the Ft. Belvoir base commander require that all motorcycles accessing the base be equipped with EPA labeled exhaust system designed for the motorcycle, noting that the base already has a stringent list of safety requirements for motorcyclists that reach beyond county and state regulations.