

Sierra Club \* Union of Concerned Scientists \* Earthjustice \* League of Conservation Voters \* Center for Biological Diversity \* Safe Climate Campaign \* Environment America \* Montana Environmental Information Center \* Rachel Carson Council \* Earth Action, Inc. \* Environmental Law & Policy Center \* Natural Resources Defense Council

October 3, 2017

Dear Representative/Senators,

On behalf of our millions of supporters and members, we write today to strongly urge you to oppose the current draft of H. R. 350/S.203, or the Recognizing the Protection of Motorsports (RPM) Act of 2017. As-written, the bill is overly broad in its modification of the Clean Air Act and will restrict the Environmental Protection Agency's (EPA) critical authority to protect public health and welfare.

Currently, retailers are selling technologies that turn off or bypass the emission control systems in cars and trucks. These technologies are defeat devices similar to what was used in Volkswagen's diesel vehicles in the Dieselgate scandal. Although we appreciate that these modifications can be used for modifying cars to increase racing performance, it is unacceptable for these vehicles to pollute outside of the racetrack while traveling on our nation's roadways and through our communities. Although some of these devices are sold specifically for permanently modified racing vehicles, some companies are not playing by the rules and are marketing these defeat devices to the general public, which has enormous public health consequences for all Americans.

In fact, in just one recent settlement with EPA, H&S Performance, a company that sells modification devices for diesel engines, agreed that the 114,000 defeat devices they sold would result in an additional 71,669 tons of nitrogen oxides (NOx), which is nearly double the amount of NOx emissions from VW Dieselgate vehicles from the time they started putting defeat devices in place until they were caught in 2015.<sup>1 2</sup> NOx, and other pollutants associated with defeat devices, have been linked with problems such as asthma, bronchitis, lung cancer, and heart disease.<sup>3 4</sup>

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<sup>1</sup> See EPA Consent Agreement with H&S Performance, Docket CAA-HQ-2015-MSEB 8248 at <https://www.epa.gov/sites/production/files/2016-01/documents/hascafo.pdf>. 71,669 tons is equivalent to 65,017 metric tons.

<sup>2</sup> A paper in Environmental Research Letters showed that Volkswagen vehicles with 2.0 liter diesel engines and sold from 2008-2015 emitted 36.7 million kilograms, or 36,700 metric tons, of excess NOx. See Barrett, SRH, Speth, RL, Eastham, SD, Dedoussi, IC, Ashok, A, Malina, R, and Keith, DW. 2015. Impact of the Volkswagen emissions control defeat device on US public health. *Environmental Research Letters*, 10 (114005). Online at <http://iopscience.iop.org/article/10.1088/1748-9326/10/11/114005/meta>.

<sup>3</sup> See EPA Consent Agreement with H&S Performance, Docket CAA-HQ-2015-MSEB 8248 at <https://www.epa.gov/sites/production/files/2016-01/documents/hascafo.pdf>; U.S. District Court Consent Decree with Casper Electronics, Civil Action No. 1:06-cv-03542 at <https://www.epa.gov/sites/production/files/2013-09/documents/casper-cd.pdf>; and U.S. District Court Consent Decree with Edge Products at <https://www.epa.gov/sites/production/files/documents/edgeproducts-cd.pdf>.

Allowing vehicles with defeat devices to be driven on our roads is unacceptable and the RPM Act as currently written would make it nearly impossible for EPA to prevent the use and sale of these of defeat devices for vehicles used on public roads.<sup>5</sup>

We appreciate the concern of racing hobbyists, however we strongly urge you to oppose the RPM Act as written, for the health and safety of all Americans.

Sincerely,

Sierra Club  
Union of Concerned Scientists  
Earthjustice  
League of Conservation Voters  
Center for Biological Diversity  
Safe Climate Campaign  
Environment America  
Montana Environmental Information Center  
Rachel Carson Council  
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<sup>4</sup> See Department of Energy “Pollutants and Health” at [https://www.afdc.energy.gov/vehicles/emissions\\_pollutants.html](https://www.afdc.energy.gov/vehicles/emissions_pollutants.html); EPA “Criteria Air Pollutants” at <https://www.epa.gov/criteria-air-pollutants>; American Lung Association “Outdoor Air Pollution” at <http://www.lung.org/our-initiatives/healthy-air/outdoor/air-pollution/>

<sup>5</sup> EPA currently regulates motor vehicles based on design, not intended use. For example, a minivan moonlighting as an ambulance must to meet emission standards for light-duty vehicles, not medium-duty vehicles (which an ambulance would be classified as). However, RPM Act modifies the CAA to exclude vehicles from the anti-tampering provisions based on intended use, which would be nearly impossible to enforce. See March 16, 2016 testimony of Brent D. Yacobucci at <https://science.house.gov/sites/republicans.science.house.gov/files/documents/HHRG-114-SY21-WState-BYacobucci-20160315.pdf> and September 13, 2017 testimony of Alexandra E. Teitz at <http://docs.house.gov/meetings/IF/IF18/20170913/106394/HHRG-115-IF18-Wstate-TeitzA-20170913.pdf>.