Testimony of Eric Schaeffer
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Before the U.S. House of Representatives Committee on Oversight and Government Reform, Subcommittee on Federal Law Enforcement

Hearing on

"From Protection to Persecution: EPA Enforcement Gone Rogue Under the Biden Administration"

September 16, 2025

Thank you for the opportunity to testify today. My name is Eric Schaeffer, and I was Executive Director of the Environmental Integrity Project, a nonprofit organization advocating for the enforcement of our environmental laws, between 2002 and 2024 before my retirement last year. I also spent twelve years at the US Environmental Protection Agency, the last five as Director of the Office of Civil Enforcement from 1997-2002.

I will not address the details of specific enforcement actions. Instead, I offer some perspective on why EPA decided to crack down on the so-called aftermarket for products designed to disable air pollution controls for diesel truck engines. That kind of tampering is unquestionably prohibited by the Clean Air Act, and also a clear danger to public health. EPA estimates that between 2009 and 2019, these so-called "defeat" devices dumped more than 570,000 tons of illegal nitrogen oxides into the atmosphere. Nitrogen oxides are respiratory irritants and one of the key ingredients in smog formation. Diesel particulates are especially hazardous, contributing to cancer and heart disease.

If you spend just a few minutes online, you will see a lot of businesses advertising products that promise to "delete" or block emission control systems and disable the on-board electronic sensors that signal when those controls have stopped working. See Exhibit 1 for some examples.

Getting these illegal and dangerous products off the market should not be a partisan issue. EPA decided to make aftermarket defeat devices a national priority for enforcement in 2019, during President Trump's first term. That launched the cycle of civil and criminal investigations that led to the consent decrees and plea agreements we have seen over the last five years. Online rumors suggest that the second Trump Administration will cancel this enforcement initiative. I hope they are mistaken.

Diesel trucks cannot meet tailpipe emission limits without the pollution controls and on-board diagnostic systems that manufacturers of new vehicles are required to install.

To keep us from being smothered by smog and soot, the Clean Air Act long ago required EPA to limit tailpipe emissions of nitrogen oxide, volatile chemicals, particulates and other pollutants.[1] To comply with those limits, manufacturers install catalytic converters, diesel particulate filters, exhaust gas recirculation systems, and other pollution controls. Vehicles have long been required to install sensors to monitor key parameters like oxygen and ammonia, fuel injection or catalyst regeneration to ensure they operate at the levels needed to make emission controls work. When these parameters are out of whack, onboard diagnostic systems flash a warning light and eventually slow down the vehicle until repairs are made. Those repairs restore emission controls and may also prevent serious engine damage or a safety hazard.

We may disagree as to whether emission limits for diesel trucks have gone too far or not far enough. But whatever the standards are or should be, it makes no sense to install the emission controls and monitoring needed to meet them if they can be removed as soon as a truck is driven off the dealer's lot. Yet an entire industry has sprung up to provide those services.

The Clean Air Act expressly prohibits the manufacture or sale of defeat devices.

In this context, the term "aftermarket" refers to businesses that make or market parts for diesel powered trucks and other vehicles. Some of these companies also make or sell "defeat devices" that disable or remove pollution controls installed by the original manufacturer to meet tailpipe emission limits under the Clean Air Act. Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), of that law prohibits the manufacture, sale, or installation of any equipment that a person expects will be used to, "bypass, defeat, or render inoperative" any pollution control equipment or design element required to meet federal emission limits. Violations of these requirements are subject to civil enforcement. It is pretty hard to advertise products that are designed to do just that and then claim you had no idea they would be used for such nefarious purposes.

Next, it is a federal crime to falsify, tamper with, render inaccurate or fail to install any monitoring device required by the Clean Air Act. CAA § 203(c)(2)(C), 42 U.S.C. § 7413(c)(2)(C). EPA has repeatedly made clear that "monitoring devices" include the

[1] These stringent standards may not apply to certain categories, e.g., racecars and offroad vehicles.

sensors in diesel trucks that track operating parameters (e.g., oxygen levels) to assure that emission controls are working as the Clean Air Act requires. In practice, "parametric" monitoring is much more common for both stationary and mobile sources than the continuous measurement of actual emissions, which the industry usually opposes as expensive or impractical.

Three federal district courts have rejected arguments that defendants cannot be criminally liable for disabling onboard diagnostic systems because these devices are parametric monitors that do not directly measure emissions. In one recent decision, the district court denied defendant's motion to dismiss on those grounds after finding that:

> "Nothing in the text of Section 113(c)(2)(C) suggests that the statute applies only to devices that monitor emissions. On the contrary, the statute covers "any monitoring device or method" that the CAA requires. 42 U.S.C. § 7413(c)(2)(C) (emphasis added). And another provision of the CAA effectively mandates OBD systems by directing the EPA to promulgate regulations requiring "emissions control diagnostics systems" in Id. § 7521 (m)(l) (Section 202(m)). Because OBD systems monitor the functionality of other emissions systems, they qualify as "monitoring device[s]" under Section 113(c)(2)(C)." *U.S. v. Long*, No. 2:22-cr-00139, slip op. at 8, (E.D. Va. Nov. 7, 2024).[2]

Defendants in all three cases have failed to persuade courts that the criminal penalties for tampering with monitors or falsifying results apply only to stationary sources.

Illegal emissions from aftermarket defeat devices are a clear danger to public health.

EPA's 2020 study estimated that nitrogen oxide emissions from trucks that have disabled or removed pollution controls are more than 300 times higher than diesel trucks complying with the Clean Air Act. As noted earlier, these dirty vehicles released more than 570,000 tons of NOX between 2009 and 2019, averaging more than 50,000 tons per year. For perspective, 50,000 tons is more than twice the amount of NOx released in 2024 by all of Louisiana's power plants, and more than three times the amount from all the power plants in Pennsylvania. The table below is excerpted from EPA's 2020 analysis.[3]

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[2] See also United States v. Coiteaux, Crim No. CR21-5184 BHS, 2024 WL 1998417, at *3 (W.D. Wash. May 6, 2024); *United States v. Christopher Lee Carroll and Whiskey Dix Big Truck Repair, LLC*, Crim. No. 4:21-cr-00532, Memorandum and Order, (Pitlyk, E.D. Mo., Feb. 6, 2025).

[3] "Tampered Diesel Pickup Trucks: A Review of Aggregated Evidence From EPA Civil Enforcement Investigations," letter from from E. Belser, USEPA Dep. Director of Air Enf. Div., Office of Civil Enf., to J. Sloan, Exec. Director, Assoc. of Air Pollution Control Agencies; M. Keogh, Exec. Director, Nat. Assoc.for Clean Air Agencies, and P. Miller, Exec. Director, Northeast States for Coordinated Air Use Management.

Table 3. Summary of "Confirmed and Extrapolated" Class 2b and 3 Diesel Vehicles Deleted from 2009 through 2019

Certified Vehicle Emissions Controls Deleted	Number of Deleted Trucks	Excess NO_x (tons) [a]	Excess PM (tons) [a]	Vehicles Added to Road Based on Excess NO_x [b]
EGR+DOC (2003-2006 MY)	72,904	16,770	0	21,016
EGR+DOC+DPF (2008-2010 MY)	129,555	65,114	1,823	184,871
EGR+DOC+DPF+NAC (2007-2012 MY)	150,954	159,001	1,313	2,623,886
EGR+DOC+DPF+SCR (2010+ MY)	204,066	329,539	2,270	6,889,968
Total Deleted Vehicles	***557,478***	***570,423***	***5,407***	***9,719,741***

See Section 4.1.1 for detailed explanations of "confirmed" versus "extrapolated" data.
a—These columns represent the excess emissions anticipated over the remaining service life of the vehicle after tampering occurs.
b—Based on the number of deleted vehicles multiplied by the ratio of NO_x emitted from a deleted vehicle over its entire life compared to NO_x emitted from a vehicle that is never deleted.

NOx emissions are one of the two primary ingredients in smog formation. Tens of millions of Americans are exposed to smog levels that fail to meet the health-based established in 2008, including those who live in the New York, Houston, Dallas, Denver, and Los Angeles metropolitan areas as well as California's Central Valley.

Defeat devices help to explain why we still see clouds of soot coughed up by some diesel-powered trucks thirty-five years after the 1990 Clean Air Act. (see Exhibit 2). The tiny particulates found in truck exhaust are likely to cause cancer, according to the International Agency for Research on Cancer, U.S. National Institute for Occupational Safety and Health, and EPA. California's Air Resources Board estimates that diesel particulates contribute to 1,400 premature deaths from cardiovascular disease every year. https://ww2.arb.ca.gov/resources/summary-diesel-particulate-matter-health-impacts

Outdoor air quality monitors show that fine particle pollution is especially severe near congested highways, construction sites, ports, and other areas with high concentrations of on-road and off-road diesel-powered vehicles. The people who live, work or go to school in these pollution hotspots are most at risk and seldom have the resources to either move away or fight back. While it may no longer be fashionable to say so, this is a textbook case of environmental injustice.

Aftermarket defeat devices frustrate state and EPA efforts to achieve air quality standards.

The Clean Air Act directs states and local agencies, with oversight from EPA, to develop "State Implementation Plans" for specific regions that allocate emission limits among various sources that are designed to achieve federal air quality standards. To do so, the agencies must develop and regularly update an inventory of emissions from motor vehicles as well as factories, power plants, and other stationary sources large and small. Trucks

without functioning emission controls emit staggering amounts of pollution that are "off the books" because they are illegal. That means they are not included in state emission control strategies that determine how and when air quality standards will be met. EPA's Office of Air and Radiation should work with states to revise implementation plans to target unlawful diesel emissions that will otherwise continue to frustrate attempts to meet air quality standards.

Defeat devices are unfair to the large majority of truck owners who drive clean vehicles.

While EPA estimates that 15% of diesel trucks have disabled their emission controls, most owners drive clean burning vehicles that comply with the Clean Air Act. Failure to enforce the law, especially when the violations are both serious and deliberate, is unfair to the law-abiding majority. While a few online diesel pundits have suggested that enforcement will now stop, more responsible industry voices have warned that the law clearly prohibits tampering, and explained how defeat devices release dangerous pollutants, increase the risk of engine damage, and void manufacturer warranties.

EPA identified illegal defeat devices as an enforcement priority in 2019, during President Trump's first term.

The EPA's enforcement initiative to stop the flood of aftermarket defeat devices was not invented by the Biden Administration. Rather, it was identified by EPA as a National Compliance Initiative in 2019 and Exhibit 3 shows that it was methodically pursued during the remainder of President Trump's first term. In particular, the Agency went to great lengths to explain that:

- Aftermarket defeat devices are illegal under the Clean Air Act and a priority for enforcement.
- It is a federal crime to disable devices that determine whether emission controls are actually working.
- Defeat devices release enormous quantities of dangerous pollutants and have more than erased the emission reductions expected from new diesel tailpipe limits.
- EPA's initiative is aimed at the manufacturers or sellers of defeat devices, not individual truck owners.
- Companies can avoid or at least minimize penalties by voluntarily disclosing and correcting violations and will not face enforcement for pollution control modifications that do not increase emissions.
- Defeat devices frustrate state efforts to achieve air quality goals.

These very public messages were further amplified by a Fact Sheet, Enforcement Alert, pamphlet, poster, and through press releases announcing various enforcement actions.

Those guidance documents and early warnings are exactly what I would expect to see from EPA during the early stages of an enforcement initiative. They encourage voluntary compliance while laying the groundwork for the enforcement actions to follow. While these messages were circulating, EPA's doubled down on investigations that developed the evidence needed to land the larger consent decrees and plea agreements or judgments that began arriving in late 2020 and have continued to the present day. Enforcement takes time.

Any suggestion that the crackdown on defeat devices was designed to target Trump supporters is simply false and is the last thing we need in today's politically charged environment. For decades, EPA has filed numerous lawsuits forcing large cities. usually governed by Democrats, to spend serious money to clean up aging sewer systems. When Republicans held the White House, should we assume these EPA enforcement actions were launched to embarrass Democratic mayors? I certainly do not think so. Enforcement of our environmental laws should always be nonpartisan. Let us hope we can keep it that way.

The emission controls required by law require regular maintenance and can be inconvenient for truck owners, although defeat devices also void manufacturer warranties and can damage engines. It may be that a few diesel-truck owners believe they have the right to remove pollution control devices and turn off onboard diagnostic systems. But what if you are stuck in a traffic jam behind diesel trucks trailing black clouds of smoke, living in an apartment right next to a highway, or in a city choked by smog? Don't all of us have the right to breathe clean air? We used to think so.

Thank you again for the opportunity to testify, and I would be glad to answer any questions.

EXHIBIT 1

Aftermarket Defeat Devices for Sale

Online Search 9/16/2025

NEW Tariff Protection Plan. Zero Tariffs. Zero Worries. — Learn more

[redacted]

Help Center | WHOLESALE SIGNUP

Ford Powerstroke | Cummins | GM Duramax | EcoDiesel | Sprinter

Search here

Search By Vehicle

Submit Vehicle Data

TUNER DEPOT: #1 ONLINE STORE FOR DIESEL DELETE KITS & PERFORMANCE PARTS


DPF Delete Tuners


EGR Delete Kit


CAT & DPF Delete Pipes


Exhaust Systems


Cold Air Intakes


Universal Accessories

★★★★★ (45)

All-In-One Delete Kit
GM Duramax L5P
(2017-2023)

★★★★★ (30)

All-In-One Delete Kit
Ford Powerstroke 6.7L
(2011-2019)

★★★★★ (36)

All-In-One Delete Kit
Dodge Ram Cummins 6.7L
(2013 - 2021)

Ram Cummins 6.7 Full Delete Bundle | 2013-2018

★★★★★ 391 reviews | 103 questions

$2,224.00

Unleash your truck's full potential with our complete Full Delete Bundle. This all-in-one kit removes your entire emissions system so you can say goodbye to emission codes, improve fuel economy, and extend the life of your engine. Each bundle includes a powerful tuner loaded with delete tunes, a heavy-duty rust-resistant delete pipe, and a complete EGR delete kit, everything you r
maximum durability, reliability, and efficienc

[redacted] (/)

Home (/) › **2022 6 7 Cti Cummins Delete Kit**

2022 6.7 Ram Cummins Delete Kit

Upgrade your 2022 RAM 6.7L Cummins with this all-in-one tuning and delete kit. You get a CTI tuner, live custom tuning, EGR delete kit and full exhaust system. It supports both 68RFE and AISIN transmissions. Remote tuning is done using your Windows laptop for quick setup. This kit fits pickup models only, not cab & chassis. It's a complete setup for drivers who want better performance and cleaner engine function.

Select HP
Select HP

Choose your Exhaust System
Choose your Exhaust

Exhaust Quality
Exhaust Quality

1 Starting from : + $4,022.50

SELECT VARIANT OPTIONS

Secure payments

SSL Secured

Vehicle Compatibility

Make/Model
RAM 2500, 3500, 4500, 5500

Year Range
2022-2025

Engine Type
6.7L Cummins Diesel

What's Included in the Kit

[redacted]

CHEVROLET/GMC DURAMAX 6.6L| FULL DELETE BUNDLE | 2017-2023

$2,730 SAVE $1200+ WITH FREE TUNING

The Chevrolet/GMC Duramax 6.6L Full Delete Bundle 2017-2023 offers a complete solution for emissions removal, boosting longevity and fuel efficiency. It includes a tuner with Advanced Free Custom Tuning, ECM unlock kit, CAN plug, DPF, and EGR delete.

EXHAUST TYPE:

Difference?

DPF/CAT Delete Pipe | 5" Exhaust System | 4" Exhaust System

Down Pipe:

No Down Pipe | Add Down Pipe

Muffler:

No | Yes

− 1 +

ADD TO CART - $2,730.00

FREE ~~$500~~ Lifetime Tuning Adjustments

FREE ~~$300~~ Premium Lifetime

GET 30$ OFF

FREE ~~$150~~ Express Shipping & Handling

Exhaust System of your Choice

Delete Pipe
4 inch Downpipe Back Exhaust
5 inch Downpipe Back Exhaust

Key Benefits & Features

✓ **CTI Tuner with Bench Harness Setup**

Remote tuning made easy with direct access to your truck's PCM.

✓ **Custom Tune for 2022 Cummins**

Tailored +35HP tune gives more torque and throttle response.

✓ **Full Emissions Delete Kit**

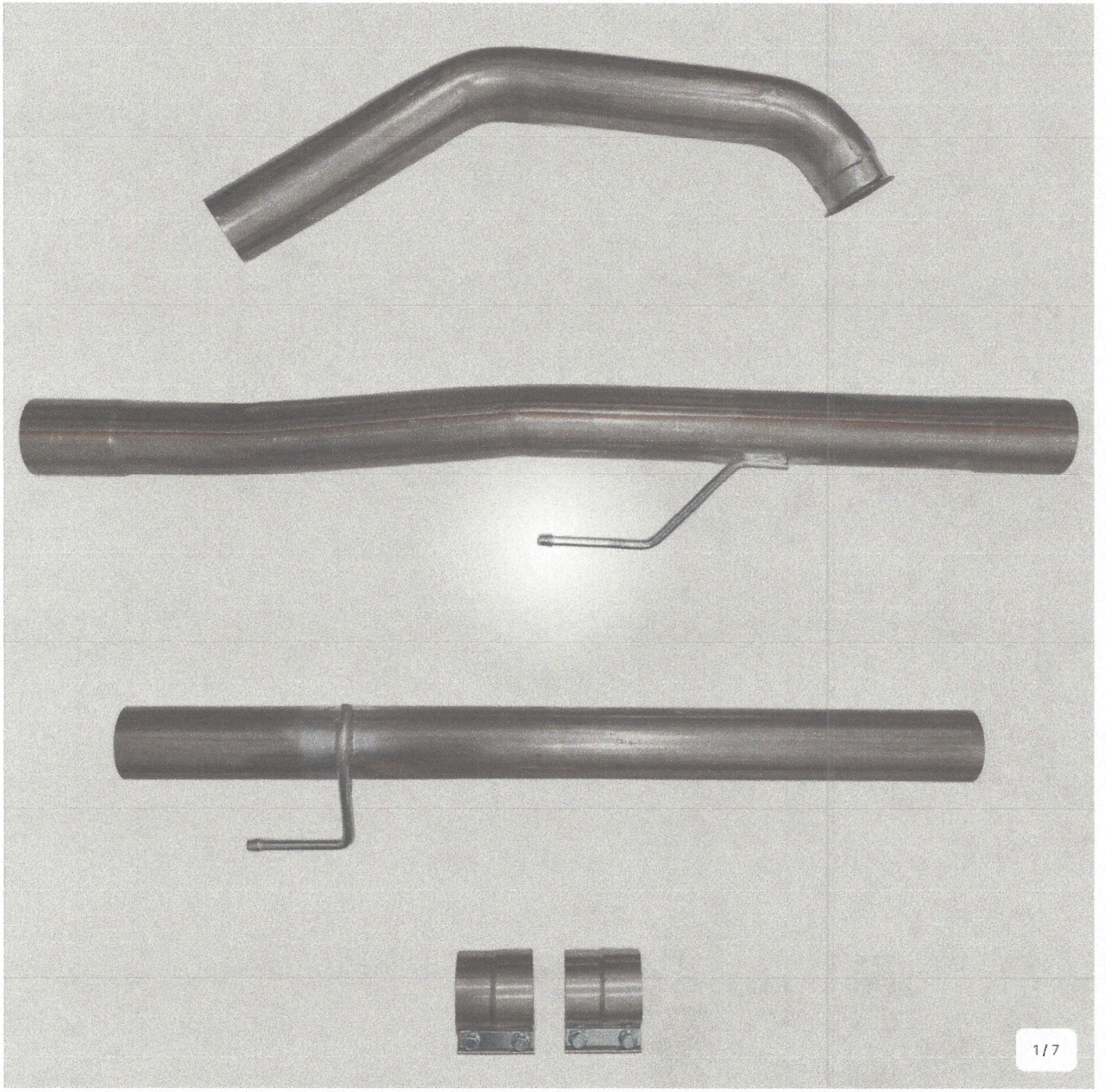
Includes 4" or 5" exhaust and EGR delete for full airflow upgrade.

✓ **Lower EGT and Soot Build-Up**

Helps keep your engine cooler and cleaner over time.

[redacted]

[redacted]



2014-2019 RAM 1500 ECODIESEL 3" SS CAT & DPF DELETE PIPE (DDC-863NB)

★★★★★ (1)

[redacted]

$296.00 USD

Win a Gift Card [redacted] Learn More

Talk Dirty

QUESTIONS AND ANSWERS

PREVIOUSLY ASKED QUESTIONS

We've compiled a list of questions and answers below.

Don't see your question? Ask us anything about this product.

Ask a Question →

Hello is this all that I need to delete the DEF fluid
This delete pipe handles the physical aspect, but you'll also need ECM tuning to completely delete the DEF system with a tuner that supports **emissions-off tunes.**

I am looking at flow pro for eco diesel I was wondering why it states it needs tuning , and what the tune would be? I already have tune delete 40hp engine tune and trans tune
This pipe deletes the CAT & DPF so you'll need custom tuning to account for the removal in the ECM or else you'll run into issues and potentially limp mode. A custom delete tune that removes emissions is what you'll need.

I have a 2015 eco diesel that I'm interested in deleting fully. What would be the most economical option/package to fully delete the egr, def, and exhaust filters
Check out our → ***2014-2019 Ram EcoDiesel Emissions Off Power Package*** page! This will go through everything you could want for a full delete.

★★★★★ 1 Review

[redacted]

★★★★★

Very good fitment and easy installation.

Item type:
Aluminized

YOU MAY ALSO LIKE

Ram EcoDiesel 3.0L – 30 Cal 3" Cat & DPF Race Pipe (2014-2019)

SKU: DPSS-RAMECO-14

Make *

Ram

Engine Type *

EcoDiesel 3.0L

Compatibility

- 2014, 2015, 2016, 2017, 2018, & 2019 Dodge Ram 1500 with a 3.0L Ecodiesel engine.
- *Will not fit Regular Cab*
- Designed to fit the 6'4" box on the Crew Cab. If your truck has the shorter 5'7" bed, you will need to cut 7" off the front of the pipe.

Features

- No Bungs
- 3" T409 Stainless Steel
- OE Style Hangers For Easy Installation
- Maximum Flow For Competition Applications

This 3" stainless steel pipe will allow for the removal of the catalytic converter and the DPF filter for off-road use. It will replace your downpipe.

Designed to fit the 6'4" box on the Crew Cab. If your truck has the shorter 5'7" bed, you will need to cut 7" off the front of the pipe.

* Will not fit regular cab trucks.

Off-road use only. Custom tuning is required

No Reviews Yet

Share your thoughts. Be the first to leave a review.

Leave a Review

EXHIBIT 2

Diesel Truck Exhaust

Source: EPA Enforcement Pleading &

Online Ads for Defeat Devices (9/15/25)

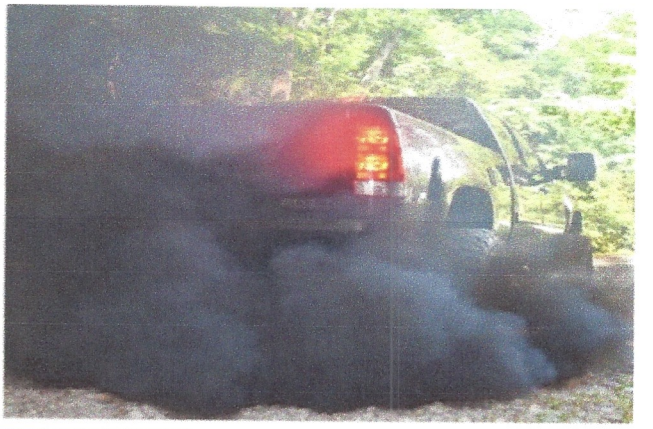


EXHIBIT 3

Aftermarket Defeat Devices

Key EPA Enforcement Documents 2019-2020

Aftermarket Defeat Devices
Key EPA Enforcement Documents (2019-2020)

June 7, 2019: *"Stopping Aftermarket Defeat Devices for Vehicles and Engines."*

Memorandum from Susan Bodine, EPA Assistant Administrator for the Office of Enforcement and Compliance Assurance, launches a National Compliance Initiative to stop aftermarket defeat devices, explaining that:

"The CAA prohibits tampering with emissions controls, as well as manufacturing, selling, and installing aftermarket devices intended to defeat those controls. The EPA has found numerous companies and individuals that have manufactured and sold both hardware and software specifically designed to defeat required emissions controls on vehicles and engines used on public roads as well as on nonroad vehicles and engines. Illegally modified vehicles and engines contribute substantial excess pollution that harms public health and impedes efforts by the EPA, tribes, states, and local agencies to plan for and attain air quality standards."
https://www.epa.gov/sites/default/files/2019-06/documents/2020-2023ncimemo.pdf

March 2020: *"Clean Air Act Vehicle Aftermarket Defeat Devices and Tampering."*

EPA Fact Sheet warns that "aftermarket" tampering with vehicle emission controls is prohibited by the Clean Air Act, and that such actions release emissions linked to premature death from lung and heart disease, nonfatal heart attacks, aggravated asthma and other respiratory ailments. **Advises that, "It is a crime to knowingly falsify, tamper with, render inaccurate, or fail to install any 'monitoring device of method' required under the CAA."** Clarifies that EPA will not enforce unless mechanical adjustments increase emissions above tailpipe standards. [emphasis added].
https://www.epa.gov/system/files/documents/2021-11/epafactsheetreaftermarketddsandtampering.pdf

November 2020: *"Tampered Diesel Pickup Trucks: A Review of Aggregated Evidence from EPA Civil Enforcement Investigations."*

EPA letter to associations representing state and local air pollution control agencies estimates that **deletion of emission controls devices on an estimated 557,478 diesel trucks (15% of total fleet) released 570,423 tons of illegal nitrogen dioxide emissions between 2009 and 2019**. Illegal NOx emissions from these vehicles are more than two and a half times higher than the estimated 4.5 million diesel trucks that comply with the Clean Air Act.
https://www.epa.gov/sites/default/files/2021-01/documents/epaaedletterreportontampereddieselpickups.pdf

November 23, 2020: "*EPA Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act.*"

Memo from Susan Bodine, Assistant Administrator for OECA, warns industry against using aftermarket "tuners" that disable or alter onboard diagnostic or electronic control units in ways that significantly increase emissions. "**Egregious examples of aftermarket defeat devices are delete kits** which include replacement exhaust pipes to remove after-treatment systems and tuners that both reprogram engine function and override the OBD system so the tampered vehicle will operate without any "check engine" light or other result from the OBD system." Memo explains how companies can demonstrate that aftermarket alterations do not increase emissions and thereby avoid enforcement. Flags the **"...criminal prohibition against tampering with emissions monitoring devices (such as onboard diagnostic systems), in section 113(c)(2)(C) of the Act, 42 U.S.C. § 7413(c)(2)(C)."** [emphasis added].

December 2020: *"Aftermarket Defeat Devices and Tampering are Illegal and Undermine Vehicle Emissions Controls."*

EPA Enforcement Alert **advises that "to knowingly falsify, tamper with, render inaccurate or fail to install any, 'monitoring device or method' required under the Clean Air Act, including a vehicle's on-board diagnostic system" may be subject to criminal prosecution under Clean Air Act section 113(c)(2)(C).** Notes that self-disclosure and correction of violations will eliminate or substantially reduce penalties. [emphasis added].
https://www.epa.gov/sites/default/files/2020-12/documents/tamperinganddefeatdevices-enfalert.pdf