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To Whom It May Concern:

Please be informed that undersigned counsel represents Douglas Lindamood, whose address is 5130 Falcon Ridge Road, Roanoke, Virginia 24018.

Mr. Lindamood hereby gives notice, pursuant to 40 C.F.R. 54.1, *et seq.* of his intent to enforce the Clean Air Act as allowed by 42 U.S.C. §7604. The enforcement of the Clean Air Act by Mr. Lindamood consists of the following:

Mr. Lindamood intends to enforce the Clean Air Act against the manufacturers of all Dirty Diesel vehicles, including the following:

<b>Model Year</b>	<b>EPA Test Group</b>	<b>Make and Model(s)</b>
2009	9VWXV02.035N	VW Jetta, VW Jetta Sportwagen
2009	9VWXV02.0U5N	VW Jetta, VW Jetta Sportwagen
2010	AVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2011	BVWXV02.0U5N	VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2012	CVWXV02.0U4S	VW Passat
2013	DVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2013	DVWXV02.0U4S	VW Passat
2014	EVWXV02.0U5N	VW Beetle, VW Beetle Convertible, VW Golf, VW Jetta, VW Jetta Sportwagen, Audi A3
2014	EVWXV02.0U4S	VW Passat
2015	FVGAV02.0VAL	VW Beetle, VW Beetle Convertible, VW Golf, VW Golf Sportwagen,

		VW Jetta, VW Passat, Audi A3
2014	EADXT03.02UG	VW Touareg
2015	FPRXT03.0CDD	Porsche Cayenne
2016	GVGAJ03.0NU4	Audi A6 Quattro, A7 Quattro, A8, A8L, and Q5

The vehicles identified above violate the emission limitations, standard of performance and/or emission standard established by 40 C.F.R. §86.1811-04 by releasing up to 40 times above the EPA compliant level, depending on the model and whether the vehicle is driven in the city or highway. Pursuant to 42 U.S.C. §7522 these vehicles cannot be allowed to be imported, sold, or used in the United States. Additionally, 42 U.S.C. §7522 prohibits the importation, sale, and use of these vehicles because the vehicles are not covered by a valid certificate of conformity. When a sale is prohibited, it cannot be allowed to exist. The sale must be reversed. The vehicles must be removed from the United States. When this is done, 42 U.S.C. §7541 protects the owners and lessees of these illegal vehicles. 42 U.S.C. §7541 requires these manufacturers “shall warrant to the ultimate purchaser and each subsequent purchaser that such vehicle or engine is (A) designed, built, and equipped so as to conform at the time of sale with applicable regulations under section 7521 of this title.” This warranty has been breached by the inclusion of illegal defeat devices, which are prohibited by 42 U.S.C. §7522, and which render any certificate of conformity issued for these vehicles invalid.

Mr. Lindamood intends to enforce 42 U.S.C. §7541 which imposes on the Administrator and the EPA a legal duty to impose the only statutory remedy for nonconforming vehicles allowed under 42 U.S.C. §7541—eliminating the nonconformity. *See, Center for Auto Safety v. Ruckelshaus*, 747 F.2d 1, 4 (D.C. Cir. 1984).

Mr. Lindamood intends to enforce 42 U.S.C. §7413 which requires the Administrator to notify any person who is in violation of any requirement or prohibition of any applicable State Implementation Plan. Certain owners and lessees of Dirty Diesel vehicles listed herein who reside or operate their vehicles in certain States are in violation of the requirements and prohibitions of the following State Implementation Plans:

**Alabama**

Ala. Admin. Code 335-3-9-.04  
(3) Other Exhaust Emission Control Systems.  
Any other exhaust emission control system, other than air injection or engine modification which is installed or incorporated in a motor

vehicle in compliance with Federal motor vehicle pollution control regulations shall be maintained in good operable conditions as specified by the manufacturer and shall be used at all times that the motor vehicle is operated.

Original: 39 FR 14338

Revision 55 FR 10062

**Georgia** (vehicle emissions regulations only apply to certain counties)

Ga. Comp. R. & Regs. 391-3-20-.06

(1) Covered vehicles are expected to meet emission standards at all times. EPD may use remote sensing technology or other methods established by the Director to identify covered vehicles that appear to be producing exhaust emissions in excess of the applicable emission standards. EPD may notify the owner of an identified vehicle to present his or her vehicle for an emission inspection under Rules 391-3-20-.04 and 391-3-20-.05. An owner so notified by EPD must present his or her vehicle for an emission inspection within thirty (30) days. Vehicles which fail such inspection shall be required to be reinspected and pass such reinspection as required by Rule 391-3-20-.15.

Original: 62 FR 42916

Revision 67 FR 45909

Revision 68 FR 40786

**Delaware** (applies to Sussex County only)

7 Del. Admin. Code 1126-3.0

Also cited as Code Del. Regs. 7 1000 1126

Effective January 1, 1983, no motor vehicle that is subject to this regulation may be granted registration in the State of Delaware unless the motor vehicle is in compliance with the applicable emissions standards, regardless of its pass/fail status of other tests normally performed at the official inspection station.

75 FR 48566

**District of Columbia**

18 DCMR Chapter 7

Section 751

751. Compliance with Exhaust Emission Standards

751.1 No motor vehicle shall be allowed to operate on the streets or highways of the District that does not comply with the exhaust

emission standards prescribed pursuant to §752, except as provided in this section.

751.2 After December 31, 1982, no owner of a motor vehicle shall operate or allow the operation of a vehicle on the streets and highways of the District that does not comply with the exhaust emission standards prescribed pursuant to §752, except as provided in this section.

64 FR 31498

### **Maryland**

COMAR 11.14.08.06

11.14.08.06 Certificates

C. Fail Certificate.

(1) If a vehicle inspected at a vehicle emissions inspection station does not meet all applicable standards specified in Regulation .09 of this chapter during an inspection, the vehicle is considered not to be in compliance and the contractor shall issue a fail certificate which includes the following information:

(a) The type of failure and the reason for failure; and

(b) A statement indicating any availability of warranty coverage as provided by the Clean Air Act, 42 U.S.C. §7541.

(2) A vehicle issued a fail certificate may be operated through the period of permitted operation.

(3) A person may not operate a vehicle after the end of the period of permitted operation unless a pass certificate or a waiver certificate has been issued for the vehicle or the vehicle owner has been granted a time extension.

68 FR 2208

### **Arizona**

Ariz. Admin. Code R18-2-1029

For the purposes of A.R.S. §§ 28-955 and 49-447, a registered motor vehicle shall have in operating condition all emission control devices installed by the vehicle manufacturer to comply with federal requirements for motor vehicle emissions or equivalent after-market replacement parts or devices.

68 FR 2912

### **Nevada**

Nev. Admin. Code 445B.575

1. Except as otherwise provided in this section, a person shall not:

(a) Sell, offer to sell, display for sale, operate or permit the operation of or leave standing any motor vehicle which is required

by state or federal law to be equipped with a device for the control of pollution unless the device is correctly installed and in operating condition in accordance with the specifications of the vehicle manufacturer and any applicable state or federal statute or regulation.

(b) Disconnect, alter or modify any such required device.  
73 FR 38124

### **New Jersey**

N.J. Admin. Code § 7:27-14.3

(e) No person shall cause, suffer, allow or permit any emission control apparatus or element of design installed on any diesel-powered motor vehicle or diesel engine to be disconnected, detached, deactivated, or in any other way rendered inoperable or less effective, in respect to limiting or controlling emissions than it was designed to be by the original equipment or vehicle manufacturer, except for the purposes of diagnostics, maintenance, repair or replacement and only for the duration of such operations.  
74 FR 17781

### **Connecticut**

Conn. Agencies Regs. 14-164c-4a

(a) Any motor vehicle presented for inspection which is required, pursuant to the regulations of the Commissioner of Environmental Protection as authorized by sections 14-164c and 22a-174 of the Connecticut General Statutes, to be equipped with an "air pollution control system or mechanism," as defined by subsection (a) of section 22a-174-200 of the Regulations of Connecticut State Agencies, shall be deemed to have failed to meet emissions standards if such control system or mechanism is found to have been removed, to have been dismantled or is otherwise inoperable. Such control system or mechanism may be inspected prior to emissions inspection, during emissions inspection, after a vehicle has failed a required emissions inspection, or in connection with on-road testing.

(b) Any motor vehicle not meeting emissions standards pursuant to subsection (a) of this section, whether during periodic emissions inspection or on-road testing, shall be required to pass a reinspection within thirty (30) days of such failure or the owner thereof shall be subject to denial of registration for such vehicle as provided in subsection (n) of section 14-164c of the Connecticut General Statutes.  
73 FR 74019

### **Rhode Island**

R.I. Code R. 47-1-37:1.12

(f) Operation of a Non-Complying Vehicle. No person may register or continue to operate on the highways of Rhode Island, a motor vehicle which is subject to the provisions of Rhode Island I/M Program which is not in compliance with the requirements thereof.  
66 FR 9661

### **Illinois**

Ill. Admin. Code tit. 35, § 240.103

Except as permitted or authorized by law, no person shall fail to maintain in good working order or remove, dismantle or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control systems or mechanisms of a motor vehicle as required by rules or regulations of the Board and the United States Environmental Protection Agency to be maintained in or on the vehicle.

79 FR 47377

### **Minnesota**

Minn. R. 7023.0120

No person shall remove, alter, or otherwise render inoperative any air pollution control system.

No person shall operate a motor vehicle unless all air pollution control systems are in place and in operating condition.

No person shall rent, lease, offer for sale, or in any manner transfer ownership of a motor vehicle unless all air pollution control systems are in place and in operating condition.

The requirements of this part shall not restrict or prohibit the removal of any air pollution control system for repair or replacement.

EPA has no notation for a FR citation for this regulation, but states that it is effective for federal purposes as of 7/21/1982.

(<https://yosemite.epa.gov/r5/r5ard.nsf/977585e33633852b862575750057311a/712f45796868ba338625756f004c429e!OpenDocument>

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### **Wisconsin**

Wis. Admin. Code NR § 485.06

(1) No person may tamper with or fail to maintain in good working order any air pollution control equipment which has been installed on a motor vehicle by the manufacturer prior to sale unless the person repairs or restores the equipment or replaces the equipment with new identical or comparable tested replacement equipment.

Catalytic converters must be original equipment or EPA-certified equipment except as specified in sub.

(2). Air pollution control equipment includes but is not limited to:

(a) Positive crankcase ventilation equipment.

(b) Exhaust emission control equipment.

(c) Evaporative fuel loss control equipment.

(d) Any control equipment operating on principles such as thermal decomposition, catalytic oxidation or reduction, absorption, or adsorption.

78 FR 57501

### **North Dakota**

N.D. Admin. Code 33-15-08-02

1. No person shall intentionally remove, alter, or otherwise render inoperative, exhaust emission control, crankcase ventilation, or any other air pollution control device which has been installed as a requirement of federal law or regulation.

2. No person shall operate a motor vehicle originally equipped with air pollution control devices as required by federal law or regulation unless such devices are in place and in operating condition.

44 FR 63102

### **Wyoming**

Wyo. Admin. Code § ENV AQ Ch. 13 s 2

(a) No person shall intentionally remove, alter or otherwise render ineffective or inoperative, exhaust emission control crank case ventilation or any other air pollution control device or system which has been installed on a motor vehicle or stationary internal combustion engine as a requirement of any federal law or regulation.

(b) No person shall operate a motor vehicle or other internal combustion engine originally equipped with air pollution devices or systems as required by any federal law or regulation unless such devices or systems are in place and in operating condition.

(c) Subsections (a) and (b) of this regulation shall not apply to vehicles or stationary internal combustion engines which have been modified or altered to use a fuel other than gasoline or diesel fuel, except that such units shall comply with existing standards for emissions therefrom.

69 FR 44965

**Virginia**

9 VAC 5-40-5670. Motor vehicles.

A. Emission control systems.

3. No motor vehicle or engine shall be operated with the motor vehicle pollution control system or device removed or otherwise rendered inoperable

65 FR 21315

It is the duty of the Administrator to notify these owners and lessees of the violations of these State Implementation Plans. The Administrator has failed and refused to fulfill this statutorily-mandated non-discretionary duty. The Administrator has violated this statutorily-created non-discretionary duty by repeatedly publishing statements that the Dirty Diesel vehicles are legal to drive. The Administrator is also under a legal duty created by 42 U.S.C. §7413 to notify the States listed above that the owners and lessees of the Dirty Diesel vehicles are in violation of the requirement or prohibition of that State's applicable Implementation Plan. The Administrator, on information and belief, has failed to fulfill this statutorily-created non-discretionary duty.

Finally, 42 U.S.C. §7413 requires the Administrator to notify those certain States listed above that there are undisputed violations of those States' applicable State Implementation Plans resulting from a failure of those States to enforce the Plan effectively. On information and belief the Administrator has failed and refused to fulfill this statutorily-created and non-discretionary duty.

Mr. Lindamood is allowed by law to enforce State Implementation Plans. Mr. Lindamood intends to enforce the State Implementation Plans of the States listed herein and the applicable provisions of their respective State Implementation Plans as shown herein. Mr. Lindamood, pursuant to regulations, will obtain the name and address of each owner or lessee of a Dirty Diesel vehicle listed herein and notify them that it is illegal to operate their vehicle in their respective State. Mr. Lindamood will inform the owners and lessees of the warranty available to them pursuant to 42 U.S.C. §7541 and that they may have rights under that warranty.

Sincerely,  
Douglas Lindamood



By: \_\_\_\_\_  
James B. Feinman

**Cc: EPA-Regional Administrators:**

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