



**Maryland**  
Department of  
the Environment

# Tampering With Emission Controls on Motor Vehicles

*An Emerging Issue*



AQCAC Meeting – Karl Munder, MDE - March 16, 2020



# It Sort of Started with VW

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- In 2015, Volkswagen got caught violating the CAA by selling diesel vehicles equipped with “defeat devices”
- This resulted in VW paying penalties of \$2.8 Billion
- Maryland received \$76 Million to support “mitigation” activities to recoup lost NOx reductions
- MDE also sued VW for violation of MD Clean Cars Act of 2007  
This resulted in a \$29 million dollar settlement
- Maryland’s VW mitigation plan is now being implemented
  - It will result in major NOx reductions and help the State make significant progress on electrification



# Then There Was Fiat-Chrysler

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- In 2018 Fiat Chrysler Automobiles (FCA) settled a similar lawsuit with DOJ and California for using “defeat devices” on diesel powered vehicles
- MDE again sued for violation of Maryland law and obtained a \$6 million dollar settlement





# Spotlight on Tampering

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- VW has put the tampering issue in the spotlight
- Over the past few years EPA and the states have found aftermarket equipment manufacturers, dealers, and repair shops that are altering or removing the emission control equipment on vehicles ...particularly large diesel pickup trucks
  - Removing emission control equipment can increase fuel efficiency and increase vehicle power
  - This is illegal





# Enforcement Activity in This Area Has Increased Dramatically and Will Continue to Increase

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- Over the past year, EPA has taken action on over 40 facilities
  - Aftermarket equipment manufacturers, dealers, and shops
  - Over \$2 million in penalties
- Recent cases in Maryland have resulted in penalties as high as \$150,000
- State and federal enforcement activity in this area will continue to increase





# So, What Role Does AQCAC Have?

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- Replacing parts on a vehicle that are less effective in reducing emissions may be considered tampering
- This is happening with aftermarket catalysts
  - The catalyst is the most important piece of a vehicle's emission control system
  - Incorrect replacement catalysts are being installed that could increase vehicle emissions
- The problem is that ... right now ... this type of catalyst replacement is not prohibited and needs to be addressed
- That's where AQCAC fits in ...
  - At the June 2020 AQCAC meeting we will be bringing back to you an aftermarket catalyst rule
  - Originally discussed at the June 2015 AQCAC meeting but delayed because of potential action at the national level
  - The EPA effort did not work out ... so ... we are back
  - MDE continues to believe that this is really an issue that needs to be dealt with at a national level



# What Happened to the EPA Process?

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- Thirty years ago there was federal guidance on aftermarket catalysts to insure that the emission control system remained effective
- That guidance lapsed, so now ... there are less prohibitions on the kind of aftermarket catalysts that can be purchased and installed
- Some of the lower cost, lower quality aftermarket catalysts actually end up releasing more emissions than the broken catalyst that needs to be replaced
- California and several other states have moved forward with state rules to fix this problem
- This is a difficult issue for a small state where aftermarket parts can easily be purchased in neighboring states without CA rules ... or on the internet



# More on the EPA Process

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- The EPA policy on aftermarket catalysts lapsed in 2015
- The Ozone Transport Commission (OTC) States have been pushing for EPA to issue an updated policy for the last 15 years
  - OTC web site includes many actions and letters on this issue
- Over the past several years, the EPA has been in the process of integrating their aftermarket catalyst policy with other anti-tampering efforts related to vehicle emission control devices
- Last year EPA issued a new, comprehensive “EPA Tampering Policy” that covers a multitude of vehicle tampering issues
  - This is good ... but
  - It does not address aftermarket catalysts adequately
  - Focuses more on the tampering issues described earlier



# OTC States

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- Many of the ozone nonattainment areas in the Ozone Transport Region (OTR) are getting very close to meeting the most recent (2015) ozone standard
  - Because of this, the OTC states are pushing to find additional reductions
  - OTC has developed a model rule ... built from the California rule
- Two OTC states (NY, ME) have already adopted this program
- NJ and MD are now working towards adopting a state aftermarket catalyst rule. MA may move forward at some point, but not right now
- In the absence of a national AMCC program these state rules are supported by automobile parts manufacturers like:
  - Manufacturers of Emission Controls Association
  - Auto Care
- These manufacturers have partnered with OTC to push for a federal fix



# Restarting the Effort to Adopt Maryland Regulations for Aftermarket Catalysts

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- MDE plans to bring updated regulations to AQCAC in June 2020
- Original effort was put on hold in 2016... to see if the federal program would get updated ... that did not happen
- When last briefed, AQCAC had several concerns:
  - CARB certified aftermarket catalysts are more expensive
  - Difficulty implementing at the state level when neighboring states do not have similar requirements
- MDE still believes that it is best for Maryland to move ahead with a Maryland specific regulation
  - Will generate meaningful NO<sub>x</sub> reductions at a time when the State is getting very close to meeting the 2015 ozone standard
  - Provides consumers with the guarantee that a vehicle's emission control system will be functioning properly after a converter replacement
  - Vehicle owners will also receive a parts/performance warranty on the replacement converter that is not available without a State regulation



# What the Updated Draft Maryland Rule Will Most Likely Include

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- Will still be based upon OTC Model Rule
- Will be very similar to the June 2015 draft rule presented to AQCAC
- Will require CARB-approved catalytic converters on model year 2000 and newer vehicles no earlier than 2024
- Will prohibit the sale or installation of used, recycled, or salvaged converters





# Updated Draft Rule ... Continued

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- Will provide waivers for unusual cases on a case-by-case basis
- Will apply to a person that installs, sells, supplies, or offers for sale an aftermarket catalyst in the state
- May include an implementation trigger linked to action in neighboring states
- Sunsets if EPA revises federal policy or if EPA/OTC develop an alternative implementation program with manufacturers



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# Questions

