

AAPCA's 2020 Virtual Fall Meeting Series: Mobile Sources & Air Quality October 7, 2020

Diesel Tampering Considerations



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Air Management Association, Inc.**



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Who is MARAMA?

- ▶ The Mid-Atlantic Regional Air Management Association, Inc. is composed of the following ten air quality regulatory agencies:
- ▶ Allegheny County Health Department Air Quality Program
- ▶ Delaware Dept. of Natural Resources and Environmental Control Division of Air Quality
- ▶ District of Columbia, District Department of Energy & Environmental Air Quality Division
- ▶ Maryland Department of the Environment Air & Radiation Management Administration
- ▶ New Jersey Department of Environmental Protection Division of Air Quality
- ▶ North Carolina Department of Natural Resources Division of Air Quality
- ▶ Pennsylvania Department of Environmental Protection Bureau of Air Quality
- ▶ Philadelphia Department of Public Health Air Management Services
- ▶ Virginia Department of Environmental Quality Division of Air Quality
- ▶ West Virginia Department of Environmental Protection Division of Air Quality



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Investigating the tampering issue

- ▶ Air Quality Impacts
- ▶ EPA's Investigative Data
- ▶ Partnerships
- ▶ Whitepaper Review
- ▶ Additional thoughts



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Air Quality Impacts

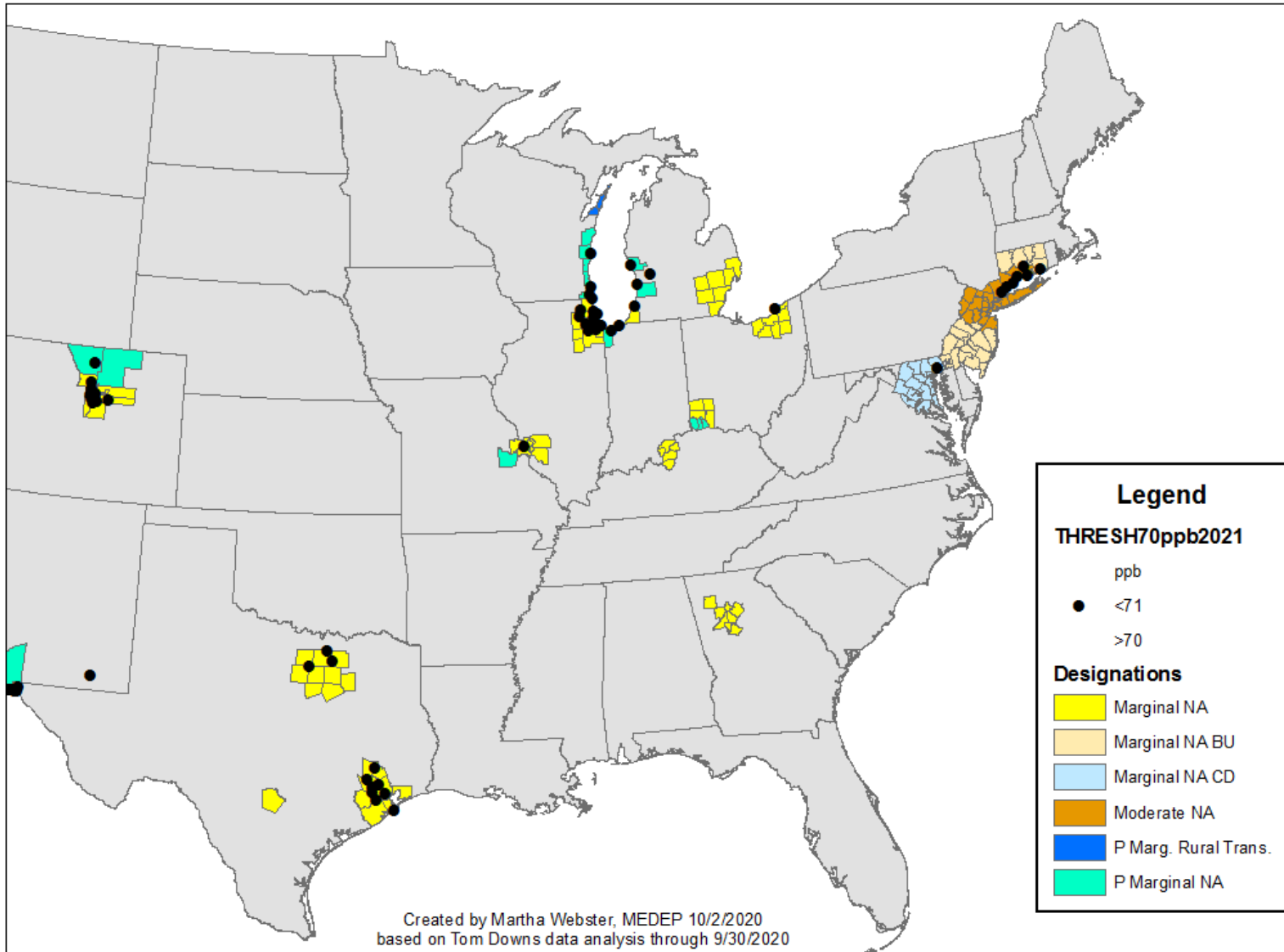
▶ Ozone



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2021 Ozone 70 NAAQS Threshold with 2015 Ozone Nonattainment Areas



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Air Quality Issues

▶ Ozone



▶ PM

▶ Air Toxics



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EPA's National Compliance Initiative: *Stopping Aftermarket Defeat Devices for Vehicles and Engines*



- ▶ Reviewed Evidence on Class 2b and 3 Vehicles (8500-14,000 GVWR).
- ▶ EPA statistics point to 500,000 diesel pick up trucks in the U.S. have deleted controls.
- ▶ ~13% of registered diesel pick up trucks registered in the U.S.
- ▶ Cases to date suggest >1 ton increased NO_x for the life of the vehicle in the U.S.
- ▶ Equivalent to an extra 9 million diesel vehicles on the road.
- ▶ EPA made efforts to make conservative emission estimates

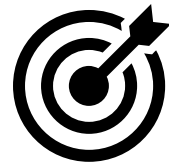


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EPA Actions

Last 5 years acted on more than 50 cases



Resulting in millions of dollars in penalties



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EPA's Mid-Atlantic Estimates

- ▶ Estimated registered Class 2b and 3 diesel vehicles 660,000.
- ▶ Estimated vehicles with deleted controls 57,000.
- ▶ Following data for all deleted truck classes (95% Class 2b and 3 diesel pick up trucks):
 1. 2009-2019 Estimated excess NOx: ~58,000 tons.
 2. Next 10 year estimated excess NOx: ~94,000 tons.
 3. 2009-2019 Estimated excess PM: ~610 tons.
 4. Next 10 year estimated excess PM: ~890 tons.
 5. ~9,400 tpy of NOx and ~89 tpy of PM
- ▶ EPA made efforts to make these emission estimates conservative.

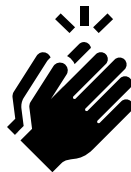


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Partnerships

- ▶ EPA Enforcement
- ▶ University of Maryland Francis King Cary School of Law, Environmental Law Clinic
- ▶ MARAMA States
- ▶ Result:
- ▶ *Whitepaper on Tampering and After Market Defeat Devices: An Analysis of Mid-Atlantic State Compliance and Enforcement Options*
- ▶ Whitepaper Authors: Tyler Creevy, Ashley Morello, Galen Rende, Emily Schenning, Michael Spanos, and Kyra Wheatly, Professor Seema Kakade



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Whitepaper Review

- ▶ **Environmental Laws**
- ▶ **Communication Strategies**
- ▶ **I/M**
- ▶ **Citizen Actions**
- ▶ **Consumer Protection Laws**



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Environmental Laws



▶ **Prohibit:**

1. the sale or operation of a vehicle not meeting emission standards.
2. the sale or operation of a tampered vehicle or vehicles with installed defeat devices.
3. the act of tampering or installing a defeat device.
4. the sale of defeat devices.
5. the release of visible emissions (“Rolling Coal”)

▶ **States required to create online portals to allow citizens to report violations of these provisions**



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Communication Strategies

- ▶ Educate Consumers
- ▶ Develop Effective Educational Strategies
- ▶ Need better awareness of environmental impacts
- ▶ Texas: 30 TX ADC §§ 114.20(c)(3), (e) Signage Requirements
- ▶ Educate Industry
- ▶ NJ Compliance Advisories
- ▶ EPA Compliance Actions
- ▶ Citizen Portals



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Inspection/Maintenance Programs

- ▶ Some states exempt or prohibit diesel vehicles from I/M programs
- ▶ Virginia, Maryland, New Jersey
- ▶ A Virginia element includes roadside monitors
- ▶ Maryland Kiosks
- ▶ New Jersey Tampering



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Citizen Actions

- ▶ Section 304 of the Clean Air Act
- ▶ Allows citizens to bring actions against CAA violators
- ▶ *Utah Physicians for a Healthy Env't. V. Diesel Power Gear*



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Consumer Protection Law

- ▶ Generally to be used against fraud, deception and misrepresentations to a consumer
- ▶ Consumer protection successful against Volkswagen
- ▶ MI case Bledsoe v. FCA US LLC
- ▶ Texas Deceptive Trade Practices Law



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Additional Thoughts

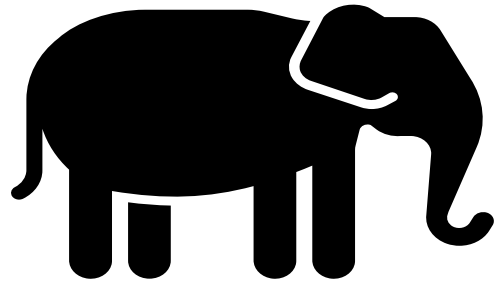
- ▶ **Cleaner Truck Initiative**
- ▶ **Tier 3 Fuel and Vehicle Standards**
- ▶ **Inventory**
- ▶ **Visibility Impacts**
- ▶ **EPA Settled with companies in MD, DE and PA, May 2020**
- ▶ **I/M needed?**
- ▶ **NAAQS to stay the same?**



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Final Thought



Is there something in the room?



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Q & A



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