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Defeat Devices



# *Environmental News*

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FOR IMMEDIATE RELEASE P.M.'S MONDAY, JULY 23, 1973

EPA REFERS INVESTIGATION OF VOLKSWAGEN TO JUSTICE

The Environmental Protection Agency has referred to the Justice Department for appropriate legal action its investigation of the existence of unauthorized emission control "defeat devices" on certain 1973 Volkswagens.

On July 12, 1972, EPA informed all auto manufacturers selling cars in the U.S. that any defeat devices not adequately described in the 1973 auto certification applications should be reported to EPA, and that any cars produced with unidentified devices would not be considered certified. Volkswagen did not respond to the July 12 letter.

Volkswagen did, however, list the existence of such devices in its application for Federal certification of 1974 cars. EPA certifies all cars sold in the United States as conforming to Federal auto emission standards. No new cars can be sold in the U.S. without that certification.

(more)

EPA rejected the Volkswagen application for 1974 certification because of the listing of the "defeat devices." Following that rejection, Volkswagen notified EPA on March 7, 1973, that similar devices had been installed on certain 1973 models.

Volkswagen subsequently agreed to remove the devices from 1973 production cars as of May 1, 1973.

In his July 16, 1973, letter of referral to Attorney General Elliot L. Richardson, EPA Acting Assistant Administrator for Enforcement and General Counsel Alan G. Kirk, states: "We believe that Volkswagen's failure to report the existence and description of the defeat devices, as requested by the Administrator's July letter, and its sale of vehicles equipped with such devices may be inconsistent with the terms of the certificate and in violation of provisions of the Clean Air Act."

The "defeat devices" consist of two temperature sensing switches which deactivate part of the emissions control system. One cuts out the exhaust gas recirculation system at low temperatures on some VW squareback and fastback models. The other overrides the transmission controlled spark advance system at low temperatures on some bus-type station wagons.

Prior to their removal, Volkswagen sold approximately 25,000 vehicles equipped with the defeat devices.

Section 203 of the Clean Air Act provides civil penalties for failing to provide information as required by EPA, and for the sale of uncertified vehicles.

Section 205 of the Act provides for a civil penalty of not more than \$10,000 for each vehicle in violation of the Section 203 provisions.

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ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF THE  
ADMINISTRATOR

Dear Mr.

It has been brought to my attention that for the 1973 model year some automobile manufacturers intend to install on new cars certain devices the purpose of which is to wholly or partially disable portions of the emission control systems. The purpose of this letter is to advise you of the course of action that we will pursue to assure that the use of such devices is not inconsistent with the Clean Air Act.

To put this matter into context, we fully realize that the control of emissions on a modern automobile is a highly complex matter. It frequently involves the use of sophisticated devices that modulate spark advance, throttle setting, or exhaust gas recirculation to assure that vehicle emissions are adequately controlled under varying operating conditions and throughout the vehicle's useful life. To the extent that such devices operate in an essentially similar manner when the prototype vehicle is being tested for compliance with emission standards and when the vehicle is being operated under typical urban driving conditions, their use may be appropriate. Their use may also be appropriate to the extent that such devices are used to protect the vehicle or the emission control system against damage that may occur under unusual circumstances, or are needed to assure safe vehicle operation under unusual and short-term circumstances.

Two general classes of devices that some manufacturers are planning to install in 1973 vehicles warrant special scrutiny. I am referring to ambient temperature related devices which are designed so that the entire emission control system is operative when the car is tested under the standard 68°-86° F. test conditions, but which modify or disable such control systems when the vehicle is outside of that range; and to accessory related devices which do the same thing when accessories that are not operative during the official test are turned on.

The purpose and effect of these kinds of devices require careful study. As you know, manufacturers applying for certification of 1973 model vehicles are presently required to supply detailed data on all emission control related sensors, devices, switches, and related components. I have directed our technical staff to make a review of all Final Applications for 1973 model year certification for the purpose of evaluating the justification for all sensors, switches, and related devices that are planned to be installed on new 1973 model year cars. On the basis of this review, you will be notified if the Agency concludes that the use of any such sensor or device is inconsistent with the intent of the Clean Air Act. Fifteen days after such notification, any new vehicles leaving your assembly lines will not be allowed to be equipped with any operative sensors or devices specifically disallowed. Accordingly, if your company plans to use sensors or devices in 1973 model vehicles which may adversely affect emission control under conditions or during operations likely to occur in actual use, I strongly urge that you promptly undertake the necessary technical work that will allow you to remove such sensors or devices from production vehicles, or to render them inoperative to the satisfaction of the Administrator if they cannot be physically removed after the 15-day period following notification expires.

To effectuate this procedure for review of sensors or emission control related devices used on 1973 models, all certificates of conformity issued with respect to 1973 vehicles will be subject to the terms and conditions set forth as Appendix A to this letter.

You may wish to review the material that you have already submitted to our technical staff in support of your Final Application for Certification of 1973 model vehicles in order to make certain that such data is complete as to the identification of all emission control related sensors or devices or in terms of a justification for their use. If you conclude that data previously submitted is incomplete, I urge you to supply the Director of the Division of Certification and Surveillance in Ann Arbor, Michigan, with such supplemental material as you wish to have considered in our evaluation of this matter as it affects your vehicles. Such additional information should reach us within 30 days of the date of this letter, to be effectively considered in this review. No certificate of conformity issued by this Agency will be deemed to cover any vehicle or class of vehicles which have installed on them devices of this type which were not described in your Final Application, or the function of which was so inadequately described as not to allow us to ascertain their true purpose or operational characteristics.

To control such practices in the future, we intend shortly to propose new regulations which will provide that, beginning with 1974 model year vehicles, emission control related sensors or devices can be installed in new vehicles only with the advance approval of the Environmental Protection Agency. The burden of proof will be on the manufacturer to demonstrate in each instance that any such sensors, switches, or devices do not adversely affect emission control under conditions or during operations likely to occur in actual use.

Sincerely yours,

William D. Ruckelshaus  
Administrator

Enclosure

## APPENDIX A

This certificate of conformity is issued subject to the following conditions:

1. As soon as practicable after issuance of this certificate the Administrator will undertake an examination of the purpose and effect of any system, device, or scheme employed by the manufacturer which wholly or partially disables any portion of the emission control system installed on any vehicle(s) or engines(s) covered by this certificate or which otherwise adversely affects the emission control performance of such vehicle(s) or engines(s) during any driving or operating condition likely to occur in actual use.

2. Upon completion of the examination, the Administrator may issue a notice to the manufacturer that the use of any such system, device, or scheme is inconsistent with the intent of the Clean Air Act.

3. No vehicle or engine manufactured after the 15th day after the date of issuance of the notice by the Administrator (or such other day as the Administrator may prescribe in such notice) shall be deemed to be covered by this certificate of conformity, if it employs any system, device, or scheme the use of which the Administrator has determined to be inconsistent with the intent of the Clean Air Act under paragraph 2.

4. No vehicle or engine manufactured at any time shall be deemed to be covered by this certificate of conformity if it employs any system, device, or scheme which (a) wholly or partially disables any portion of the emission control system installed on the vehicle or the engine or which otherwise affects the emission control performance of such vehicle(s) or engine(s) during any driving or operating condition likely to occur in actual use, and (b) has not been included in the manufacturer's Part II application for certification.