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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

Utah Physicians for a Healthy Environment, Inc.,)
)
 Plaintiff,)
 v.)
)
 TAP Worldwide, LLC, (d/b/a 4 Wheel Drive)
 Hardware, Transamerican Auto Parts, United Web)
 Sales, 4 Wheel Parts, 4 Wheel Parts Performance)
 Center, and Transamerican Wholesale),)
)
 Defendant.)
 _____)

COMPLAINT

I. STATEMENT OF THE CASE, JURISDICTION AND VENUE

1. This is a federal Clean Air Act citizen enforcement action brought by Plaintiff Utah Physicians for a Healthy Environment, Inc. (“Physicians”), against Defendant TAP Worldwide, LLC (d/b/a 4 Wheel Parts, Transamerican Wholesale and other fictitious names), including its 4 Wheel Parts wholesale, retail and installation businesses in Utah (herein “TAP Worldwide”) to address its significant, repeated and ongoing violations of the Clean Air Act by selling and installing parts that defeat emission control devices in motor vehicles at the expense of the health and well-being of all Utahns. TAP Worldwide’s actions have caused gas and diesel

motor vehicles operating in Utah to exceed their federal emission standards, increasing the discharge of harmful pollutants in a region already plagued by unhealthy air.

2. This complaint seeks declaratory and injunctive relief and the imposition of civil penalties (payable to the federal Treasury) under the federal Clean Air Act (“CAA”), 42 U.S.C. §§ 7401 through 7671q, and 40 C.F.R. § 52.2320(c)(59), Utah’s Clean Air Act state implementation plan (“Utah SIP”).

3. This court has subject matter jurisdiction over the claims set forth in this complaint pursuant to 42 U.S.C. § 7604(a) (citizen suit provision of the CAA), 28 U.S.C. § 1331 (federal question statute), and 28 U.S.C. § 1355 (recovery of penalties). Jurisdiction additionally exists under 28 U.S.C. § 1331 because this action is brought to address TAP Worldwide’s violations of federal law, including 42 U.S.C. § 7522 (motor vehicle tampering and defeat part prohibitions) and 40 C.F.R. § 52.2320(c)(59), Utah Admin. Code R307-201-2 in the Utah SIP (motor vehicle emissions systems requirements). The relief requested is authorized pursuant to 28 U.S.C. §§ 2201 and 2202 (declaratory judgment), and 42 U.S.C. § 7413 (CAA civil penalties), § 7524 (CAA mobile source civil penalties) and § 7604 (CAA citizen suit injunctive relief and civil penalties).

4. Pursuant to 28 U.S.C. § 1391(b) and (c), venue lies in the District of Utah because TAP Worldwide resides in Utah, is authorized to do business in Utah, does business in Utah, and the actions giving rise to the claims herein have taken place, and continue to take place, in Utah. This matter is filed in the Central Division of the Utah Federal District Court because Physicians reside in Salt Lake County.

5. To the extent required by CAA Section 304(b)(1)(A), 42 U.S.C. § 7604(b)(1)(A), on June 21, 2019, Physicians notified in writing by certified mail the Administrator of the

Environmental Protection Agency (“EPA”), the Governor of Utah, the Utah Department of Environmental Quality (“UDEQ”), and TAP Worldwide of the alleged violations in this Complaint and Physicians’ intent to sue. A true and accurate copy of Physicians’ July 21, 2019 notice letter and attachments are attached hereto as **Attachment 1**.

6. More than sixty days have passed since Physicians’ June 21, 2019 notice letter was postmarked and served via certified mail. TAP Worldwide has repeatedly violated, and remains in violation of, the Clean Air Act and the Utah SIP.

7. Neither the State of Utah nor EPA has commenced or diligently prosecuted a court action to require TAP Worldwide’s compliance with the violations alleged herein.

II. PARTIES

8. Plaintiff Utah Physicians for a Healthy Environment is one of the largest civic organizations of health care professionals in the Western U.S., with approximately 400 physician members, and over 2,000 other members who are health care professionals, biologists, toxicologists, engineers, air quality specialists and other concerned individuals. Physicians are concerned about the demonstrated health risks posed by environmental pollutants associated with a wide array of acute and chronic diseases. Physicians are particularly concerned with the significant contribution of motor vehicle exhaust to elevated levels of respirable particulate matter and ozone in the airshed of the Wasatch Front, and the negative impact that these pollutants have on the public’s health. Physicians are dedicated to protecting the health and well-being of Utah’s citizens through action and the promotion of science-based education, to obtain measurable improvements to human health and the environment.

9. Physicians work on behalf of their members to protect and enhance the air quality in Utah, including the airshed of the Wasatch Front in Utah that is particularly affected by the

excessive emission of harmful pollutants from motor vehicles. Physicians allege that prohibited parts in motor vehicles, that have been sold and installed by TAP Worldwide in Utah, cause excess emissions. Physicians bring this action on behalf of their adversely affected members.

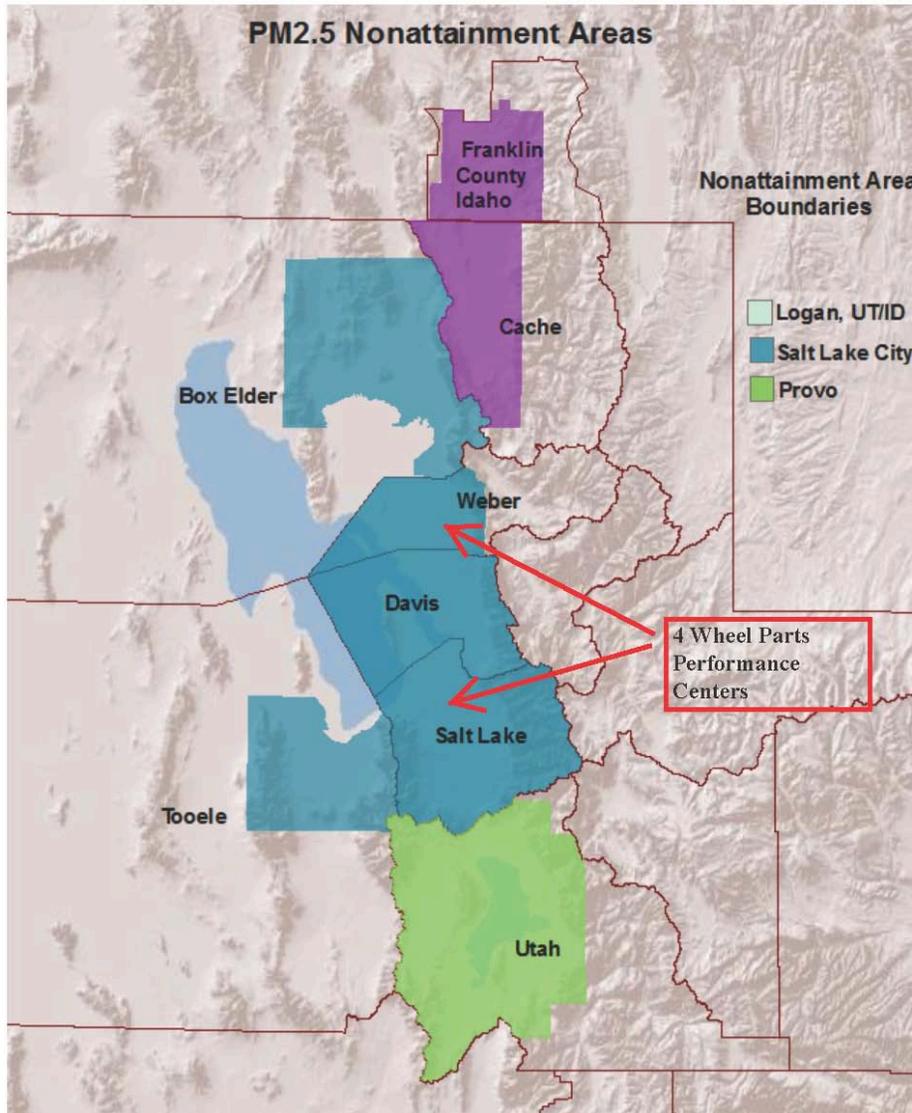
10. The health, environmental and aesthetic interests of Physicians and its members have been, are being and, unless this Court grants the requested relief herein, will continue to be adversely affected by TAP Worldwide's alleged repeated and ongoing violations of the Clean Air Act.

11. The ambient air in at least seven Utah counties along the Wasatch Front fails to meet the federal, health-based standard for particulate matter ("PM") that is less than 2.5 microns in size ("PM_{2.5}"). (A micron is one millionth of a meter, approximately 50 times smaller than the diameter of a human hair.) The counties that do not meet the 24-hour, 35 micrograms per cubic meter PM_{2.5} standard are shown in the map below, acquired from the UDEQ website at:

<https://deq.utah.gov/air-quality/area-designations-pm2-5-state-implementation-plan-development>.

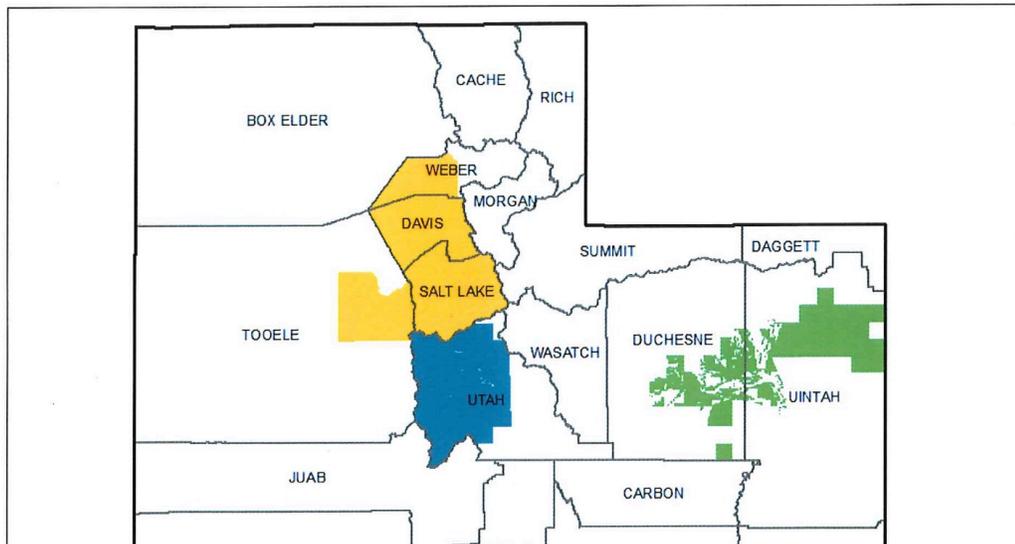
Utah Nonattainment Map

Including nonattainment area boundaries and the townships and ranges of the legal descriptions



12. The ambient air in parts or all of at least seven Utah counties also fails to meet the federal, health-based limit for ozone. The counties that do not meet the 8-hour, 0.070 parts per million ozone standard are shown in the map below, acquired from the UDEQ website at: <https://documents.deq.utah.gov/air-quality/planning/inventory/DAQ-2016-018761.pdf>

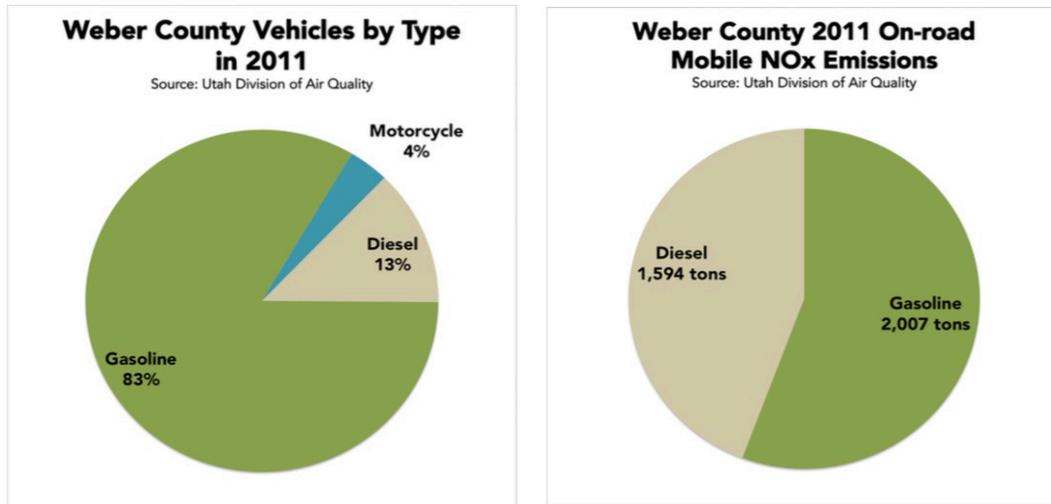
Map of recommended Nonattainment Areas in Utah



13. The parts subject to this action that have been, and continue to be, offered for sale, sold, and installed by TAP Worldwide, are designed to fit both gasoline and diesel fueled motor vehicles. Because a majority of these parts are designed for diesel vehicles, and because they increase the emission of diesel exhaust they pose a particular hazard to public health.

14. “Diesel engines emit nitrous oxides (“NO_x”), non-methane hydrocarbons, and particulate matter (“PM”), all of which are harmful to the environment and human health.” *National Petrochemical & Refiners Ass’n v. E.P.A.*, 287 F.3d 1130, 1134 (D.C. Cir. 2002). NO_x is also a significant contributor to PM_{2.5} and ozone after it is discharged into the atmosphere and reacts with other gases. The U.S. EPA has also found that diesel exhaust is “likely to be carcinogenic to humans.” U.S. EPA, 2002. Health Assessment Document for Diesel Engine Exhaust, https://cfpub.epa.gov/si/si_public_record_report.cfm?dirEntryId=29060&simpleSearch=1&searchAll=diesel.

15. According to a 2015 modeling analysis by the Utah Division of Air Quality (“DAQ”), although only 13 percent of the vehicles registered in Weber County in 2011 had diesel engines, those vehicles emitted 44 percent of all on-road NO_x emissions in the County.



16. In 2017, the first year of diesel vehicle emissions testing in Weber County, 20 percent of the diesel vehicles (1,890) failed the test. Approximately 40 percent of those vehicles (736) failed the test due to deliberate tampering. See, https://www.standard.net/news/environment/nearly-in-weber-county-diesel-vehicles-failing-emissions-tests/article_2fe6584e-da36-5436-b6b1-c22d4cad07a2.html

17. An August 2013 study conducted by Davis County and the University of Utah, showed that an increase in opacity of emissions (density of smoke) from diesel vehicles is directly correlated to a significant jump in fine particulate matter. For diesel vehicles that did not pass the Davis County opacity test, for example, the emission of particulate matter in the 1.0 - 2.0 micron range was 100 times that of the diesel vehicles that passed the test.

18. According to the California Air Resources Board (“CARB”), “[a]lmost all of the diesel particle mass [in diesel exhaust] is in the fine particle range of 10 microns or less in diameter (PM₁₀). Approximately 94 percent of the mass of these particles are less than 2.5 microns in diameter. Because of their small size, these particles can be inhaled and a portion will eventually become trapped within the small airways and alveolar regions of the lung.” CARB Report on Diesel Exhaust, April 22, 1998, available at:

<http://www.arb.ca.gov/toxics/dieseltac/de-fnds.htm>

19. Physicians' members necessarily breathe the air of the Wasatch Front at home, at work, on roads and highways, and during outdoor pursuits and other activities. Excessive PM and NO_x emitted by motor vehicles that Physicians allege have been modified by TAP Worldwide enter the air of central Utah. These pollutants contribute to and exacerbate central Utah's unhealthy levels of PM_{2.5} and ozone. These pollutants enter the lungs of Physicians' members, and pose a significant risk to the health and well-being of Physicians' members. Exposure to motor vehicle exhaust triggers serious diseases that range from short-term increased rates of heart attacks, strokes and death, to long-term neurodegenerative diseases like Alzheimer's.

20. Physicians' members suffer from elevated, unhealthful levels of PM_{2.5} in many other ways, including experiencing vision impairment, reduction of lung capacity, sinus irritation, coughing spells and foul smells. Motor vehicles that exceed their emission standards due to TAP Worldwide's activities contribute to these adverse effects.

21. Physicians' members suffer from elevated, unhealthful levels of ozone. According to UDEQ, "Ozone affects the lungs and respiratory system in many ways. Exposure can lead to increased school or work absences, visits to doctors and emergency rooms, and hospital admissions. Research also indicates that ozone exposure can increase the risk of premature death from heart or lung disease." See,

<http://www.deq.utah.gov/Pollutants/O/ozone/ozonehealth.htm>.

22. Physicians' members suffer from a reduced enjoyment of life when they are forced to avoid activities such as traveling, walking, running, hiking, skiing, and biking, or are unable to see with clarity the beautiful scenery that once was visible, due to high pollution levels.

Again, motor vehicles that exceed their emission standards due to TAP Worldwide's activities contribute to these adverse effects.

23. Physicians' members could bring this action in their individual capacity. None of the claims asserted or relief requested, however, requires that Physicians' members bring such an action in their individual capacity.

24. TAP Worldwide, LLC is a Delaware Corporation located in California and registered to do business in Utah. TAP Worldwide, LLC's address in California is 400 W Artesia Blvd, Compton, CA 90220. TAP Worldwide, LLC is registered to do business in Utah. TAP Worldwide's registered agent in Utah is Corporation Service Company, 15 West South Temple, Ste. 1701 Salt Lake City, Utah 84101.

25. TAP Worldwide, LLC does business as 4 Wheel Drive Hardware, Transamerican Auto Parts, United Web Sales, 4 Wheel Parts, 4 Wheel Parts Performance Centers, Pro Comp Tires, Dealer Services International, Pro Comp Wheels, Smittybilt and Transamerican Wholesale. 4 Wheel Parts Performance Centers is registered as a TAP Worldwide d/b/a in Utah. 4 Wheel Parts is registered as a TAP Worldwide d/b/a in Utah. Transamerican Auto Parts is registered as a TAP Worldwide d/b/a in Utah. Transamerican Wholesale is registered as a TAP Worldwide d/b/a in Utah.

26. TAP Worldwide, LLC has two brick-and-mortar 4 Wheel Parts Performance Centers in Utah, the first located in Salt Lake City, the second in Ogden. Both Performance Centers sell and install aftermarket defeat parts and remove emission control devices alleged in this complaint to be prohibited by the CAA and Utah SIP.

27. TAP Worldwide’s 4 Wheel Parts Performance Center in Salt Lake City is located at 1789 S. Redwood Road, Salt Lake City, UT 84104. TAP Worldwide’s 4 Wheel Parts Performance Center in Ogden is located at 284 W. 12th Street, Ogden, UT 84404.

UTAH - (2 Locations)

OGDEN, UT



4WP Ogden (Store #245)

284 W 12th St
Ogden, UT 84404
Phone: (801) 392-2402

Make This My Preferred Store

Hours:
Monday: 9 a.m. - 6 p.m. (Local Time)
Tuesday: 9 a.m. - 6 p.m. (Local Time)
Wednesday: 9 a.m. - 6 p.m. (Local Time)
Thursday: 9 a.m. - 6 p.m. (Local Time)
Friday: 9 a.m. - 6 p.m. (Local Time)
Saturday: 9 a.m. - 3 p.m. (Local Time)
Sunday: Closed

SALT LAKE CITY, UT



4WP Salt Lake City (Store #46)

1789 S. Redwood Rd
Salt Lake City, UT 84104
Phone: 801-954-8826

Make This My Preferred Store

Hours:
Monday: 9 a.m. - 6 p.m. (Local Time)
Tuesday: 9 a.m. - 6 p.m. (Local Time)
Wednesday: 9 a.m. - 6 p.m. (Local Time)
Thursday: 9 a.m. - 6 p.m. (Local Time)
Friday: 9 a.m. - 6 p.m. (Local Time)
Saturday: 9 a.m. - 3 p.m. (Local Time)
Sunday: Closed

28. This complaint refers to TAP Worldwide, LLC and the names under which it does business, as “TAP Worldwide.”

29. TAP Worldwide is owned by Polaris Industries, Inc.

30. As more specifically alleged below, TAP Worldwide has violated the CAA by: (1) offering to sell and selling parts and components for motor vehicles in Utah that have the principal effect of defeating, bypassing or rendering inoperative emission control devices and elements of design in motor vehicles and that TAP Worldwide knows or should know the parts will be put to such use in Utah, (2) installing aftermarket parts and components in motor vehicles in Utah, and (3) removing emission control devices from federally-certified motor vehicles in Utah.

III. LEGAL FRAMEWORK

A. Mobile Source Emission Standards

31. The EPA promulgates air pollution emission standards for all new motor vehicles offered for sale in the United States to protect public health and welfare, pursuant to CAA Section 202(a), 42 U.S.C. § 7521(a). As set forth at 42 U.S.C. § 7521(a)(1):

The Administrator shall by regulation prescribe (and from time to time revise) in accordance with the provisions of this section, standards applicable to the emission of any air pollutant from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.

32. In accordance with CAA Section 202, EPA has promulgated emission standards for on- and off-road motor vehicles and motorcycles by model year, weight and fuel type. 40 C.F.R. Part 86.

33. EPA has promulgated emission standards for heavy-duty diesel vehicles at 40 C.F.R. § 86.099-11 (model year 1999 and later), § 86.004-11 (model year 2004 and later), and § 86.007-11 (model year 2007 and later).

34. EPA has also promulgated emission standards for gas and other non-diesel heavy-duty vehicles at 40 C.F.R. § 86.1816-05 (model year 2005 and later, 65 Fed. Reg. 59970, October 6, 2000), § 86.1816-08 (model year 2008 and later, 66 Fed. Reg. 5190, January 18, 2001), and § 86.1816-18 (model year 2018 and later, 79 Fed. Reg. 23721, April 28, 2014).

35. Further, EPA has promulgated regulations pursuant to CAA Section 202(m), 42 U.S.C. § 7521(m), that require light duty vehicles, light duty trucks, and heavy duty vehicles to detect problems with a vehicle's emission-related systems; alert owners, repair shops and inspection agencies to these problems; and store malfunction information electronically. These

devices are referred to as on-board diagnostics or “OBD” systems. 40 C.F.R. § 86.1806-05, 65 Fed. Reg. 59,896, 59,900-59,901 (October 6, 2000).

36. Vehicle manufacturers are prohibited under CAA Section 203(a)(1), 42 U.S.C. § 7522(a)(1), from selling a new motor vehicle or engine in the United States unless the vehicle or engine is covered by a federal certificate of conformity (“COC”). EPA issues COCs to vehicle manufacturers pursuant to CAA Section 206(a), 42 U.S.C. § 7525(a), to certify that a particular class and model year of motor vehicles or engines, with specified emission control devices and elements of design installed in each vehicle as described in the manufacturer’s COC application, meet all applicable emission standards at the time of original sale, and will continue to meet such standards during the useful life of such vehicles or engines as long as all emissions control devices remain operational.

B. Emission Control Device Tampering and Defeat Prohibitions, and Emission Systems and Devices Operational and Maintenance Requirements

37. To ensure continuous compliance with EPA emission standards over a motor vehicle’s lifetime, CAA Section 203, 42 U.S.C. § 7522, prohibits the aftermarket tampering or use of defeat parts to compromise or render inoperative emission control devices in motor vehicles. The applicable provisions of CAA Section 203(a), 42 U.S.C. § 7522(a) are set forth below:

(a) Enumerated prohibitions. The following acts and the causing thereof are prohibited—

(3)(A) . . . for any person knowingly¹ to remove or render inoperative any [] device or element of design [installed on or in a motor vehicle or motor vehicle

¹ “Knowingly” in this context means “voluntarily and intentionally, and not by mistake or accident.” *United States v. Mac’s Muffler Shop, Inc.*, 1986 U.S. Dist. LEXIS 18108; 25 ERC

engine in compliance with regulations under this subchapter] after [the vehicle's] sale and delivery to the ultimate purchaser; or

(3)(B) for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.

38. EPA has promulgated regulations that repeat the same prohibited acts set forth in CAA Section 203. 40 C.F.R. § 86.1854-12(a)(3)(i) and (ii).

39. The term “emission control system” means “a unique group of emission control devices, auxiliary emission control devices, engine modifications and strategies, and other elements of design designated by the [EPA] Administrator used to control exhaust emissions of a vehicle.” 40 C.F.R. § 86.1803-01.

40. The term “emission control device” as used herein means any emission control device, emission control system, or element of design in any motor vehicle as described on its motor vehicle emission control information label pursuant to 40 C.F.R. § 86.1807-01, and as referenced in CAA Section 203(a)(3).

41. The term “element of design” means “any control system (i.e., computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 C.F.R. § 86.1803-01.

42. An element of design includes electronic settings that regulate air to fuel

(BNA) 1369 (N.D. Ga. 1986); *United States v. Haney Chevrolet, Inc.*, 371 F. Supp. 381, 384 (M.D. Fla. 1974).

ratio, fuel injection pressure, fuel injection pulse width and timing, boost, shift point settings, any auxiliary emission control device, and all OBD sensors, monitoring, governors, “limp home” and check engine light functionality.

43. The term “auxiliary emission control device” (AECD) means “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system” of the motor vehicle. 40 C.F.R. § 86.1803-01.

44. The term “motor vehicle” means any motor vehicle for which a COC has been issued by EPA pursuant to CAA Section 206(a), 42 U.S.C. § 7525(a), indicating that it conforms to applicable EPA requirements governing motor vehicle emissions.

45. The purpose of the defeat prohibition in CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), is “to assure that vehicle emission control systems will function as intended during the time the vehicle is in use.” H.R. Rep. No. 95-294, 95th Cong., 1st Sess. at 297, *reprinted in* 2977 U.S. Code Cong. & Adm. News 1077, 1376.

46. Utah has promulgated a complementary state regulation that, (a) prohibits any person from removing or making inoperable any federally-required emission control system or device on any motor vehicle in Utah, and (b) requires any person owning or operating a motor vehicle registered in Utah to maintain all of the federally-required emission control systems or devices in that vehicle at all times. Utah Admin. Code R307-201-2 states:

R307-201-2. Automobile Emission Control Devices.

Any person owning or operating any motor vehicle or motor vehicle engine registered in the State of Utah on which is installed or incorporated a system or device for the control of crankcase emissions or exhaust emissions in compliance with the Federal motor vehicle rules, shall maintain the system or device in

operable condition and shall use it at all times that the motor vehicle or motor vehicle engine is operated. No person shall remove or make inoperable within the State of Utah the system or device or any part thereof, except for the purpose of installing another system or device, or part thereof, which is equally or more effective in reducing emissions from the vehicle to the atmosphere.

47. Utah Admin. Code R307-201-2 is a regulation that has been approved by EPA as part of Utah's SIP to implement the Clean Air Act, and is therefore federally-enforceable ("Utah SIP Regulation R307-201-2").² 40 C.F.R. § 52.2320(c)(59), 71 Fed. Reg. 7679 (February 14, 2006), <https://www.epa.gov/sips-ut/utah-sip-table-c-r307-201-emission-standards-general-emission-standards>.

48. The term "person" in the Utah SIP includes an "individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state." R307-101-2, 40 C.F.R. § 52.2320(c)(67), (83), 73 Fed. Reg. 51222 (September 2, 2008); 81 Fed. Reg. 4959 (January 1, 2016).

49. According to CAA Section 205(a), 42 U.S.C. § 7524(a), any person other than a manufacturer or new vehicle dealer who violates CAA Section 203(a)(3)(A) or (B) between January 13, 2009 and November 1, 2015 is subject to a civil penalty of up to \$3,750 for each device or element of design knowingly removed or rendered inoperative in each motor vehicle. The same penalty applies for each device or element of design bypassed, defeated or rendered inoperative by each part or component manufactured, offered for sale, sold or installed, where the person knows or should know that such part or component is being offered for sale or

² R307-201-2 was subsequently renumbered after its inclusion into the Utah SIP, and exists as a matter of state law at Utah Admin. Code R307-201-4. See: <https://rules.utah.gov/publicat/code/r307/r307-201.htm>.

installed for such use or put to such use. *Id.* Any person who violates CAA Section 203(a)(3)(A) or (B) after November 1, 2015 is subject to a civil penalty of up to \$4,454 for each such violation. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016).

50. According to Utah SIP regulation R307-201-2, and CAA Sections 304(a) and 113(b), 42 U.S.C. §§ 7604(a) and 7413(b), any person who removes or makes inoperable any federally-required emissions system or device in a motor vehicle in Utah is subject to a civil penalty of up to \$37,500 for each violation between January 12, 2009 and November 1, 2015, and up to \$93,750 for each violation after November 1, 2015. R307-201-2; CAA Sections 304(a) and 113(b); 81 Fed. Reg. 43,091, 43,095 (July 1, 2016).

51. If any person intentionally removes or renders inoperable an emission control device such as a catalytic converter installed in a motor vehicle, such tampering amounts to a *per se* violation of the vehicle's tailpipe emission standards and therefore is prohibited by CAA Section 203(a)(3)(A), 40 C.F.R. § 86.1854-12(a)(3)(i), and Utah SIP Regulation R307-201-2. Likewise, if any person sells and/or installs, or causes to be sold and/or installed, a hollow exhaust pipe that bypasses, defeats or renders inoperable a vehicle's required catalytic converter, that sale and/or installation of the exhaust pipe amounts to a *per se* violation of the vehicle's tailpipe emission standards and is prohibited by CAA Section 203(a)(3)(B), 40 C.F.R. § 86.1854-12(a)(3)(ii) and Utah SIP Regulation R307-201-2.

C. Citizen Enforcement

52. CAA Section 304(a), 42 U.S.C § 7604(a), authorizes any person to commence a civil action against any person “who is alleged to have violated (if there is evidence that the alleged violation has been repeated) or to be in violation of (A) an emission standard or limitation under this chapter. . .”

53. CAA Section 304(f)(1), 42 U.S.C § 7604(f)(1), defines “emission standard or limitation under this Act” to include, “a schedule or timetable of compliance, emission limitation, standard of performance or emission standard.” CAA Section 304(f)(4), 42 U.S.C § 7604(f)(4), additionally defines “emission standard or limitation under this Act” to include “any other standard, limitation, or schedule established . . . under any applicable State implementation plan approved by the Administrator.”

54. CAA Section 302(k), 42 U.S.C. § 7602(k), defines the terms “emission limitation” and “emission standard” as,

a requirement established by the State or the Administrator which limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction, and any design, equipment, work practice or operational standard promulgated under this chapter.

55. CAA Section 302(l), 42 U.S.C. § 7602(l), defines the term “standard of performance” as,

a requirement of continuous emission reduction, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction.

56. TAP Worldwide’s violations of the Clean Air Act’s anti-tampering and anti-defeat provisions, set forth at CAA Section 203(a)(3)(A) and (B), 42 U.S.C. § 7522(a)(3)(A) and (B), and the anti-tampering and anti-defeat regulations promulgated thereunder including 40 C.F.R. § 86.1854-12(a)(3), are enforceable by citizens because these provisions are emission standards or limitations as defined by CAA Section 304(a), 42 U.S.C § 7604(a). The anti-tampering and anti-defeat prohibitions limit the quantity, rate, or concentration of emissions of air pollutants on a continuous basis by prohibiting persons from removing or defeating emission control devices and elements of design that reduce emissions on a continuous basis and are required to remain operational in a vehicle at all times. The anti-tampering and anti-defeat

prohibitions are also requirements relating to the operation or maintenance of vehicles to assure continuous emission reduction, and are design, equipment, work practice and operational standards.

57. TAP Worldwide's violations of Utah SIP Regulation R307-201-2 also are enforceable by citizens because Utah SIP Regulation R307-201-2 is an emission standard or limitation as defined by CAA Section 304(a), 42 U.S.C § 7604(a). Utah SIP Regulation R307-201-2 has been promulgated as a federal rule, 40 C.F.R. § 52.2320(c)(59), and relates to both the operation and maintenance of motor vehicles in Utah to assure continuous emission reductions.

IV. STATEMENT OF FACTS

58. In each of the allegations set forth below, actions alleged to have been taken by TAP Worldwide include actions TAP Worldwide caused to be taken by one or more of its businesses operating under fictitious names or by an agent, employee, or independent contractor.

59. In each of the allegations set forth below, actions alleged to have been taken knowingly by TAP Worldwide means any action taken voluntarily and intentionally, and not by mistake or accident.

60. In each of the allegations set forth below, any action alleged to have been taken by TAP Worldwide occurred in Utah between September 6, 2014 and the date of this Complaint.

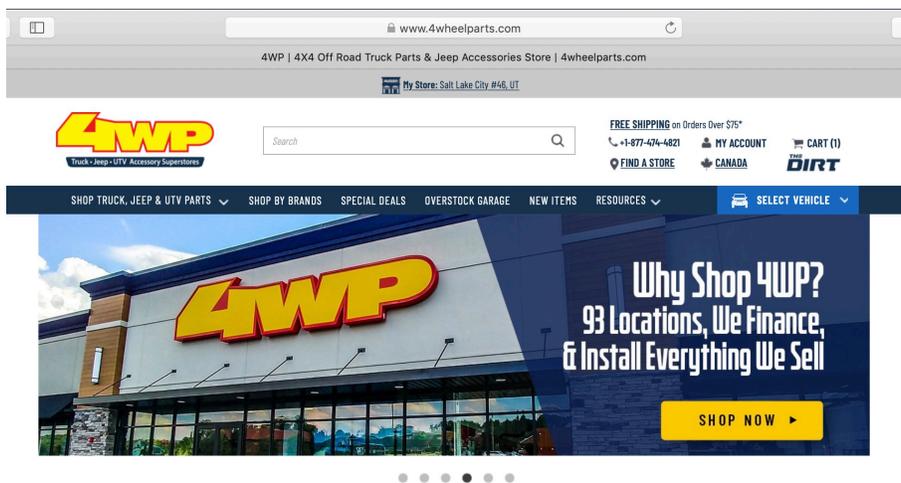
61. In each of the allegations set forth below, actions alleged to constitute the removal of any device or element of design in a motor vehicle include the deletion, the bypass or the rendering inoperative of such device or element of design.

62. In each of the allegations set forth below, emission control devices alleged to have been removed include the removal of elements of design.

63. An “aftermarket defeat part” as used herein is a part not sourced from a vehicle’s manufacturer, including but not limited to an exhaust system kit, a “race” catalytic converter and an electronic reprogrammer or software “tune,” where a principal effect of the part is to bypass, defeat or render inoperative an emission control device in a motor vehicle, and where the person who offered to sell, sold and/or installed such part knew or should have known the part was being offered for sale, sold and/or installed for that purpose.

A. TAP Worldwide Has Offered to Sell, Sold and Installed Aftermarket Defeat Parts in Utah.

64. TAP Worldwide has repeatedly offered to sell aftermarket defeat parts in Utah. TAP Worldwide has repeatedly sold aftermarket defeat parts in Utah. TAP Worldwide has repeatedly installed aftermarket defeat parts in Utah. TAP Worldwide represents that it installs everything it sells. TAP Worldwide continues to offer to sell, sell, and install aftermarket defeat parts in Utah.



65. Aftermarket defeat parts that TAP Worldwide sold are currently in vehicles in Utah, and are causing those vehicles to emit more pollutants into the air of Utah than they would absent the sale, installation and use of such parts.

66. The aftermarket defeat parts sold by TAP Worldwide had no CARB EO.³

67. TAP Worldwide has no evidence from the manufacturer of the aftermarket defeat part or an environmental control agency that the installation and use of the part would not adversely affect the emissions performance of each motor vehicle into which it is designed to be installed.

68. TAP Worldwide is not currently prevented by any enforceable injunction from offering to sell, selling or installing aftermarket defeat parts. TAP Worldwide has not retrieved the aftermarket defeat parts that it sold, or restored the original emission control systems in the motor vehicles in which TAP Worldwide's aftermarket defeat parts were installed.

69. The descriptions set forth below represent examples of parts that TAP Worldwide has offered to sell and/or sold and/or installed in Utah that remove, replace and/or compromise one or more emission control devices. These examples do not include all such parts that TAP Worldwide has offered for sale and/or sold and/or installed in Utah.

Exhaust System Kits

70. TAP Worldwide sells exhaust system kits through its 4 Wheel Parts Performance Centers, its 4 Wheel Parts website at <https://www.4wheelparts.com/b/performance-parts/exhaust->

³ Only those aftermarket parts shown not to reduce the effectiveness of a vehicle's emission control systems bear a California Air Resources Board Executive Order (CARB EO) number issued pursuant to Title 13, Division 3, Chapter 4, Article 2, Section 2222 of the California Code of Regulations.

system-kit/_/N-cm2y5, and through Transamerican Wholesale. An example of an exhaust system kit on the 4 Wheel Parts website is shown below.

 <p>Part Number: M/F17927</p> 	<p>MagnaFlow Pro Series Performance Diesel Exhaust System - 17927</p> <p>Be the first to review</p> <ul style="list-style-type: none"> Type Of System: Turbo Back Retains Catalytic Converter: No Type Of Material: Stainless Steel Outlet Type: Single Exit Location: Side <p>+ View More Specs</p>	<p>\$730.43</p> <p>1 <input type="button" value="ADD TO CART"/></p> <p><input type="checkbox"/> Add Protection Plan for \$73.04 ?</p> <p>Ship to Home: Ready To Ship</p> <p>Free! Store Pickup: 4 Wheel Parts Salt Lake City #46</p> <p>Available within 3 to 5 business days</p> <p>View Other Stores</p> <p>Want this professionally installed? ?</p>
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71. Original, fully-functioning catalytic converters in motor vehicles are able to reduce the emission of nitrogen oxides (NOx), hydrocarbons (HC) and carbon monoxide (CO) by 80 – 95 percent.

72. Removing an original, fully-functioning catalytic converter in a motor vehicle, and replacing it with a hollow tube, can cause a five- to twenty-fold increase in the vehicle's emission of NOx, HC and CO.

73. With respect to each exhaust system kit listed separately by part number in Tables A and B, acquired from the 4 Wheel Parts website, plaintiff alleges the following:⁴

- a. The exhaust system kit has no CARB EO.
- b. The exhaust system kit includes instructions that explain how to remove the catalytic converter.
- c. The exhaust system kit includes a hollow tube and sufficient clamps to bridge the gap in the exhaust system created by the missing catalytic converter.

⁴ A template to guide Defendant's Answer to this paragraph, and the similar paragraphs relating to catalytic converters and reprogrammers, is attached as **Attachment 2**.

- d. The exhaust system kit enables the removal of a catalytic converter in motor vehicles in which the exhaust system kit is designed to fit.
- e. A principal effect of the exhaust system kit is to bypass, defeat or render inoperative a catalytic converter.
- f. Emissions from a motor vehicle increase when the original catalytic converter is removed and replaced with a hollow tube.
- g. TAP Worldwide has offered to sell the exhaust system kit to consumers in Utah.
- h. TAP Worldwide knew or should have known that by offering to sell the exhaust system kit, the exhaust system kit would be used to bypass, defeat or render inoperative a catalytic converter.
- i. TAP Worldwide has sold the exhaust system kit to consumers in Utah.
- j. TAP Worldwide knew or should have known that by selling the exhaust system kit, the exhaust system kit would be used to bypass, defeat or render inoperative a catalytic converter.
- k. TAP Worldwide has installed the exhaust system kit in one or more vehicles in Utah.
- l. TAP Worldwide knew or should have known that by installing the exhaust system kit, the part would be used to bypass, defeat or render inoperative a catalytic converter.
- m. TAP Worldwide has no evidence from the exhaust system kit manufacturer or an environmental control agency that the installation and use of the exhaust system kit would not adversely affect the emissions performance of each motor vehicle into which it is designed to be installed.

Table A: MBRP Exhaust system kits

Part No.⁵	Name	Vehicle Fitment
6004409	XP Series off road down pipe back	01-07 GMC/Chevy
6004304	Pro Series off road down pipe back	01-07 GMC/Chevy
6004AL	Performance Series down pipe back	01-07 GMC/Chevy
6004P	Performance Series down pipe back	01-07 GMC/Chevy
6004PLM	Performance Series down pipe back	01-07 GMC/Chevy
6004BLK	Black Series off road down pipe back	01-07 GMC/Chevy
6006AL	Installer cool duals off road turbo back	01-07 GMC/Chevy
6006409	XP Series cool duals off road turbo back	01-07 GMC/Chevy
60200409	XP Series off road down pipe back	01-07 GMC/Chevy
60200SLM	SLM Series off road down pipe back	01-07 GMC/Chevy
60200AL	Installer Series down pipe back	01-07 GMC/Chevy
60200P	Performance Series off road down pipe back	01-07 GMC/Chevy
6126304	Pro Series turbo back	04-07 Ram
6126PLM	PLM Series turbo back	04-07 Ram
6126P	P Series turbo back	04-07 Ram
6126AL	Installer Series turbo back	04-07 Ram
6126409	XP Series turbo back turbo back	04-07 Ram
61160PLM	PLM Series off road turbo back	04-07 Ram
61160BLK	Black Series turbo back	04-07 Ram
61160409	XP Series turbo back	04-07 Ram
61160AL	Installer Series turbo back	04-07 Ram
61160SLM	SLM Series off road turbo back	04-07 Ram
61160P	P Series turbo back	04-07 Ram
6200PLM	PLM Series turbo back	99-03 Ford
6200P	Performance Series turbo back	99-03 Ford
6200AL	Installer Series turbo back	99-03 Ford
6200409	XP Series turbo back	99-03 Ford
6200BLK	Black Series turbo back	99-03 Ford
6200304	Pro Series turbo back	99-03 Ford
6202AL	Installer Series - cool duals turbo back	99-03 Ford
6202409	XP Series - cool duals turbo back	99-03 Ford
6204AL	Installer Series turbo back	99-03 Ford
6204409	XP Series turbo back	99-03 Ford
6206409	XP Series turbo back	03-07 Ford
6206304	Pro Series turbo back	03-07 Ford
6206AL	Installer Series turbo back	03-07 Ford

⁵ MBRP Part Numbers are sometimes preceded by the letters MBRS.

6206P	Performance Series turbo back	03-07 Ford
6212PLM	Performance Series turbo back	03-07 Ford
6212P	Performance Series turbo back	03-07 Ford
6212BLK	Black Series off road turbo back	03-07 Ford
6212409	XP Series off road turbo back	03-07 Ford
6212AL	Installer Series off road turbo back	03-07 Ford
6214AL	Installer Series - cool duals turbo back	03-07 Ford
6214409	XP Series - cool duals turbo back	03-07 Ford
6218AL	Installer Series off road turbo back	94-97 Ford
6218P	Performance Series off road turbo back	94-97 Ford
6218409	XP Series off road turbo back	94-97 Ford
62220409	XP Series turbo back	99-03 Ford
62220AL	Performance Series turbo back	99-03 Ford
62240BLK	Black Series turbo back	03-07 Ford
62240AL	Installer Series turbo back	03-07 Ford
62240409	XP Series turbo back	03-07 Ford

Table B: Magnaflow Exhaust system kits

Part No.	Name	Vehicle Fitment
15963	Performance Series turbo back	03-04 Ram
16901	Performance Series turbo back	01-07 GMC/Chevy
16919	Performance Series turbo back	03-18 Ford
16923	XL Series turbo back	05-07 Ford
17004	Black Series turbo back	03-04 Ram
17006	Black Series turbo back	03-04 Ram
17012	Black Series turbo back	03-07 Ford
17013	Black Series turbo back	05-07 Ford
17021	Black Series turbo back	99-03 Ford
17030	Black Series turbo back	01-07 GMC/Chevy
17038	Black Series turbo back	03-07 Ford
17042	Black Series	04.5-05 Ram
17133	Pro Series turbo back	03-07 Ford
17903	Pro Series turbo back	01-07 GMC/Chevy
17923	Pro Series turbo back	03-07 Ford
17927	Pro Series turbo back	03-07 Ford
17973	Pro Series	03-04 Ram
17990	Pro Series turbo back	04-07 Ram
18907	Pro Series	99-03 Ford
18990	Pro Series turbo back	04 Ram
18997	Pro Series turbo back	04-07 Ram

“Race” Catalytic Converters

74. TAP Worldwide sells “race” catalytic converters through its 4 Wheel Parts Performance Centers, its 4 Wheel Parts website at https://www.4wheelparts.com/b/performance-parts/catalytic-converters/_/N-cm2yhZ1z0rrif, and through Transamerican Wholesale. An example of a race catalytic converter on the 4 Wheel Parts website is shown below.

	<p>MagnaFlow High-Flow Race Catalytic Converter - 14106</p>	<p>\$267.97</p>
<p>Part Number: M/F14106</p>	<p>Be the first to review</p>	<p>1 ▾</p>
	<ul style="list-style-type: none"> • Body Material: Stainless Steel • Heat Shield: Stainless Steel • O2 Bung: No • Air Inlet Port: No • CARB Approved: No • EPA Approved: No • OBD II Approved: No • Fitment: Race Cat • Mounting Flange: No 	<p>ADD TO CART</p>
		<p><input type="checkbox"/> Add Protection Plan for \$26.80 ?</p>
		<p>Ship to Home: Ready To Ship</p>
		<p>Free! Store Pickup: 4 Wheel Parts Salt Lake City #46</p>
		<p>Available next business day if placed before 3pm</p>
		<p>View Other Stores</p>
		<p>Want this professionally installed? ?</p>

75. With respect to each “race” catalytic converter listed separately by part number in Table C, acquired from the 4 Wheel Parts website, plaintiff alleges the following:

- a. The catalytic converter has no CARB EO or Proof of Notification to EPA Demonstrating Compliance with EPA’s 1986 Aftermarket Catalytic Converter (AMCC) Policy.⁶
- b. The catalytic converter is not as effective at reducing emissions as the manufacturer’s originally-installed or otherwise lawful catalytic converter.
- c. TAP Worldwide has no evidence from the catalytic converter manufacturer or an environmental control agency that the installation and use of the catalytic

⁶ 51 Fed. Reg. 28114 (August 5, 1986).

converter would not adversely affect the emissions performance of each motor vehicle into which it is designed to be installed.

- d. A principal effect of the catalytic converter is to bypass, defeat or render inoperative an originally-installed or otherwise lawful catalytic converter.
- e. TAP Worldwide has offered to sell the catalytic converter to consumers in Utah.
- f. TAP Worldwide knew or should have known that by offering to sell the catalytic converter, the catalytic converter would be used to bypass, defeat or render inoperative an originally-installed or otherwise lawful catalytic converter.
- g. TAP Worldwide has sold the catalytic converter to consumers in Utah.
- h. TAP Worldwide knew or should have known that by selling the catalytic converter, the catalytic converter would be used to bypass, defeat or render inoperative an originally-installed or otherwise lawful catalytic converter.
- i. TAP Worldwide has installed the catalytic converter in one or more vehicles in Utah.
- j. TAP Worldwide knew or should have known that by installing the catalytic converter, the part would be used to bypass, defeat or render inoperative an originally-installed or otherwise lawful catalytic converter.

Table C: MagnaFlow “Race” Catalytic Converters

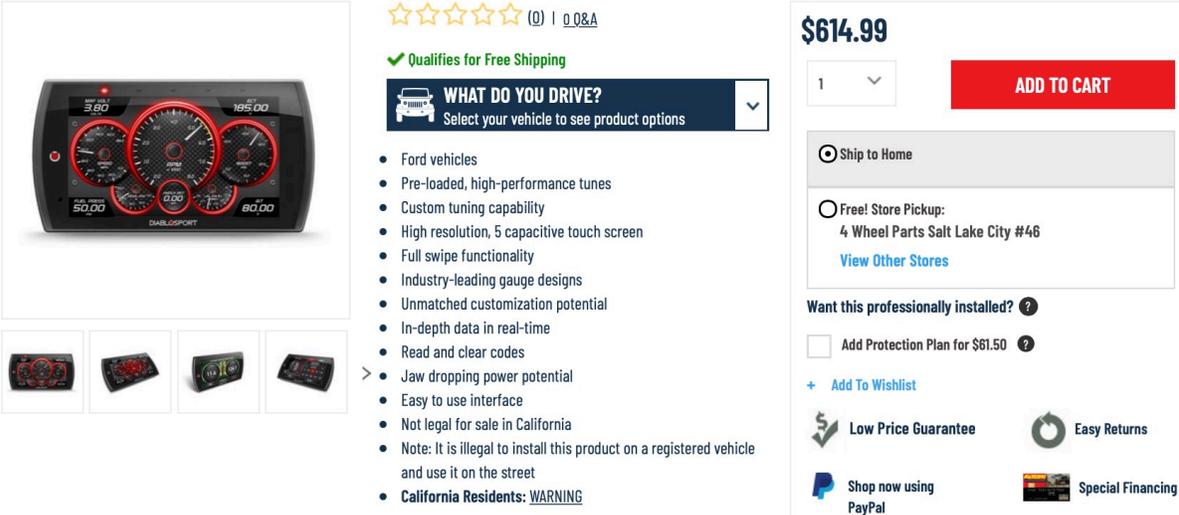
Part No.	Part Name
14104	MagnaFlow High-Flow Race Catalytic Converter
14105	MagnaFlow High-Flow Race Catalytic Converter

14106	MagnaFlow High-Flow Race Catalytic Converter
14109	MagnaFlow High-Flow Race Catalytic Converter
60021	MagnaFlow Direct Fit Catalytic Converter

Reprogrammers

76. TAP Worldwide sells electronic reprogrammers through its 4 Wheel Parts Performance Centers, its 4 Wheel Parts website at https://www.4wheelparts.com/b/performance-parts/computer-programmers/_/N-cm30k, and through Transamerican Wholesale. An example of an electronic reprogrammer on the 4 Wheel Parts website is shown below.

Diablosport Trinity 2 EX Performance Programmer (Platinum) - 9145



☆☆☆☆☆ (0) | 0 Q&A

✓ Qualifies for Free Shipping

WHAT DO YOU DRIVE?
Select your vehicle to see product options

- Ford vehicles
- Pre-loaded, high-performance tunes
- Custom tuning capability
- High resolution, 5 capacitive touch screen
- Full swipe functionality
- Industry-leading gauge designs
- Unmatched customization potential
- In-depth data in real-time
- Read and clear codes
- Jaw dropping power potential
- Easy to use interface
- Not legal for sale in California
- Note: It is illegal to install this product on a registered vehicle and use it on the street
- **California Residents: WARNING**

\$614.99

1 **ADD TO CART**

Ship to Home

Free! Store Pickup:
4 Wheel Parts Salt Lake City #46
[View Other Stores](#)

Want this professionally installed? **?**

Add Protection Plan for \$61.50 **?**

+ [Add To Wishlist](#)

Low Price Guarantee **Easy Returns**

Shop now using PayPal **Special Financing**

77. With respect to each reprogrammer listed separately by part number in Tables D-J, acquired from the 4 Wheel Parts website, plaintiff alleges the following:

- The reprogrammer has no CARB EO.
- The reprogrammer is sold with instructions, including reference to website instructions, that explain how to use the reprogrammer to remove or render inoperative emission control devices.

- c. A principal effect of the reprogrammer is to bypass, defeat or render inoperative one or more originally-installed emission control devices.
- d. TAP Worldwide has no emission results derived from federal test procedures that show the reprogrammer will not cause each vehicle for which TAP Worldwide has represented the reprogrammer fits to exceed its applicable emission standards.
- e. TAP Worldwide has no evidence from the reprogrammer's manufacturer or an environmental control agency that the installation and use of the reprogrammer will not adversely affect the emissions performance of each motor vehicle into which it is designed to be installed.
- f. TAP Worldwide has offered to sell the reprogrammer to consumers in Utah.
- g. TAP Worldwide knew or should have known that by offering to sell the reprogrammer, the reprogrammer would be used to bypass, defeat or render inoperative one or more originally-installed emission control devices.
- h. TAP Worldwide has sold the reprogrammer to consumers in Utah.
- i. TAP Worldwide knew or should have known that by selling the reprogrammer, the reprogrammer would be used to bypass, defeat or render inoperative one or more originally-installed emission control devices.
- j. TAP Worldwide has installed the reprogrammer in one or more vehicles in Utah.
- k. TAP Worldwide knew or should have known that by installing the reprogrammer, the reprogrammer would be used to bypass, defeat or render inoperative one or more originally-installed emission control devices.

Table D: Banks Power Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
61205	Banks Power AutoMind Flash Programmer	99-12 Ford
61207	Banks Power AutoMind Flash Programmer	99-12 GMC
61255	Banks Power iQ 2.0 Flash	02-03 Ford
61265	Banks Power iQ 2.0 Flash	04-05 Chevy
61272	Banks Power iQ 2.0 Flash	11-12 Ford
61275	Banks Power iQ 2.0 Flash	11-12 Ford
61281	Banks Power iQ 2.0 Flash	06-10 Chevy
66062	Banks Power AutoMind Programmer	05-08 Ford
66102	Banks Power AutoMind Programmer	11-12 Ford
66410	AutoMind 2 Programmer	04-16 Ford
66411	AutoMind 2 Programmer	
66412	Banks Power AutoMind 2 Programmer	98-11 Jeep
61141	Banks Power iQ 2.0 Upgrade for Six Gun with Speedloader	01-05 Chevy
61142	Banks Power iQ 2.0 Upgrade for Six Gun with Switch	01-05 Chevy
61144	Banks Power iQ 2.0 Upgrade	06-07 Chevy/GMC
61145	Banks Power iQ 2.0 Upgrade	07-10 Chevy/GMC
61146	Banks Power iQ 2.0 Upgrade	07-10 Chevy/GMC
61148	Banks Power iQ 2.0 Upgrade	03-07 Dodge Ram
61149	Banks Power iQ 2.0 Upgrade	03-07 Dodge Ram
61151	Banks Power iQ 2.0 Upgrade	03-07 Ford F250/350
61155	Banks Power iQ 2.0 Upgrade	08-10 Ford 6.4L
61156	Banks Power iQ 2.0 Upgrade	03-10 Ford

Table E: Bully Dog Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
40417	Bully Dog Triple Dog GT Platinum Tuner	99-00 GMC/07-17 all
40420	Bully Dog Triple Dog Diesel GT	99-17 most makes
40460B	Bully Dog GTX Guage, Monitor & Tuner	08-19 Fords
40470	Bully Dog BDX Performance Programmer	96-18 most makes

Table F: Diablosport Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
P1030	Diablosport Extreme Power Puck	05-06 Jeep
i2020	Diablosport inTune i2	Fords

i2030	Diablosport inTune i2	Chevy/GMC Vehicles
7103	Predator P2 Performance Tuner	99-15 Ford
7203	Predator P2 Performance Tuner	01-16 Chevy
7303	Predator P2 Performance Tuner	06-12 Ram diesel
7320	Predator P2 Platinum Tuner	03-14 Ram and Durango
7410	Predator P2 Tuner	98-14 Jeep
S1000	Sprint Car Fuel Management Module	05-16 GMC
T1000	Diablosport Trinity Tuner	17 Ford/18 GMC Chevy
PKITDUR36V615-T2	Modified PCM and T2 Programmer	2015 Ram
PKITDUR36V616-T2	Modified PCM and T2 Programmer	2016 Ram
PKITDR578S15-T2	Diablo Tuner	2015 Ram
PKITDR578S16-T2	Diablo Tuner	2016 Ram
PKITDR6417-I3	Diablo Tuner	2017 Ram
PKITDR6417-T2	Diablo Tuner	2017 Ram
PKITDURV815-T2	Diablo Tuner	2015 Dodge Durango
PKITDURV817-T2	Diablo Tuner	2017 Dodge Durango
PKITJGCV615-T2	Diablo Tuner	2015 Jeep Grand Cherokee
PKITJGCV617-T2	Diablo Tuner	2017 Jeep Grand Cherokee
PKITJGCV815-T2	Diablo Tuner	2015 Jeep Grand Cherokee
PKITJGCV816-T2	Diablo Tuner	2016 Jeep Grand Cherokee
PKITJK363016-T2	Diablo Tuner	2016 Jeep Wrangler
PKITJK363016-T2	Diablo Tuner	2017 Jeep Wrangler
PKITJK363017-T2	Diablo Tuner	2017-2018 Jeep Wrangler
PKITJK363018-I3	Diablo Tuner	2018 Jeep Wrangler
PKITJK363018-T2	Diablo Tuner	2018 Jeep Wrangler
PKITJL363018-I3	Diablo Tuner	2018 Jeep Wrangler
PKITJL363018-T2	Diablo Tuner	2018 Jeep Wrangler
PKITTHAWK18-I3	Diablo Tuner	2018 Jeep Grand Cherokee
PKITTHAWK18-T2	Diablo Tuner	2018 Jeep Grand Cherokee
PKITDR36V615-I3	Modified PCM and inTune i3	2015 Dodge Ram 1500
PKITDR36V616-I3	Modified PCM and inTune i3	2016 Dodge Ram 1500
PKITDR576S15-I3	Modified PCM and inTune i3	2015 Dodge Ram 2500
PKITDR576S16-I3	Modified PCM and inTune i3	2016 Ram 2500
PKITDR578S15-I3	Modified PCM and inTune i3	2015 Ram 1500
PKITDR578S16-I3	Modified PCM and inTune i3	2016 Ram 1500
PKITDR578S17-I3	Modified PCM and inTune i3	2017 Ram 1500
PKITDR578S18-i3	Modified PCM and inTune i3	2018 - current Ram 1500
PKITDR646S15-I3	Modified PCM and inTune i3	2015 Ram 2500 - 3500
PKITDR646S16-I3	Modified PCM and inTune i3	2016 Ram 2500 - 3500
PKITDURV615-I3	Modified PCM and inTune i3	2015 Dodge Durango
PKITDURV815-I3	Modified PCM and inTune i3	2015 Dodge Durango
PKITDURV816-I3	Modified PCM and inTune i3	2016 Dodge Durango
PKITDURV817-I3	Modified PCM and inTune i3	2017 Dodge Durango
PKITJGCV615-I3	Modified PCM and inTune i3	2015 Jeep Grand Cherokee

PKITJGCV617-I3	Modified PCM and inTune i3	2017 Jeep Grand Cherokee
PKITJGCV815-I3	Modified PCM and inTune i3	2015 Jeep Grand Cherokee
PKITJGCV816-I3	Modified PCM and inTune i3	2016 Jeep Grand Cherokee
PKITJGCV817-I3	Modified PCM and inTune i3	2017 Jeep Grand Cherokee
PKITJK363015-I3	Modified PCM and inTune i3	2015 Jeep Wrangler
PKITJK363016-I3	Modified PCM and inTune i3	2016 Jeep Wrangler
PKITJK363017-I3	Modified PCM and inTune i3	17 – 18 Jeep Wrangler
PKITDR646S15-T2	Modified PCM and T2	2015 Ram 2500 - 3500
PKITDR646S16-T2	Modified PCM and T2	2016 Ram 2500
PKITDURV615-T2	Modified PCM and T2	2015 Dodge Durango
9145	Trinity 2 EX Performance (Platinum)	99 – 17 Ford
9321-R	Trinity 2 Tuner and PCM Swap (Platinum)	2015 – current Dodge
9324-BR	Trinity 2 Swap	2018 Ram 2500 - 3500
9345	Trinity 2 EX Performance (Platinum)	03 – 14 Dodge
9420-BR	Trinity 2 Swap	18 – 19 Jeep Wrangler
9420-R	Trinity 2 Tuner and PCM Swap (Platinum)	15 – current Jeep Wrangler
9445	Trinity 2 Tuner (Platinum)	05 – 14 Jeep
P1030	Diablo Power Puck	05-06 Jeep Liberty
8321-AR	i3 & PCM Swap	2018 Ram 1500
8323-BR	i3 Swap - 8323-BR	2018 Jeep Grand Cherokee
8420-BR	i3 Swap	18-19 Jeep Wrangler
i2020	inTune i2 for Ford Vehicles	2017 Ford F-150
- 8245	inTune i3 for GM Platinum	99-18 GMC/Chevy
PCM-DR578S18	Modified PCM	2018 Ram 1500

Table G: Hypertech Programmers

Part No.	Reprogrammer Name	Vehicle Fitment
2000	Hypertech Max Energy tuner 2.0	04-18 Ford, GMC, Chevy

Table H: Jet Performance Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
14005	Jet Performance Dynamic Spectrum	96-07 GMC, Chevy
14006	Jet Performance Dynamic Spectrum	01-05 Chevy
14007	Jet Performance Dynamic Spectrum	07-15 GMC, Chevy
15004	Jet Performance	99-03 Ford
15015	Jet Performance	01-06 GMC, Chevy
15023	Jet Performance	01-06 GMC, Chevy
15045	Jet Performance Program For Power Jet	11-16 Ford

16003	Jet Performance EZ-Tune	96-04 Ford
16043	Jet Performance EZ-Tune	04-09 Ford
17003	Jet Performance Speedo Pro Programmer	96-04 Ford
67021	Jet Performance V-Force Plus	94-12 Honda
67023	Jet Performance V-Force Plus	90-12 Mitsubishi
67025	Jet Performance V-Force Plus	90-11 Mazda
67026	Jet Performance V-Force Plus	01-12 Mazda
67027	Jet Performance V-Force Plus	90-04 Nissan
67028	Jet Performance V-Force Plus	99-12 Nissan
67029	Jet Performance V-Force Plus	90-11 Toyota
67030	Jet Performance V-Force Plus	90-13 Toyota
67032	Jet Performance V-Force Plus	05-10 Kia
67036	Jet Performance V-Force Plus	01-11 Suzuki
68021	Jet Performance V-Force Plus	09 Pontiac
68023	Jet Performance V-Force Plus	06 Buick
68024	Jet Performance V-Force Plus	10-12 Dodge
68026	Jet Performance V-Force Plus	10-12 Dodge
68030	Jet Performance V-Force Plus	10-12 Dodge
68031	Jet Performance V-Force Plus	99-01 Jeep
68032	Jet Performance V-Force Plus	99-01 Jeep
90015S	Jet Performance Module Stage 2 Jeep	96-03 Jeep
90701S	Jet Performance Module Stage 2 Jeep	06-08 Jeep, Dodge

Table I: SCT Performance Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
4015	SCT Performance iTSX Wireless Vehicle Programmer	95-16 Ford
4416	SCT Performance iTSX Pre-Loaded Programmer	95-15 GMC, Chevy
5015P	SCT Performance LiveWire TS+ Performance Programmer and Monitor	---
5416	SCT Performance LiveWire TS+ Programmer and Monitor	05-16 GMC, Chevy
5416P	SCT Performance LiveWire TS+ Ford Programmer and Monitor	99-16 GMC, Chevy
7015	SCT Performance X4 Power Flash Ford Programmer	Ford
7215	SCT Performance X4 Power Flash Tuner	---
7416	SCT Performance X4 Power Flash General Motors Programmer	GMC
40460S	SCT Performance GTX Performance Tuner and Monitor	08-17 Ford
40490	SCT Performance BDX Performance Programmer	97-18 Most makes

Table J: Superchips Reprogrammers

Part No.	Reprogrammer Name	Vehicle Fitment
1845	Superchips F5 Flashpaq for Ford - 17-18	99-18 Ford
2845	Superchips F5 Flashpaq for GM	17-18 GM
3571	Superchips FlashCal F5 for Jeep Wrangler JK	07-18 Jeep
3571-JL	Superchips FlashCal F5 for Jeep	18 Jeep
3846	Superchips Flashpaq F5 Programmer	15-18 Ram
3876-JL	Superchips Flashpaq F5 no EO - 17-18	18 Jeep
5845	Superchips F5 Pro Custom Manual Offline Tool	99-16 Most makes
5845	Superchips Flashpaq F5 Pro Custom	---
10601	Superchips Dashpaq race only Ford gas	Ford
20601	Superchips Dashpaq race only GM gas	GMC
20601	Superchips 30601 Dashpaq race only Dodge gas	Dodge
30617	Superchips Dashpaq race only	15-17 Ram
30627	Superchips Dashpaq race only	18-19 Ram
42050	Superchips Trail Dash 2 tuner	03-14 Jeep
42051	Superchips Trail Dash 2	15-18 Jeep

B. TAP Worldwide Has Removed Emission Control Devices from Motor Vehicles in Utah.

78. TAP Worldwide has removed emission control devices from motor vehicles in Utah.

79. TAP Worldwide's removal of emission control devices from motor vehicles has caused such vehicles to emit more pollution into the air of Utah than the vehicles emitted before the removal of such devices.

80. TAP Worldwide's removal of emission control devices from motor vehicles in Utah diminished such vehicles' ability to reduce the emission of pollutants on a continuous basis.

81. TAP Worldwide did not replace the emission control devices that it removed from motor vehicles in Utah with other devices that were equally or more effective in reducing emissions.

82. TAP Worldwide has, on more than one occasion, knowingly removed catalytic converters from motor vehicles in Utah in the course of installing exhaust system kits and/or “race” catalytic converters. Catalytic converters are designed to reduce the emission of air pollutants on a continuous basis. TAP Worldwide’s removal of catalytic converters from motor vehicles caused such vehicles to emit more pollution into the air of Utah than the vehicles emitted before the catalytic converters were removed.

83. TAP Worldwide has, on more than one occasion, knowingly removed emission control devices, including electronic elements of design, from motor vehicles in Utah through the sale and installation of reprogrammers. TAP Worldwide’s removal of emission control devices and electronic elements of design from motor vehicles through the sale and installation of reprogrammers has caused such vehicles to emit more pollution into the air of Utah than the vehicles emitted before the emission control devices and electronic elements of design were removed.

84. Motor vehicles from which TAP Worldwide has removed emission control devices have been operated on public roads and on public lands in Utah, on private roads and on private lands in Utah, and continue to be operated on such roads and lands in Utah. Motor vehicles from which TAP Worldwide has removed emission control devices and elements of design are emitting more pollution into the air than they would be emitting absent such modifications.

85. TAP Worldwide is not currently prevented by any enforceable injunction from removing emission control devices and elements of design from motor vehicles. TAP Worldwide has not restored the original emission control devices and elements of design to the motor vehicles from which TAP Worldwide removed such devices.

V. CAUSES OF ACTION

86. Physicians incorporate by reference and realleges the allegations contained in paragraphs 1 through 85 for all causes of action stated below.

FIRST CAUSE OF ACTION

TAP Worldwide has repeatedly violated CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by offering to sell and/or selling aftermarket defeat parts in Utah.

87. CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), make it illegal for any person to offer to sell or sell any aftermarket defeat part.

88. CAA Section 302(e), 42 U.S.C. § 7602(e), defines the term “person” as including “an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.”

89. TAP Worldwide is a “person” within the meaning of CAA Section 302(e), 42 U.S.C. § 7602(e).

90. CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), has applied at all times applicable to the allegations in this Complaint. 40 C.F.R. § 86.1854-12(a)(3)(ii) has applied at all times to the allegations in this Complaint.

91. TAP Worldwide, doing business at 4 Wheel Parts, offers to sell and sells aftermarket defeat parts in Utah through the website <https://www.4wheelparts.com>, and in its 4 Wheel Parts Performance Centers in Salt Lake City and Ogden. TAP Worldwide also offers to sell and sells aftermarket defeat parts through Transamerican Wholesale.

92. Over the last five years, TAP Worldwide repeatedly violated CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by offering for

sale and selling aftermarket defeat parts in Utah, including but not limited to the aftermarket defeat parts identified in Section IV, Tables A-J. Each emission control device bypassed, defeated or rendered inoperative by such aftermarket defeat parts limited the emission of pollutants on a continuous basis.

93. Each emission control device bypassed, defeated, and/or rendered inoperative by each aftermarket defeat part that TAP Worldwide offered for sale and sold in Utah, represents a separate violation of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii).

94. TAP Worldwide continues to violate CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by offering for sale and/or selling aftermarket defeat parts in Utah.

95. TAP Worldwide has not retrieved the aftermarket defeat parts that it sold in Utah, and has not restored the original emission control devices in motor vehicles TAP Worldwide's aftermarket defeat parts defeated. TAP Worldwide's failure to retrieve the aftermarket defeat parts it sold in Utah, and to restore to CAA compliance the motor vehicles in which such parts were installed, constitutes a continuing violation of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii).

96. The excess emissions from motor vehicles in Utah in which TAP Worldwide's aftermarket defeat parts are installed continue to harm Physicians' members. The excess emissions from such motor vehicles represent a continuing harm caused by TAP Worldwide's violations that TAP Worldwide is responsible to remediate.

97. Pursuant to CAA Section 205(a), 42 U.S.C. § 7524(a), CAA Section 304(a), 42 U.S.C. § 7604(a) and CAA Section 113(e), 42 U.S.C. § 7413(e), TAP Worldwide is liable for

injunctive relief, a civil penalty of up to \$3,750 for each emission control device bypassed, defeated, and/or rendered inoperative by each aftermarket defeat part that TAP Worldwide offered for sale and sold in violation of CAA Section 203(a)(3)(B) between September 6, 2014 and November 1, 2015, and a civil penalty of up to \$4,454 for each such violation occurring after November 1, 2015. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016).

SECOND CAUSE OF ACTION
TAP Worldwide repeatedly violated CAA Section 203(a)(3)(B),
42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by
installing aftermarket defeat parts in motor vehicles in Utah.

98. CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii) make it illegal for any person to install any aftermarket defeat part.

99. CAA Section 302(e), 42 U.S.C. § 7602(e), defines the term “person” as including “an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof.”

100. TAP Worldwide is a “person” within the meaning of CAA Section 302(e), 42 U.S.C. § 7602(e).

101. CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), has applied at all times applicable to the allegations in this Complaint. 40 C.F.R. § 86.1854-12(a)(3)(ii) has applied at all times to the allegations in this Complaint.

102. Over the last five years, TAP Worldwide repeatedly violated CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by installing aftermarket defeat parts in motor vehicles in Utah, including but not limited to the parts and/or components identified in Section IV, Tables A-J.

103. Each emission control device bypassed, defeated, and/or rendered inoperative by each aftermarket defeat part that TAP Worldwide installed, represents a separate violation of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii).

104. TAP Worldwide continues to violate CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii) by installing aftermarket defeat parts in Utah.

105. TAP Worldwide has not retrieved the aftermarket defeat parts that it installed in Utah, and has not restored the original emission control devices in motor vehicles TAP Worldwide's aftermarket defeat parts defeated. TAP Worldwide's failure to retrieve the aftermarket defeat parts it installed in Utah, and to restore to CAA compliance the motor vehicles in which such parts were installed, constitutes a continuing violation of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii).

106. The excess emissions from motor vehicles in Utah in which TAP Worldwide's aftermarket defeat parts are installed continue to harm Physicians' members. The excess emissions from such motor vehicles represent a continuing harm caused by TAP Worldwide's violations that TAP Worldwide is responsible to remediate.

107. Pursuant to CAA Section 205(a), 42 U.S.C. § 7524(a), CAA Section 304(a), 42 U.S.C. § 7604(a) and CAA Section 113(e), 42 U.S.C. § 7413(e), TAP Worldwide is liable for injunctive relief, a civil penalty of up to \$3,750 for each emission control device and element of design bypassed, defeated, and/or rendered inoperative by each part or component that TAP Worldwide installed in violation of CAA Section 203(a)(3)(B) between September 6, 2014 and November 1, 2015, and a civil penalty of up to \$4,454 for each such violation occurring after November 1, 2015. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016).

THIRD CAUSE OF ACTION

TAP Worldwide repeatedly violated Utah SIP Regulation R307-201-2, 40 C.F.R. § 52.2320(c)(59), by removing, and/or making inoperable, emission control devices in motor vehicles in Utah

108. Utah SIP regulation R307-201-2 was promulgated as a federal rule in 2006 at 40 C.F.R. § 52.2320(c)(59), 71 Fed. Reg. 7679 (February 14, 2006), <https://yosemite.epa.gov/R8/R8Sips.nsf/b2af5baa99cc429287256b5f0054df73/ca340b2cc972ff7d87257f1600552cf3!OpenDocument>.

109. Utah SIP regulation R307-201-2 prohibits any person from removing, or making inoperable, any federally-required exhaust emissions control system or device on any motor vehicle in Utah.

110. The term “person” in the Utah SIP includes an “individual, trust, firm, estate, company, corporation, partnership, association, state, state or federal agency or entity, municipality, commission, or political subdivision of a state.” R307-101-2, 40 C.F.R. § 52.2320(c)(67), (83), 73 Fed. Reg. 51222 (September 2, 2008); 81 Fed. Reg. 4959 (January 1, 2016).

111. Utah SIP regulation R307-201-2 has applied at all times applicable to the allegations in this Complaint.

112. TAP Worldwide is a “person” within the meaning of Utah SIP Regulation R307-101-2.

113. Over the last five years, TAP Worldwide repeatedly violated Utah SIP regulation R307-201-2 by removing, or making inoperable, federally-required exhaust emission control systems and devices in motor vehicles in Utah in the course of installing the parts and/or

components identified in Section IV, Tables A-J. The purpose of such systems and devices was to reduce the emission of pollutants on a continuous basis.

114. Over the last five years, TAP Worldwide repeatedly violated Utah SIP regulation R307-201-2 by removing, or making inoperable, federally-required exhaust emission control systems and devices in motor vehicles in Utah by selling the parts identified in Tables A-J that provide the equipment and instructions to the consumer to effect such removal or making inoperable.

115. Each emission control device and element of design removed or made inoperable by each part or component that TAP Worldwide installed represents a separate violation of Utah SIP regulation R307-201-2.

116. TAP Worldwide continues to violate Utah SIP regulation R307-201-2 by removing, or making inoperable, federally-required exhaust emission control systems or devices on motor vehicles in Utah. Each exhaust emissions control system or device removed or made inoperable by such parts and/or components that TAP Worldwide removed limited the emission of pollutants on a continuous basis.

117. TAP Worldwide's failure to restore to Utah SIP compliance the motor vehicles in Utah from which it removed or made inoperable exhaust emission control systems and devices constitutes a continuing violation of Utah SIP regulation R307-201-2. The excess emissions from motor vehicles in Utah in which TAP Worldwide's aftermarket defeat parts are installed continue to harm Physicians' members. The excess emissions from such motor vehicles represent a continuing harm caused by TAP Worldwide's violations that TAP Worldwide is responsible to remediate.

118. Pursuant to CAA Sections 304(a) and 113(b), 42 U.S.C. §§ 7604(a) and 7423(b), TAP Worldwide is liable for injunctive relief, and for a civil penalty of up to \$37,500 for each exhaust emissions control system and device removed or rendered inoperable in a motor vehicle in Utah in violation of Utah SIP regulation R307-201-2 between September 6, 2014 and November 1, 2015, and up to \$93,750 for each such violation after November 1, 2015. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016).

FOURTH CAUSE OF ACTION

**TAP Worldwide repeatedly violated CAA Section 203(a)(3)(A),
42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i),
by knowingly removing federally-required emission control devices
in motor vehicles in Utah**

119. CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), makes it illegal for any person knowingly to remove or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with EPA regulations after the vehicle's sale and delivery to the ultimate purchaser.

120. CAA Section 302(e), 42 U.S.C. § 7602(e), defines the term "person" as including "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent, or employee thereof."

121. TAP Worldwide is a "person" within the meaning of CAA Section 302(e), 42 U.S.C. § 7602(e).

122. CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), has applied at all times to the allegations in this Complaint. 40 C.F.R. § 86.1854-12(a)(3)(i) has applied at all times to the allegations in this Complaint.

123. Over the last five years, TAP Worldwide repeatedly violated CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i), by knowingly causing the removal and/or the rendering inoperative of emission control devices in motor vehicles in Utah in the course of installing the parts and/or components identified in Section IV, Tables A-J. Each emission control device limited the emission of pollutants on a continuous basis.

124. Over the last five years, TAP Worldwide repeatedly violated CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i), by knowingly causing the removal and/or the rendering inoperative of emission control devices in motor vehicles in Utah by selling the parts identified in Tables A-J that provide the equipment and instructions to the consumer to effect such removal or rendering inoperative.

125. Each emission control device removed or rendered inoperative by each aftermarket defeat part that TAP Worldwide sold represents a separate violation of CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i).

126. TAP Worldwide continues to violate CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i), by knowingly causing the removal and/or the rendering inoperative of emission control devices installed in motor vehicles in Utah. TAP Worldwide's failure to restore to CAA compliance the motor vehicles from which TAP Worldwide removed emission control devices constitutes a continuing violation of CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i).

127. The excess emissions from motor vehicles in Utah in which TAP Worldwide's aftermarket defeat parts are installed continue to harm Physicians' members. The excess

emissions from such motor vehicles represents a continuing harm caused by TAP Worldwide's violations that TAP Worldwide is responsible to remediate.

128. Pursuant to CAA Section 205(a), 42 U.S.C. § 7524(a), CAA Section 304(a), 42 U.S.C. § 7604(a) and CAA Section 113(e), 42 U.S.C. § 7413(e), TAP Worldwide is liable for injunctive relief, and for a civil penalty of up to \$3,750 for each emission control device removed or rendered inoperative by each aftermarket defeat part that TAP Worldwide sold in violation of CAA Section 203(a)(3)(B) between September 6, 2014 and November 1, 2015, and a civil penalty of up to \$4,454 for each such violation occurring after November 1, 2015. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016).

VI. REQUESTS FOR RELIEF

WHEREFORE, Physicians respectfully requests that this Court grant the following relief to correct TAP Worldwide's significant and ongoing violations of law as follows:

A. DECLARE that TAP Worldwide, as specifically alleged in the First Cause of Action, has violated and continues to violate Clean Air Act Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii) by offering to sell and selling aftermarket defeat parts for motor vehicles in Utah.

B. DECLARE that TAP Worldwide, as specifically alleged in the Second Cause of Action, has violated and continues to violate Clean Air Act Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 86.1854-12(a)(3)(ii), by installing aftermarket defeat parts in motor vehicles in Utah.

C. DECLARE that TAP Worldwide, as specifically alleged in the Third Cause of Action, has violated and continues to violate Utah SIP Regulation R307-201-2 by removing, or making inoperable, federally-required exhaust emission control systems and devices in motor

vehicles in Utah.

D. DECLARE that TAP Worldwide, as specifically alleged in the Fourth Cause of Action, has violated and continues to violate Clean Air Act Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and 40 C.F.R. § 86.1854-12(a)(3)(i) by removing emission control devices from motor vehicles in Utah.

E. ISSUE A PERMANENT INJUNCTION enjoining TAP Worldwide:

1. Permanently to stop offering to sell, selling or installing, any aftermarket defeat part in Utah, including but not limited to TAP Worldwide's sale and installation of exhaust system kits that remove catalytic converters, unapproved "race" catalytic converters, and unapproved reprogrammers and software "tunes;"

2. Permanently to stop removing or rendering inoperative any emission control device in any motor vehicle in Utah;

3. To provide a financial incentive of sufficient size to all Utah consumers of its aftermarket defeat parts to effect the retrieval of at least 90 percent of such parts sold over the last five years, and pay for the full restoration of each vehicle's emission control devices to their original condition;

4. To finance supplemental relief designed to reduce air pollution in the non-attainment areas of Utah to compensate for the excess, illegal pollution caused by TAP Worldwide's CAA violations;

5. To require the regular, certified submission to the Court and Physicians of all facts and reports necessary to ensure complete and continuing compliance with the requirements above, along with providing the opportunity for periodic inspections; and

F. ORDER TAP Worldwide to pay a civil penalty of up to \$37,500 per violation for

removing or making inoperable federally-required exhaust emission control systems and devices in motor vehicles in Utah in violation of Utah SIP regulation R307-201-2 between September 6, 2014 and November 1, 2015, and \$93,750 per violation for each such violation after November 1, 2015.

G. ORDER TAP Worldwide to pay to the federal Treasury a civil penalty pursuant to CAA Section 205(a), 42 U.S.C. § 7524(a), of up to \$3,750 for each violation of CAA Sections 203(a)(3)(A) and 203(a)(3)(B) occurring on or after September 6, 2014, and a civil penalty of up to \$4,454 for each violation of CAA Sections 203(a)(3)(A) and 203(a)(3)(B) occurring on or after November 1, 2015. 40 C.F.R. § 19.4; 81 Fed. Reg. 43,092, 43,095 (July 1, 2016). Pursuant to 42 U.S.C. § 7524(a), each emission control device removed or rendered inoperative from each motor vehicle in violation of CAA Section 203(a)(3)(A) shall constitute a separate offense, and each emission control device bypassed, defeated or rendered inoperative by any part or component in violation of CAA Section 203(a)(3)(B) shall constitute a separate offense. 42 U.S.C. § 7604(a) and 42 U.S.C. § 7604(g)(1) provide that penalties are directed to finance EPA air compliance and enforcement activities;

H. ORDER TAP Worldwide to pay up to \$100,000 for beneficial mitigation projects, as provided for by 42 U.S.C. § 7604(g)(2), consistent with the purposes of the Clean Air Act;

I. ORDER TAP Worldwide to pay Physicians their costs of litigation, including but not limited to reasonable attorney and expert witness fees, as authorized in CAA Section 304, 42 U.S.C. § 7604(d); and

J. GRANT such other relief as the Court deems necessary and proper.

Dated this 5th day of September, 2019.

/s Reed Zars
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ATTACHMENTS

Attachment 1: Physicians' June 21, 2019 Notice Letter.

Attachment 2: Template for Answer to parts allegations.