

Agency of Natural Resources Testimony on H.81

March 17, 2023

My name is Rachel Stevens, and I am an Associate General Counsel at the Agency of Natural Resources representing the Air Quality Division of the Department of Environmental Conservation. ANR is neutral on this bill and is appearing today to provide technical assistance. I have been asked to provide the committee with an overview of the state and federal air pollution control requirements that may apply to “agricultural equipment,” focusing on sections of the law that prohibit changing emissions control systems.

I’ll start with the federal Clean Air Act. Section 203 of the Clean Air Act and the Environmental Protection Agency’s implementing regulations prohibit any person from knowingly removing or rendering inoperative (i.e., “tampering”) any such emissions control device or element of design in a motor vehicle or motor vehicle engine. The Act also prohibits installing any part or component intended for use with or as part of a motor vehicle or engine, where a principal effect of the part is to bypass, defeat, or render inoperative any such emissions control device or element of design. See Section 203(a)(3)(A), (B); 40 C.F.R. § 1068.101(b).

There are emissions control requirements that apply to agricultural equipment. Under Section 213 of the Clean Air Act, EPA sets [emissions and exhaust standards for nonroad engines and vehicles](#). See 42 USC 7547. “Nonroad engine” is defined broadly to mean any internal combustion engine (including the fuel system) that is not used in a motor vehicle, and “nonroad vehicle” means as any vehicle that is powered by a nonroad engine and that is not a motor vehicle. The specific EPA emissions and exhaust standards that would apply vary depending on whether the agricultural equipment uses an engine with a [compression-ignition](#) or a [spark-ignition](#); whether the equipment is new or existing; and whether the equipment is mobile or stationary.

The Vermont Air Pollution Control Law includes additional requirements for motor vehicles that prohibit tampering with any equipment or feature of the air pollution control system. Specifically, [10 VSA Section 567](#) states that “no person shall fail to maintain in good working order or remove, dismantle, or otherwise cause to be inoperative any equipment or feature constituting an operational element of the air pollution control system or mechanism of a motor vehicle and required by rules pursuant to this chapter to be maintained in or on the vehicle.” Motor vehicles are defined by [23 VSA Section 4](#) and includes “all vehicles propelled or drawn by power other than muscular power,” and excludes “farm tractors.” Specific definitions for farm tractor and other farm and agricultural vehicles can be found in 23 VSA Section 4.

Violations of the prohibitions against tampering and defeat devices may result in civil and criminal penalties, loss of manufacturer warranties, loss of insurance coverage, and loss of registration. EPA has ramped up enforcement of these provisions in recent years. In 2020, EPA issued an anti-tampering [enforcement alert](#) and updated its [Enforcement Policy](#) on Vehicle and Engine Tampering and Aftermarket Defeat Devices. See also <https://cleanairnortheast.epa.gov/tampering.html>.

In sum, there are federal and state air pollution control requirements and anti-tampering prohibitions for nonroad engines, nonroad vehicles, and motor vehicles that may apply to “agricultural equipment.”