

**U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY  
SUBCOMMITTEE ON OVERSIGHT**

**HEARING CHARTER**

***Racing to Regulate: EPA's Latest Overreach on Amateur Drivers***

Tuesday, March 15, 2016  
10:00 a.m. – 12:00 p.m.  
2318 Rayburn House Office Building

**PURPOSE**

The Subcommittee on Oversight will hold a hearing entitled *Racing to Regulate: EPA's Latest Overreach on Amateur Drivers* on Tuesday, March 15, 2016, in Room 2318 of the Rayburn House Office Building. The hearing will examine the scientific underpinnings and the technological and economic impact of the U.S. Environmental Protection Agency's (EPA) decision to enforce the Clean Air Act on those who modify nonroad vehicles (legally de-registered vehicles) for the purpose of using them in racing competitions.

**WITNESS LIST**

**First Panel**

- **The Honorable Patrick McHenry**, Member, U.S. House of Representatives

**Second Panel**

- **Mr. Christopher Kersting**, President and CEO, Specialty Equipment Marketing Association
- **Mr. Ralph Sheheen**, Managing Partner and President, National Speed Sport News
- **Mr. Brent Yacobucci**, Section Research Manager, Energy and Minerals Section, Congressional Research Service

**BACKGROUND**

On July 13, 2015, EPA and the National Highway Traffic Safety Administration issued a proposed rule for Phase 2 Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles.<sup>1</sup> Within this proposed rule, EPA included a miscellaneous change to regulations applicable to highway vehicles currently in use and not specifically limited to medium and heavy duty vehicles. The provision would bring nonroad vehicles modified to be racecars under the jurisdiction of the Clean Air Act. Stakeholders have

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<sup>1</sup> Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2 Proposed Rule, 80 Fed. Reg. 40,137 (July 13, 2015).

claimed they were not given proper notice of this proposed change despite regular meetings with EPA on a host of issues. EPA's proposed language specifically states:

Certified motor vehicles and motor vehicle engines and their emission control devices must remain in their certified configuration even if they are used solely for competition or if they become nonroad vehicles or engines.<sup>2</sup>

Stakeholder groups, such as the Specialty Equipment Market Association, have stated that this proposed language contravenes Congress' intent that the Clean Air Act not apply to nonroad vehicles modified for the purpose of racing competitions.<sup>3</sup> According to the legislative history, the Clean Air Act amendments of 1990 specifically excluded these racecars from the statute's jurisdiction. However, EPA claims that the agency is merely clarifying long standing agency policy that the agency does have the authority to enforce the Clean Air Act on nonroad vehicles used in competition.<sup>4</sup>

On March 2, 2016, EPA released a Notice of Data Availability for the Heavy-Duty Engine rule soliciting additional comments on the racecar rule.<sup>5</sup> However, EPA did not provide any further information for this provision within the Federal Register, such as an economic analysis, regulatory flexibility analysis, or Small Business Regulatory Fairness Enforcement Act analysis. At no point in the rulemaking process has EPA provided any scientific basis for the need to clarify its Clean Air Act authority for racecars. The comment period for this provision closes on April 1, 2016.

On March 7, 2016, Chief Deputy Whip Patrick McHenry (R-NC) introduced H.R. 4715, the Recognizing the Protection of Motorsports Act of 2016.<sup>6</sup> This bill would codify within the Clean Air Act the exclusion of vehicles modified for the purpose of racing competition from the statute.<sup>7</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> Specialty Equipment Market Association, Comments: Proposed Rule: Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles Phase 2: Vehicles Used Solley in Competition, Dec. 28, 2015.

<sup>4</sup> Ryan Beene, "EPA, SEMA at Odds Over Proposed Racecar Rule," AutoNews, Feb. 9, 2016, *available at* <http://www.autonews.com/article/20160209/OEM10/160209811/epa-sema-at-odds-over-proposed-racecar-rule>.

<sup>5</sup> Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles – Phase 2 – Notice of Data Availability, 81 Fed. Reg. 10,822 (Mar. 2, 2016).

<sup>6</sup> Press Release, *McHenry Introduces RPM Act*, Mar. 8, 2016.

<sup>7</sup> *Id.*