

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN THE MATTER OF:**

McKissick Trucking, Inc.  
699 Pinegrove School Road  
Venus, PA 16364

**Respondent.**

)  
)  
)  
)  
)  
)  
)

**DOCKET NO.: CAA-03-2021-0069  
EXPEDITED SETTLEMENT  
AGREEMENT**

**EXPEDITED SETTLEMENT AGREEMENT**

1. This Expedited Settlement Agreement (or "Agreement") is entered into by the Director, Enforcement & Compliance Assurance Division, U.S. Environmental Protection Agency, Region III ("Complainant"), and Mc Kissick Trucking, Inc. ("Respondent"), pursuant to Section 205(c)(1) of the Clean Air Act ("CAA"), as amended, 42 U.S.C § 7524(c)(1), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter pursuant to Section 205(c)(1) of the CAA, 42 U.S.C § 7524(c)(1), and 40 C.F.R. §§ 22.1(a)(2) and 22.4 of the Consolidated Rules of Practice.
3. At all times relevant to this Agreement, Respondent, a Pennsylvania limited liability company, was, and currently is, a "person" as defined under Section 302(e) of the CAA, 42 U.S.C § 7602(e), and the owner and operator of the facility located at 609 Pinegrove School Road, Venus, PA 16364 (the "Facility").
4. EPA alleges that Respondent failed to comply with Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(1).
5. As a result of EPA's investigation, EPA obtained evidence pursuant to its enforcement authority under Section 208(b) of the CAA, 42 U.S.C. §7542(b). EPA obtained evidence between December 20, 2016 and December 11, 2019 indicating that Respondent tampered with emissions controls on **thirty-five (35)** EPA-certified motor vehicles or motor vehicle engines; identified in Table 1 below, by removing or rendering inoperative a device or element of design installed on or in the vehicle or engine in compliance with regulations under Title II of the CAA. Specifically, EPA's investigation revealed that work orders or invoices confirmed tampering, in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and the implementing regulations found at 40 C.F.R. § 1068.101(b)(1). Respondent has provided no

documented reasonable basis to conclude that such conduct does not adversely affect emissions.

**Table 1: Violation Summary - Installation of Defeat Devices**

<b>Truck No.</b>	<b>Invoice No.</b>	<b>Invoice Date</b>	<b>Product Description</b>	<b>Vehicle Model Year and Manufacturer</b>
042	247	11/2/19	Tuner enables EGR block off, and DPF/ DOC/SCR removal	2007 International 5600I
055	211	5/3/19	EGR Blocked/DPF,DOC removed	2010 International 5900I
057	63	12/6/17	EGR Blocked/DPF,DOC removed	2010 Peterbilt 387
058	2807	6/6/17	EGR Blocked/DPF,DOC removed	2010 International 5900I
059	47	10/31/17	EGR Blocked/DPF,DOC removed	2011 International 5900I
070	2801	5/31/17	EGR Blocked/DPF,DOC removed	2011 International 5900I
071	2748	4/4/17	EGR Blocked/DPF,DOC removed	2012 Peterbilt 389
074	2748	4/4/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
077	1528	4/8/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
078	60	11/29/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
079	67	12/17/17	EGR Blocked/DPF,DOC removed	2012 Peterbilt 388
080	70	1/3/2018	EGR Blocked/DPF,DOC removed	2012 Peterbilt 388
082	67	12/17/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
083	77	1/12/18	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
088	78	1/11/18	EGR Blocked/DPF,DOC removed	2013 Peterbilt 386
089	94353	12/20/16	EGR Blocked/DPF,DOC removed	2010 Kenworth T800
090	133	7/2/18	Tuner enables EGR block off, and DPF/ DOC/SCR removal	2006 Mack CL7
093	2748	4/4/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
095	2716	2/24/17	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
096	129	6/28/18	EGR Blocked/DPF,DOC removed	2012 Kenworth T800
097	73	1/8/18	EGR Blocked/DPF,DOC removed	2013 Peterbilt 386
098	2933	10/23/17	EGR Blocked/DPF,DOC removed	2013 Peterbilt 386
099	2753	4/7/17	EGR Blocked/DPF,DOC removed	2013 Peterbilt 386
100	72	1/8/18	EGR Blocked/DPF,DOC removed	2013 Peterbilt 367
104	212	5/3/19	EGR Blocked/DPF,DOC removed	2015 Kenworth T800
105	232	7/8/19	EGR Blocked/DPF,DOC removed	2015 Kenworth T800
106	179	12/14/18	EGR Blocked/DPF,DOC removed	2015 International 5900I

Truck No.	Invoice No.	Invoice Date	Product Description	Vehicle Model Year and Manufacturer
107	180	12/15/18	EGR Blocked/DPF,DOC removed	2015 International 5900I
113	67	12/17/17	EGR Blocked/DPF,DOC removed	2013 Kenworth T800
114	255	12/11/19	EGR Blocked/DPF,DOC removed	2013 Kenworth T800
115	149	8/28/18	EGR Blocked/DPF,DOC removed	2013 Kenworth T800
116	None provided	None provided	EGR Blocked/DPF,DOC removed	2013 Kenworth T800
117	169	11/13/18	EGR Blocked/DPF,DOC removed	2013 Kenworth T800
Log Company Vehicle 1	69	1/2/18	EGR Blocked/DPF,DOC removed	Not provided
Log Company Vehicle 2	108	4/2/18	EGR Blocked/DPF,DOC removed	Not provided

6. Respondent certifies that it has not had the same, or closely-related violation(s), that were the subject of an enforcement action under Title II of the CAA within five (5) years of the date of Respondent’s execution of this Agreement.
  
7. Respondent certifies that it has provided EPA with true and accurate documentation demonstrating completion of remedial measures to correct the violations alleged above and come into compliance with the CAA.
  
8. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **FIFTY THOUSAND DOLLARS (\$50,000.00)**, which Respondent shall be liable to pay in accordance with the terms and provisions set forth below, is reasonable in the public interest and is based upon EPA’s consideration of the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), which include the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator’s business, the violator’s history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on the violator’s ability to continue in business, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s June 21, 2019 Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices policy, the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
  
9. Respondent agrees that, within thirty (30) calendar days of the effective date of this Agreement, Respondent shall make a payment of **FIFTY THOUSAND DOLLARS (\$50,000.00)**, by one of following four (4) methods, as further specified and directed below: a) electronic funds transfer (“EFT”); b) Automated Clearinghouse; c) Pay.gov; or d) a cashier’s check, or certified check, payable to the “United States Treasury” with the case name, address and docket number of this Agreement (CAA-03-2021-0069) referenced on the check for the amount specified above. A list of the payment methods is also provided on the website <https://www.epa.gov/financial/makepayment>.

- a) Payment of the penalty amount **by EFT** to:

Federal Reserve Bank of New York  
ABA 021030004  
Account 68010727  
SWIFT address FRNYUS33  
33 Liberty Street  
New York, NY 10045  
Beneficiary: Environmental Protection Agency

- b) Payment of the penalty amount **by Automated Clearinghouse (ACH)** to EPA can be made through the U.S. Treasury using the following information:

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706  
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility  
5700 Rivertech Court  
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

- c) Payment of the penalty amount made **through Pay.gov**:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You DO NOT need a username and password or account.
- (2) Enter SFO 1.1 in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the "Type of Payment" drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement (CAA-03-2021-0069) into the field.

- d) Payment of the penalty amount **by cashier's check, or by certified check**, payable to the "United States Treasury" with the case name, address and docket number of this Agreement (CAA-03-2021-0069) referenced on the check which shall be sent:  
(1) via certified mail to:

U.S. Environmental Protection Agency  
Cincinnati Finance Center  
P.O. Box 979077  
St. Louis, MO 63197-9000

or

- (2) via overnight mail (FedEx or other non-U.S. Postal Service express mail) to:

U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

10. Within twenty-four (24) hours of making payment, the Respondent shall also send proof of such payment (a copy of the check, confirmation of credit card or debit card payment, confirmation of wire transfer or of automated clearinghouse transfer) by email to:

Stafford Stewart (3ED21)  
[Stewart.stafford@epa.gov](mailto:Stewart.stafford@epa.gov)

and

Regional Hearing Clerk (3RC00)  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov)

11. In signing this Agreement, the Respondent:

- a) admits the jurisdictional allegations set forth in this Agreement;
- b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above;
- c) agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement;
- d) expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order;
- e) consents to the issuance of this Agreement and agrees to comply with its terms;
- f) agrees to bear its own costs and attorney's fees; and

- g) agrees not to deduct for federal tax purposes the civil penalty assessed in this Agreement.
12. By its signature below, Respondent certifies, that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Agreement are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.
  13. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
  14. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
  15. Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.
  16. This Agreement is binding on the parties signing below and is effective upon filing with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice, in accordance with 40 C.F.R. § 22.31(b).
  17. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.
  18. As permitted under 40 CFR § 22.6, the Regional Hearing Clerk will serve copies of this Agreement and Final Order by e-mail to the parties at the following valid e-mail addresses: [stewart.stafford@epa.gov](mailto:stewart.stafford@epa.gov) (for Complainant), and [accounting@mckissicktrucking.com](mailto:accounting@mckissicktrucking.com) (for Respondent).

**For Respondent: McKissick Trucking, Inc.**

Name: William McKissick

Title: Owner

Signature: 

Date: 4-1-2021

**For Complainant: U.S. Environmental Protection Agency, Region III**

After reviewing the Agreement and other pertinent matters, I, the undersigned Director of the Enforcement and Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

**IN THE MATTER OF:**

McKissick Trucking, Inc.  
699 Pinegrove School Road  
Venus, PA 16364

**Respondent.**

)  
)  
)  
)  
)  
)  
)

**DOCKET NO.:** CAA-03-2021-0069

**EXPEDITED SETTLEMENT  
AGREEMENT**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, McKissick Trucking, Inc., have executed a document entitled "Expedited Settlement Agreement," which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* ("Consolidated Rules of Practice"), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), EPA's June 21, 2019 *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy, the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19 and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation, and Respondent's current financial condition.

**NOW, THEREFORE, PURSUANT TO** Section 205(c)(1) of the Clean Air Act ("CAA"), as amended, 42 U.S.C § 7524(c)(1), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **FIFTY THOUSAND DOLLARS (\$50,000.00)**, in accordance with the payment provisions set forth in the Expedited Settlement Agreement, and comply with the terms and conditions of the Expedited Settlement Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Title II of the Clean Air Act ("CAA"), 42 U.S.C. §§ 7521 *et seq.*, and the regulations promulgated



thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region III