



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1201 ELM STREET, SUITE 500
DALLAS, TEXAS 75270

September 16, 2022

Geoffrey Tichenor
Stoel Rives LLP
760 SW Ninth Ave, Suite 3000
Portland, OR 97205

Sent via email: geoffrey.tichenor@stoel.com

RE: In the Matter of David Milliken fdba Milliken Diesel Performance; Waxahachie, Texas, CAA-06-2020-3342

Dear Mr. Tichenor,

Please find enclosed a copy of the fully executed Consent Agreement and Final Order ("CAFO") that was filed with the Regional Hearing Clerk in EPA, Region 6. Mr. Milliken will have thirty (30) days from the effective date of the CAFO to pay the civil penalty of two hundred eighty-six thousand three hundred forty-six dollars (\$286,346.00).

If you have any questions, please contact Justin Lannen, Assistant Regional Counsel, by phone at 214-665-8130 or by email at lannen.justin@epa.gov. Thank you for your assistance with this matter.

Sincerely,

A handwritten signature in cursive script that reads "Cheryl T. Seager".

Digitally signed by
CHERYL SEAGER
Date: 2022.09.16
12:10:40 -05'00'

Cheryl T. Seager, Director
Enforcement and
Compliance Assurance Division

Enclosure (1)

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

FILED
22 SEP 19 AM 9:30
REGIONAL HEARING CLERK
EPA REGION VI

IN THE MATTER OF: (

DAVID MILLIKEN fdba (

MILLIKEN DIESEL PERFORMANCE (

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(DOCKET NO. CAA-06-2022-3342

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RESPONDENT (

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CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is an administrative penalty assessment proceeding brought under Section 205(c)(1) of the Clean Air Act, (the “CAA” or “Act”), 42 U.S.C. § 7524(c)(1), and Sections 22.13, 22.18, and 22.34 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules”), as codified at 40 C.F.R. Part 22.

2. Complainant is the United States Environmental Protection Agency, Region 6 (the “EPA”). On EPA’s behalf, the Director of the Enforcement and Compliance Assurance Division has been delegated the authority to settle civil administrative penalty proceedings under Section 205(c)(1) of the Act.

3. Respondent is an individual that has done business in the state of Texas. Respondent is a “person” as defined in Section 302(e) of the Act, 42 U.S.C. § 7602(e).

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this Consent Agreement along with the corresponding Final Order hereinafter known together as “CAFO” without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. This CAFO is entered into under Section 205(c) of the Act, as amended, 42 U.S.C. § 7424(c), and the Consolidated Rules, 40 C.F.R. Part 22. The alleged violations in this CAFO are pursuant to Section 205(a).

6. The Regional Judicial Officer is authorized to ratify this CAFO which memorializes a settlement between Complainant and Respondent. 40 C.F.R. § 22.4(b) and 22.18(b).

7. The issuance of this CAFO simultaneously commences and concludes this proceeding. 40 C.F.R. § 22.13(b).

C. GOVERNING LAW

8. This proceeding arises under CAA Title II, Subpart A, 42 U.S.C §§ 7521-7554, and the regulations promulgated thereunder. These laws were enacted to reduce air pollution from mobile sources, including particulate matter (“PM”), non-methane hydrocarbons (“NMHC”), oxides of nitrogen (“NOx”), and carbon monoxide (“CO”).

9. The CAA requires EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or engines that cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare. CAA § 202(a)(1) and (3)(B), 42 U.S.C. § 7521 (a)(1) and (3)(B).

10. As required by the CAA, the emission standards “reflect the greatest degree of emission reduction achievable through the application of [available] technology.” CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).

11. Under Section 202 of the CAA, 42 U.S.C. § 7521, EPA has promulgated emission standards for PM, NMHC, NO_x, and CO applicable to motor vehicles and motor vehicle engines, including heavy-diesel duty (“HDD”) trucks, based on a vehicle’s or engine’s class and model year. *See generally* 40 C.F.R. Part 86.

12. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. CAA § 216(2), 42 U.S.C. § 7550(2); 40 C.F.R. § 85.1703.

EPA’s Certification Program

13. EPA administers a certification program to ensure that every motor vehicle and motor vehicle engine introduced into United States commerce satisfies applicable emission standards. *See* 40 C.F.R. Part 86.

14. Under this program, manufacturers of new motor vehicles or motor vehicle engines must obtain a certificate of conformity (COC) from EPA to sell, offer to sell, or introduce or deliver for introduction into commerce any new motor vehicle or motor vehicle engine in the United States. CAA § 203(a)(1), 42 U.S.C. § 7522(a)(1).

15. To obtain a COC for a given motor vehicle or motor vehicle engine test family, the vehicle manufacturer must demonstrate that each motor vehicle or motor vehicle engine will not exceed established emissions standards for PM, NMHC, NO_x, CO, and other pollutants. 40 C.F.R. §§ 86.004-21, 86.811-04, 86.1844-01.

16. The application for a COC must include, among other things, identification of the covered engine family, a description of the motor vehicle or engine and its emission control systems, all ancillary emission control devices (“AECs”), and the engine parameters they sense, as well as test results from a test vehicle or engine showing that it satisfies the applicable emission standards. *See* 40 C.F.R. §§ 86.1803-01 and 86.1844-01.

17. Motor vehicle manufacturers employ a variety of device and elements of design to meet emission standards to obtain COCs.

18. “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.

19. Modern motor vehicles are generally equipped with electronic control modules (“ECMs”), which help to continuously monitor engine and other operating parameters critical to the vehicle’s emission control system.

20. Vehicles certified with an onboard diagnostic system (“OBD”) are required to have the capacity to detect, identify, and record malfunctions in key components of the emission control system. CAA § 202(m), 42 U.S.C. § 7521(m); 40 C.F.R. §§ 86.007-17, 86.1806-05.

21. Manufacturers employ certain hardware devices as elements of design to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air and meet the emission standards in 40 C.F.R. Part 86. Such devices include exhaust gas recirculation (“EGR”), diesel particulate filters (“DPFs”), diesel oxidation catalysts (“DOC”), and selective catalytic reduction (“SCR”).

22. In addition to emission control hardware, fuel mass, fuel injection pressure, and fuel injection timing are among the elements of design incorporated in diesel-fueled motor vehicles that can affect the quantity of regulated pollutants that are created by the diesel engine. As an example, HDD manufacturers generally employ retarded fuel injection timing as an emission control method for NOx.

23. “Defeat Tuning Products” as used in this Consent Agreement means aftermarket ECM programmers (including hardware commonly referred to as “tuners” and software commonly referred to as “tunes”) that have a principal effect of altering a motor vehicle or motor vehicle engine's emissions control systems or elements of design and/or allow bypass, deactivation, or deletion of vehicle emissions control devices without engine malfunction or reporting of diagnostic trouble codes by the vehicle’s OBD system.

24. “EGR Delete Parts” as used in this Consent Agreement means aftermarket parts and components that physically remove or bypass the EGR in a compatible motor vehicle or motor vehicle’s exhaust system.

25. “Aftermarket Defeat Device” as used in this Consent Agreement means a motor vehicle part or component, including Defeat Tuning Products and EGR Delete Parts, where a principal effect of the part or component is to bypass, defeat, or render inoperative a motor vehicle or motor vehicle engine emission control device or element of design installed in compliance with regulations under Title II of the CAA. *See* CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).

26. Aftermarket Defeat Devices are designed and marketed for use with, or to become part of, a specific make, model, and year (or range of years) of compatible motor vehicles.

27. Under the CAA, the term “person” includes individuals, corporations, partnerships, associations, states, municipalities, and political subdivisions of a state. 42 U.S.C. § 7602(e).

28. CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), makes it unlawful “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.”

29. It is also a violation for any person to cause any of the acts set forth in CAA § 203(a), 42 U.S.C. § 7522(a).

D. FINDINGS OF FACT AND CONCLUSIONS OF LAW

30. Respondent David Milliken, an individual formerly doing business as Milliken Diesel Performance, was a retail seller of aftermarket automotive parts.

31. Respondent is a person, as that term is defined in CAA § 302(e), 42 U.S.C. § 7602(e).

32. On July 15, 2020, EPA issued an Information Request to Respondent under the authority of CAA § 208, 42 U.S.C. § 7542 (“Information Request”). The Information Request requested information regarding specified automotive parts or components manufactured, sold, or offered for sale by Respondent from May 1, 2019, to July 14, 2020. Respondent completed its response to the Information Request on September 21, 2020.

33. Based on the information provided by Respondent, EPA issued a Notice of Potential Violations and Opportunity to Confer (NOPVOC) to Respondent on April 8, 2021.

On May 19, 2021, Respondent and EPA conferred regarding the violations alleged in the NOPVOC.

E. ALLEGED VIOLATIONS

34. From May 1, 2019 through July 14, 2020, Respondent sold and offered for sale at least 15,332 parts or components intended for use with or as part of motor vehicles or motor vehicle engines, primarily HDD trucks and engines, including the following:

- a. At least 6,186 electronic software or programming products (i.e. aftermarket ECM programmers, or tuners or tunes), which remove and replace emissions-related calibrations and override OBD systems to facilitate removal of emissions-related elements of design;
- b. At least 4,916 exhaust replacement pipes, which remove and bypass DOC, DPF, and/or SCR systems; and
- c. At least 4,230 EGR removal products.

35. These parts and components were designed and marketed for use on makes and models of motor vehicles and motor vehicle engines manufactured by entities such as Cummins Inc., General Motors Company, and Ford Motor Company.

36. These motor vehicles and motor vehicle engines were designed for transporting persons or property on a street or highway, and therefore are subject to motor vehicle and motor vehicle engine emission standards under CAA Title II, Subpart A, 42 U.S.C. §§ 7521-7554.

37. The parts and components referred to in Paragraph 34 above, when installed in or on motor vehicles, bypass, defeat, or render inoperative devices or elements of design that motor vehicle and motor vehicle engine manufacturers employ to meet emission standards in

regulations promulgated under CAA Title II, Subpart A, 42 U.S.C. §§ 7521-7554. Such parts and components are therefore Aftermarket Defeat Devices.

38. Respondent knew or should have known that these Aftermarket Defeat Devices were sold or offered for sale to bypass, defeat, or render inoperative devices or elements of design that motor vehicle and motor vehicle engine manufacturers employ to meet emission standards in regulations promulgated under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554.

39. EPA alleges that, between May 1, 2019 and July 14, 2020, Respondent committed at least 15,332 violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling or offering for sale Aftermarket Defeat Devices, including Tuners, EGR Delete Parts, and Delete Pipes.

F. CIVIL PENALTY AND CONDITIONS OF SETTLEMENT

General

40. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2),

Respondent:

- a. admits that the EPA has jurisdiction over the subject matter alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained in the CAFO;
- c. consents to the assessment of a civil penalty as stated below;

- d. consents to the issuance of any specified compliance or corrective action order;¹
- e. consents to the conditions specified in this CAFO;
- f. consents to any stated Permit Action;²
- g. waives any right to contest the alleged violations set forth in Section E of this CAFO; and
- h. waives its rights to appeal the Final Order included in this CAFO.

41. For the purpose of this proceeding, Respondent:

- a. agrees that this CAFO states a claim upon which relief may be granted against Respondent;
- b. acknowledges that this CAFO constitutes an enforcement action for purposes of considering Respondent's compliance history in any subsequent enforcement actions;
- c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);
- d. consents to personal jurisdiction in any action to enforce this CAFO in the United States District Court for the Northern District of Texas;

¹ Although 40 C.F.R. § 22.18(b)(2) requires each item in this list to be stated in this CAFO, subparagraphs (d) and (f) are not applicable to this case.

² See previous footnote.

- e. waives any right it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with this CAFO and to seek an additional penalty for such noncompliance, and agrees that federal law shall govern in any such civil action; and
- f. agrees that in any subsequent administrative or judicial proceeding initiated by the Complainant or the United States for injunctive relief, civil penalties, or other relief relating to this Facility, Respondent shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim preclusion, claim splitting, or other defenses based on any contention that the claims raised by the Complainant or the United States were or should have been brought in the instant case, except with respect to claims that have been specifically resolved pursuant to this CAFO.

Penalty Assessment and Collection

42. Upon consideration of the entire record herein, including the Findings of Fact and Conclusions of Law, which are hereby adopted and made a part hereof, and upon consideration of the size of the business, the economic impact of the penalty on the business, the Respondent's full compliance history and good faith efforts to comply, the duration of the violation, payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, the seriousness of the violation, and other factors as justice may require, EPA has assessed a civil penalty in the amount of two hundred eighty-six thousand three hundred forty-six dollars (\$286,346.00) ("EPA Penalty"). The EPA Penalty has

been determined in accordance with Section 205(c) of the Act, 42, U.S.C. § 7524(c) and at no time exceeded EPA's statutory authority.

43. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. Based upon this analysis, the EPA has determined that Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 42.

44. Respondent agrees to:

- a. pay the EPA Penalty within 30 calendar days of the Effective Date of this CAFO, and
- b. pay the EPA Penalty by cashier's check, certified check, or wire transfer made payable to "Treasurer, United States of America, EPA – Region 6." Payment shall be remitted in one of five (5) ways: (1) regular U.S. Postal Service mail including certified mail; (2) overnight mail; (3) wire transfer; (4) Automated Clearinghouse for receiving US currency; or (5) Online Payment.

For regular U.S. Postal Service mail, U.S. Postal Service certified mail, or U.S. Postal Service express mail, payment should be remitted to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
PO Box 979077
St. Louis, MO 63197-9000

For overnight mail (non-U.S. Postal Service, e.g. FedEx), payment should be remitted to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101

Re: David Milliken fdba Milliken Diesel Performance
Docket No. CAA-06-2022-3342

Contact: Natalie Pearson
(314) 418-4087

For wire transfer, payment should be remitted to:

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

Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

For Automated Clearinghouse (also known as REX or remittance express):

U.S. Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of U.S. Treasury facility:
5700 Rivertech Court
Riverdale, MD 20737

Contact – Jesse White (301) 887-6548

For Online Payment:

<https://www.pav.gov/pavgov/>
Enter sfo 1.1 in search field
Open form and complete required fields.

PLEASE NOTE: The docket number CAA-06-2022-3342 should be clearly typed on the check to ensure proper credit. The payment shall also be accompanied by a transmittal letter that shall reference Respondent's name and address, the case name, and docket number CAA-06-2022-3342. Respondent's adherence to this request will ensure proper credit is given when penalties are received for the Region. Respondent shall also send a simultaneous notice of such payment, including a copy of the money order, or check, and the transmittal letter to the following addresses:

Jamie Salabogi
U.S. EPA Region 6
salabogi.jamie@epa.gov

And

Region 6 Hearing Clerk
U.S. EPA Region 6
vaughn.lorena@epa.gov

45. Respondent agrees to pay the following on any overdue EPA Penalty:

- a. Interest. Pursuant to Section 205(c)(6) of the Act, 42 U.S.C. § 7424(c)(6), any unpaid portion of a civil penalty must bear interest at the rates established pursuant to 26 U.S.C. § 6621(a)(2).
- b. Nonpayment Penalty. On any portion of a civil penalty more than 90 calendar days delinquent, Respondent must pay a nonpayment penalty, pursuant to Section 205(c)(6) of the Act, 42 U.S.C. § 7424(c)(6), which shall accrue from the date the penalty payment became delinquent, and which shall be in addition to the interest which accrues under subparagraph a. of this paragraph.

46. Respondent shall pay a charge to cover the cost of processing and handling any delinquent penalty claim, pursuant to 42 U.S.C. § 7524(c)(6), including but not limited to attorneys' fees incurred by the United States for collection proceedings.

47. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, the EPA may:

- a. refer the debt to a credit reporting agency, a collection agency, or to the Department of Justice for filing of a collection action in the appropriate United States District Court (in which the validity, amount, and appropriateness of the assessed penalty and of this CAFO shall not be subject to review) to secure payment of the debt, which may include the

- original penalty, enforcement and collection expenses, nonpayment penalty and interest, 42 U.S.C. § 7524(c)(6) and 40 C.F.R. §§ 13.13, 13.14, and 13.33;
- b. collect the above-referenced debt by administrative offset (i.e. the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
- c. suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Condition of Settlement

48. As a Condition of Settlement, Respondent agrees to the following: By signing this Consent Agreement, the undersigned representative of Respondent certifies that from the date of Respondent's signature: (i) Respondent will not remove or render inoperative any emissions-related device or element of design installed on or in a motor vehicle or motor vehicle engine in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A); and (ii) Respondent will not manufacture, sell, offer for sale, or install any part or component, including those described in Paragraph 34 above, in violation of Section 203(a)(3)(B) of the CAA, 42, U.S.C. § 7522(a)(3)(B).

49. The provisions of this CAFO shall apply to and be binding upon Respondent and its employees, agents, trustees, servants, authorized representatives, successors, and assigns.

50. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information.

See 40 C.F.R. Part 2, Subpart B.

51. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has legal capacity to bind the party he or she represents to this CAFO.

52. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission, and is, truthful, accurate, and complete for each submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

53. EPA and Respondent agree to the use of electronic signatures for this matter. EPA and Respondent further agree to electronic service of this CAFO by email to the following addresses:

To EPA: Lannen.Justin@epa.gov

To Respondent: Geoffrey.Tichenor@stoel.com

54. Respondent specifically waives its right to seek reimbursement of its costs and attorney's fees under 5 U.S.C. § 504 and 40 C.F.R. Part 17. Except as qualified by Paragraph 46, each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

G. EFFECT OF CONSENT AGREEMENT AND FINAL ORDER

55. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

56. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

57. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 1.162-21(b)(2), performance of Paragraph 48 is restitution, remediation, or required to come into compliance with the law.

58. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

59. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties, and approval of the Regional Judicial Officer.

60. Any violation of the included Final Order may result in a civil judicial action for an injunction or civil penalties, or both, as provided in Section 205(b) of the Act, 42 U.S.C. § 7424(b), as well as criminal sanctions as provided in Section 113(c) of the Act, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

61. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it

restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or a determination of, any issue related to any federal, state, or local permit.

62. Nothing herein shall be construed to limit the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

H. EFFECTIVE DATE

63. Respondent and Complainant agree to the issuance of the included Final Order. Upon filing the EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Hearing Clerk.

Re: David Milliken fdba Milliken Diesel Performance
Docket No. CAA-06-2022-3342

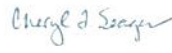
The foregoing Consent Agreement In the Matter of David Milliken fdba Milliken Diesel Performance, Docket No. CAA-06-2022-3342, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Date: 9-8-2022


David Milliken

FOR COMPLAINANT:


Digitally signed by
CHERYL SEAGER
Date: 2022.09.16
12:12:00 -05'00'

Cheryl T. Seager
Director
Enforcement and
Compliance Assurance Division
U.S. EPA, Region 6

Re: David Milliken fdba Milliken Diesel Performance
Docket No. CAA-06-2022-3342

FILED

22 SEP 19 AM 9:30

REGIONAL HEARING CLERK
EPA REGION VI

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION 6
DALLAS, TEXAS

IN THE MATTER OF:	(DOCKET NO. CAA-06-2022-3342
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DAVID MILLIKEN fdba	(
MILLIKEN DIESEL PERFORMANCE	(
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RESPONDENT	(
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FINAL ORDER

Pursuant to Section 205(c) of the Clean Air Act (“CAA” or the “Act”), 42 U.S.C. §7424(c), and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties, 40 C.F.R. Part 22, the attached Consent Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified.

Respondent is ORDERED to comply with all terms of the Consent Agreement. In accordance with 40 C.F.R. § 22.31(b), this Final Order shall become effective upon filing with the Regional Hearing Clerk.

THOMAS
RUCKI

Digitally signed by THOMAS RUCKI
DN: cn=U.S. Government,
ou=Environmental Protection Agency,
cn=THOMAS RUCKI,
0.9.2342.19200300.100.1.1+68001003655804
Date: 2022.09.16 14:59:09 -0400

Thomas Rucki
Regional Judicial Officer
U.S. EPA, Region 6

Re: David Milliken fdba Milliken Diesel Performance
Docket No. CAA-06-2022-3342

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Consent Agreement and Final Order was delivered to the Regional Hearing Clerk, U.S. EPA, Region 6, 1201 Elm St, Suite 500, Dallas, Texas 75270-2102, and a true and correct copy was sent this day in the following manner to these addresses:

Copy via Email to Respondent:

millikendieselperformance@gmail.com

Copy via Email to Attorney for Respondent:

geoffrey.tichenor@stoel.com

**RICHARD
LANNEN**
Digitally signed by RICHARD LANNEN
DN: c=US, o=U.S. Government,
ou=Environmental Protection Agency,
cn=RICHARD LANNEN,
0.9.2342.19200300.100.1.1-68001003
655726
Date: 2022.09.19 18:05:44 -05'00'

U.S. EPA, Region 6
Dallas, Texas