

**CLEAN AIR ACT VEHICLE AND ENGINE EXPEDITED SETTLEMENT
AGREEMENT**

Received by
EPA Region 1
Hearing Clerk

DOCKET NO. CAA-01-2023-0062

Respondent: Heath Rogers
d/b/a Maine Turbo Diesels
20 Enterprise Drive
Arundel, ME 04046-7978

1. The U.S. Environmental Protection Agency, Region 1 (“EPA”) and Heath Rogers d/b/a Maine Turbo Diesels (“Respondent”) enter into this Clean Air Act Vehicle and Engine Expedited Settlement Agreement (“Agreement”) to settle the civil violations specified in the attached Table 1, incorporated into this Agreement by reference, pursuant to Section 205(c)(1) of the Clean Air Act (“CAA”), 42 U.S.C. § 7524(c)(1), and 40 C.F.R. §§ 22.13(b), 22.18(b)(2) and (3). The civil violations that are the subject of this Agreement were discovered through a Reporting Requirement and are described in the attached Table 2, incorporated into this Agreement by reference, regarding the devices specified therein.
2. This Agreement resolves Respondent’s liability for federal civil penalties for the violations alleged in Table 2. This Agreement, upon approval and incorporation in the Final Order, concludes this action under Sections 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”).
3. Respondent admits to being subject to the CAA and its associated regulations and that the United States Environmental Protection Agency has jurisdiction, pursuant to Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), over Respondent and Respondent’s conduct described in Table 2. Respondent neither admits nor denies the findings detailed therein and waives any objections Respondent may have to EPA’s jurisdiction.
4. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **\$12,555** is reasonable and 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), as 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, and the appropriate Adjustment of Civil Monetary Penalties for Inflation, pursuant to 40 C.F.R. Part 19.
5. Respondent agrees to pay the \$12,555 penalty and submit proof of payment to EPA within 30 calendar days of receipt of a copy of the ratified Agreement in accordance with the instructions in “CAA Vehicle and Engine Expedited Settlement Agreement Instructions,” attached and incorporated into this Agreement by reference.
6. Respondent certifies that the required remediation, specified in the attached Table 3 and incorporated into this Agreement by reference, has been carried out.
7. By its signature below, EPA approves the findings resulting from the reporting requirement and alleged violations set forth in Tables 1 and 2. Upon signing and returning this Agreement

to EPA, Respondent consents to the terms of this Agreement without further notice. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of the EPA Delegated Official's ratifying signature on the Final Order.

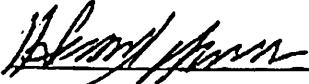

8. By its signature below, Respondent certifies, that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of 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.
9. The payment made by Respondent pursuant to this Agreement is a penalty within the meaning of Section 162(f) of the Internal Revenue Code, 26 U.S.C. § 162(f), and, therefore, Respondent shall not claim the payment as a tax-deductible expenditure for purposes of federal, state, or local law.
10. Upon EPA's final approval of the Agreement, Respondent expressly waives its right to contest the allegations and its right to appeal the proposed Final Order accompanying the Agreement. Moreover, in entering into this Agreement, Respondent agrees to bear its own costs and attorney's fees related to this Agreement.
11. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of filing with the Regional Hearing Clerk, after ratification of the Agreement and Final Order by the Regional Judicial Officer.
12. 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 and accompanying Final Order following its filing with the Regional Hearing Clerk.
13. The Parties consent to acceptance of digital or original signatures on this Agreement and service of this Agreement by electronic delivery at Respondent's e-mail noted below. Respondent understands that its mailing or e-mail address may be made public when the Agreement and Certificate of Service are filed and uploaded to a searchable database.

APPROVED BY EPA:

Signature & Date: _____

Delegated Official: James Chow, Acting Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 1

APPROVED BY RESPONDENT:

Signature & Date:  7-27-23
Name (print): Heath Rogers
Title (print): owner
Email (print):  Mtdsales207@gmail.com

FINAL ORDER

Pursuant to 40 C.F.R. § 22.18(b) and (c) of the Consolidated Rules of Practice, the foregoing Agreement resolving this matter is incorporated by reference into this Final Order and is hereby ratified. Respondent Heath Rogers d/b/a Maine Turbo Diesels is ordered to pay the civil penalty amount specified in the Agreement. The terms of the Agreement will become effective on the date it is filed with the Regional Hearing Clerk.

Signature & Date: _____

Delegated Official: LeAnn Jensen, Regional Judicial Officer
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 1

Table 1 - Information Collection	
Date(s) Information Collected:	Docket Number:
February 3, 2023	CAA-01-2023-0062
Respondent Location:	
20 Enterprise Drive	
City:	Inspector(s) Name(s):
Arundel	Hannah Patel
State: Zip Code:	EPA Approving Official:
ME 04046-7978	James Chow
Respondent:	EPA Enforcement Contact(s):
Heath Rogers d/b/a Maine Turbo Diesels	Christine Foot, Esq.

Table 2 - Description of Violations and Vehicles/Engines				
<p>On November 8, 2022, EPA issued Heath Rogers d/b/a Maine Turbo Diesels (“MTD”) a reporting requirement under Section 208(a) of the Clean Air Act (“CAA”), 42 U.S.C. § 7542(a). MTD provided a response to the reporting requirement on February 3, 2023.</p> <p>Based on the responses, EPA has identified that 21 Motorsports sold and/or offered for sale defeat devices, which render inoperative emission control systems on EPA-certified motor vehicles. It is a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), to sell, offer for sale, or install any defeat device intended for use with EPA-certified motor vehicles and engines. Based on information summarized below, EPA finds that Respondent has committed 9 violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).</p>				
Defeat Device Violation(s)				
Defeat Device Description	Make	Quantity	Sold, installed, and/or offered for sale?	Date Range
EFI DSP5	EFI Live	3	Sold	October & November 2020, September 2021
EGR Test Plate		1	Installed	October 2020
Tune	EFI Live	1	Sold	December 2020
EFI CSP5	EFI Live	2	Sold	January & February 2021
Tune	HP Tuner	1	Sold	April 2021
Tow Tune	EFI Live	1	Sold	August 2021

Table 3 - Penalty and Required Remediation	
Penalty	\$12,555

Required Remediation	In addition to paying the monetary penalty, Respondent must cease and refrain from selling, or installing any device that defeats, bypasses, or otherwise renders inoperative an emission component of any motor vehicle or engine regulated by the EPA. Respondent must cease and refrain from tampering with emission control systems on EPA-certified motor vehicles and engines. Respondent certifies that it has reviewed EPA's November 23, 2020 " EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act. "
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CAA VEHICLE AND ENGINE EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

Within 30 days of your receipt of the Agreement, you must email Christine Foot, at foot.christine@epa.gov, the signed Agreement. If you prefer to send this via CERTIFIED MAIL, you may contact Ms. Foot to arrange (Note that mailed information must be postmarked within 30 days of your receipt of the Agreement).

If you have any questions or would like to request an extension due to extraordinary circumstances, you may contact Christine Foot at 617-918-1333. EPA will consider whether to grant an extension on a case-by-case basis where appropriate justification is provided. EPA will not accept or approve any Agreement returned more than 30 days after the date of your receipt of the Agreement unless an extension has been granted by EPA. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations), you must provide such information to EPA as soon as possible but no later than 30 days from your receipt of the Agreement.

Unless an extension has been granted in writing by EPA, if you do not sign and return the Agreement within 30 days of your receipt of the Agreement, the Agreement is automatically withdrawn, without prejudice to EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correction of the violations specifically identified in the enclosed Tables. If you choose not to enter into this Agreement and fully comply with its terms, EPA may pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to \$5,580 per violation pursuant to 40 C.F.R. § 19.4.

Within 30 days of the Effective Date of the Agreement, you must pay the penalty as described below:

Payment Method Option 1 (electronic) – Preferred: Pay online through the Department of the Treasury using WWW.PAY.GOV. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center and complete the SFO Form Number 1.1. The payment shall be identified in the online system with the Docket Number in this matter.

On the same day after submitting your payment, send an email to cinwd_acctsreceivable@epa.gov and the EPA contact email address noted below. Include in the subject line: "Payment Confirmation for Heath Rogers d/b/a Maine Turbo Diesels; Docket Number CAA-01-2023-0062."

Payment Method Option 2 (check): Mail, via CERTIFIED MAIL, a certified check payable to the United States of America marked with "Heath Rogers d/b/a Maine Turbo Diesels; Docket Number CAA-01-2023-0062" to:

U. S. Environmental Protection Agency
Government Lockbox 979078
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, MO 63101
Attn: Docket Number CAA-01-2023-0062