

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103**



**IN THE MATTER OF:** )  
 )  
Automotive Performance Tuning, LLC ) **DOCKET NO.: CAA-03-2024-0082**  
30 South 5th Avenue ) **EXPEDITED SETTLEMENT**  
Lebanon, Pennsylvania 17042 ) **AGREEMENT**

**Respondent.**

**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 3 (“Complainant”), and Automotive Performance Tuning, LLC (“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 an automotive service and repair shop located at 30 South 5th Avenue, Lebanon, Pennsylvania 17042 (the “Facility”).
4. EPA alleges and finds that Respondent failed to comply with Section 203(a)(3)(B) of the CAA, 42 U.S.C. §§ 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).
5. As a result of EPA’s investigation and pursuant to its enforcement authority under Section 208(b) of the CAA, 42 U.S.C. §7542(b), EPA obtained evidence that between September 26, 2017, and November 25, 2019, Respondent sold three (3) products, identified in Table 1, below, which render inoperative emission control systems on EPA-certified motor vehicle and motor vehicle engines (“defeat devices”). These products include: (i) engine control module reprogrammers (also known as “tuners”) that disable emission control systems and/or disables Diagnostic Trouble Codes (DTCs) on EPA-certified motor vehicles, such as Exhaust Gas Recirculation (EGR) systems, vehicle engine active fuel management, on-board diagnostic systems, rear oxygen sensors, and/or Diesel Particulate Filter (DPF) systems; (ii) EGR deletion kits or components used for the

removal or bypass of EGR systems; and (iii) DPF or Selective Catalytic Reduction (SCR) delete kits (“straight pipes”) to remove or bypass the DPF or SCR systems. EPA alleges and finds that Respondent’s sale of these defeat devices, identified in Table 1, below, constitutes three (3) violations of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).

6.

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

	<b>Invoice Date</b>	<b>Product Description</b>	<b>Motor Vehicle Application</b>
	8/23/2021	Original Equipment Manufacturer turbo charger upgrade	Audi
	5/21/2023	Original Equipment Manufacturer turbo charger upgrade	Audi
	7/25/2022	Downpipe	Audi

7. 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.

8. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **Three Thousand, Five Hundred and Twentynine Dollars (\$3,529)**, 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 30 days of the effective date of this Agreement, Respondent shall make a payment of **\$3,529** to “**United States Treasury**” with the case name, address and docket number of this Agreement (CAA-03-2024-0082), for the amount specified above. Respondent shall pay the assessed penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

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:

Paul Arnold 3ED21  
[arnold.paul@epa.gov](mailto:arnold.paul@epa.gov)

and

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

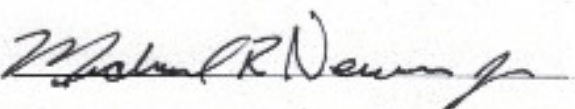
11. In signing this Agreement, the Respondent:
- a) admits the jurisdictional allegations set forth in this Agreement;
  - b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above;
  - c) agrees not to contest 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: [arnold.paul@epa.gov](mailto:arnold.paul@epa.gov) (for Complainant), and [tom@aptuning.com](mailto:tom@aptuning.com) (for Respondent).
19. By signing this Agreement, Respondent acknowledges that this Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.

**For Respondent:** Michael Newman

Name: Michael R Newman JR.

Title: Owner

Signature: 

Date: 6/27/24

**For Complainant: U.S. Environmental Protection Agency, Region 3**

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 3, 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.

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*[Digital Signature and Date]*

Karen Melvin, Director  
Enforcement and Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103**



**IN THE MATTER OF:**

Automotive Performance Tuning, LLC  
30 South 5th Avenue  
Lebanon, Pennsylvania 17042

**Respondent.**

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**DOCKET NO.: CAA-03-2024-0082**

**EXPEDITED SETTLEMENT  
AGREEMENT**

**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region 3, and Respondent, Automotive Performance Tuning, LLC, 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.

**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 **Three Thousand, Five Hundred and Twentynine Dollars (\$3,529)**, 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.

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*[Digital Signature and Date]*

Joseph J. Lisa  
Regional Judicial Officer  
U.S. EPA - Region 3

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**

**REGION 3**

**Philadelphia, Pennsylvania 19103**

**In the Matter of:** :

:

**Automotive Performance Tuning, LLC :**

**30 South 5th Avenue :** **U.S. EPA Docket No. CAA-03-2024-0082**

**Lebanon, Pennsylvania 17042 :**

:

:

**Respondent. :**

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**Automotive Performance Tuning, LLC :**

**30 South 5th Avenue :**

**Lebanon, Pennsylvania 17042 :**

**CERTIFICATE OF SERVICE**

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the *Expedited Settlement Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

**Michael Newman, Owner, Automotive Performance Tuning, LLC**  
**Automotive Performance Tuning, LLC**  
[tom@aptuning.com](mailto:tom@aptuning.com)  
**30 South 5th Avenue**  
**Lebanon, Pennsylvania 17042**

**Paul Arnold**  
**Environmental Engineer**  
**U.S. EPA, Region 3**  
[Arnold.paul@epa.gov](mailto:Arnold.paul@epa.gov)



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*[Digital Signature and Date]*

Regional Hearing Clerk

U.S. Environmental Protection Agency, Region

