UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Thomas Hassler	:	
d/b/a Hassler Diesel Performance	:	**Docket No. CAA-03-2021-0063**
	:	
Respondent.	:	
	:	
261 Airport Road	:	**Proceeding under CAA Section 205(c)(1)**
Bethel, PA 19507,	:	
	:	
Facility.	:	

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region III ("EPA," the "Agency" or "Complainant"), and Thomas Hassler ("Respondent") (collectively the "Parties"), pursuant to Section 205(c)(1) of the Clean Air Act (the "CAA" or "Act"), 42 U.S.C. § 7524(c)(1), and Sections 22.13 and 22.18 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, 40 C.F.R, §§ 22.13 and 22.18.

2. Section 205(c)(1) of the Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter collectively referred to as the "CAFO") resolve Complainant's civil penalty claims against Respondent under Section 205(c)(1) of the Act for the violations alleged herein.

3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

4. EPA has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.

5. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a).

GENERAL PROVISIONS

6. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this CAFO.

7. Except as provided in Paragraph 6, immediately above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.

8. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this CAFO.

9. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this CAFO and waives its right to appeal the accompanying Final Order.

10. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.

11. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3), EPA alleges the following findings of fact and conclusions of law.

13. Respondent is the sole proprietor of an automotive repair and service station located at 261 Airport Rd., Bethel, Berks County, Pennsylvania 19507 (the "Facility") and does business, at that location, as Hassler Diesel Performance.

14. Respondent is a "person" within the meaning of Section 113(a) of the CAA, 42 U.S.C § 7413(a), and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

15. This proceeding arises under Part A of Title II of the CAA, CAA §§ 202-219, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons ("HC"), particulate matter ("PM") oxides of nitrogen ("NO_x"), and carbon monoxide ("CO"). The allegations, below, concern Motor Vehicles and Motor Vehicle engines and the Defeat Device prohibitions in section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

16. "Motor Vehicle" is defined in section 216(2) of the CAA, 42 U.S.C. § 7550(2), as "any self-propelled vehicle designed for transporting persons or property on a street or highway."

17. Under Section 202 of the CAA, 42 U.S.C. § 7521, EPA promulgated emission standards for HC, PM, NOx, and CO, and other pollutants applicable to Motor Vehicles and Motor Vehicle engines.

18. 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 engines in the United States. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1).

19. Each COC application must describe, among other things, the emissions-related elements of design of the Motor Vehicle or Motor Vehicle engine. See 40 C.F.R. §§ 86.004-21, 86.1844-01. For example, manufacturers of diesel engines employ retarded fuel injection timing as a primary emission control device for emissions of NOx, while manufacturers of gasoline-powered engines employ spark timing as an emission control device. Manufacturers also employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include catalytic converters, Exhaust Gas Recirculation ("EGR"), Diesel Particulate Filter ("DPF"), Diesel Oxidation Catalyst ("DOC), Nitrogen Adsorber Catalyst ("NAC"), and Selective Catalytic Convertor ("SCR") systems.

20. The EPA issues certificate of conformity ("COCs") to vehicle manufacturers (also known as "original equipment manufacturers" or "OEMs") under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of Motor Vehicles conforms to applicable EPA requirements governing Motor Vehicle emissions. To obtain a COC for a given Motor Vehicle test group or engine family, the OEM must demonstrate that each Motor Vehicle or Motor Vehicle engine will not exceed established emissions standards for NO_x, PM, CO, HC, and other pollutants. *See generally* 40 C.F.R. 86 Subparts A and S. A Motor Vehicle or Motor Vehicle engine that is part of a test group or engine family that is in compliance with regulations under Subchapter II of the CAA and has been issued a COC by EPA is hereinafter referred to as an "EPA-certified" Motor Vehicle or Motor Vehicle engine.

21. Under section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations requiring manufacturers of Motor Vehicles to install on-board diagnostic ("OBD") systems on vehicles beginning with the 2007 model year to monitor emission control components for any malfunction or deterioration causing exceedance of certain emission thresholds. The OBD system is a critical Element of Design of the Motor Vehicle.

22. Pursuant to Section 203(a)(3)(A) of the Act, 42 U.S.C. § 7522(a)(3)(A), it is a prohibited act "for any person to remove or render inoperative any device or element of design installed on or in a [M]otor [V]ehicle or [M]otor [V]ehicle engine in compliance with regulations under [Subchapter II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser."

23. 40 C.F.R. § 1068.101(b)(1) similarly provides, in relevant part and with exceptions not herein applicable, that "[y]ou may not remove or render inoperative any device or element of design installed on or in engines/equipment in compliance with the regulations prior to its sale and delivery to the ultimate purchaser. You also may not knowingly remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser. This includes, for example, operating an engine without a supply of appropriate quality urea if the emission control system relies on urea to reduce NOX emissions or the use of incorrect fuel or engine oil that renders the emission control system inoperative."

24. Pursuant to Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), it is also a prohibited act "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 [M]otor [V]ehicle or [M]otor [V]ehicle 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 [Subchapter II of the CAA], 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."

25. 40 C.F.R. § 1068.101(b)(2) similarly provides, in relevant part, that "[y]ou may not knowingly manufacture, sell, offer to sell, or install, any component that bypasses, impairs, defeats, or disables the control of emissions of any regulated pollutant, except as explicitly allowed by the standard-setting part."

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

27. On October 1, 2019, Respondent's internet web site, at https://www.hasslerdiesel.com/pages/about-us, included a claim that Respondent "do[es] everything from service and repair, to full engine builds and transmission rebuilds" and "specialize[s] in heavy-duty diesel engines for light-duty trucks. On that same date, Respondent's internet web site at https://www.hasslerdiesel.com /pages/services, indicated that Respondent offered related services including: "Service/Repair", "Performance", "Transmission Rebuilds", "Motor Builds", "Injectors", "Bulletproofing/ Headgaskets", "Custom Made Performance Parts" and "a wide variety of tuning options for your vehicle make and model."

28. On October 1, 2019, pursuant to the inspection and information gathering authorities of CAA Sections 114(a)(1) and (2), and 208, 42 U.S.C. §§ 7414(a)(1) and (2), and 7542, and with Respondent's prior consent, duly-authorized EPA inspectors ("Inspectors") initiated, and began to perform, a compliance evaluation inspection at the Facility, seeking information regarding Respondent's compliance with Section 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations of 40 C.F.R. Parts 85 and 86. However, shortly after the Inspectors began to review Respondent's business records at the Facility,

Respondent abruptly withdrew his prior consent and terminated the inspection before it could be completed.

29. On October 9, 2019, pursuant to Section 208(a) of the Act, 42 U.S.C. § 7524(a), EPA sent Respondent a written request for information ("RFI") seeking information relevant to the Agency's investigation of his compliance with Sections 203(a) and 213(d) of the Act, 42 U.S.C. §§ 7522(a) and 7547(d), and the applicable motor vehicle regulations of 40 C.F.R. Parts 85 and 86. EPA therein sought information regarding automotive parts and components that Respondent manufactured, sold, offered for sale and installed, in calendar years 2017, 2018 and 2019, that were not compliant with CAA Subchapter II ("Emissions Standards for Moving Sources") requirements and prohibitions because they had a principal effect of bypassing, defeating, or rendering inoperative emission control systems or elements of design installed on or in EPA-certified Motor Vehicles or Motor Vehicle engines.

30. Respondent received the RFI on October 17, 2019 and, after obtaining two successive response deadline extensions from the Agency, submitted a November 6, 2019 response which contained only of a series of objections to the Agency's issuance of the RFI and did not include or provide any substantive responses to the questions posed or the information requested therein.

31. On January 16, 2020, pursuant to the authority of CAA Section 307(a), 42 U.S.C. § 7607(a), EPA issued a *Subpoena Duces Tecum* ("Subpoena") to the Respondent seeking his production of papers, books, documents and information relevant to the Agency's investigation of his compliance with the tampering and defeat device prohibitions of CAA Sections 203(a)(3)(A) and (B), 42 U.S.C. §§ 7522(a)(3)(A) and (B), and regulations promulgated thereunder. The Subpoena directed the Respondent to produce documents and records pertaining, among other things, to those automotive parts and components that Respondent manufactured, sold, offered for sale and installed in EPA-certified Motor Vehicles during the period of January 1, 2017 through the date of Respondent's receipt of the Subpoena.

32. Respondent received EPA's Subpoena on or about January 21, 2020.

33. By correspondence dated February 5, 2020, February 7, 2020 and February 18, 2020, respectively, and attachments thereto, Respondent provided EPA with responses to the questions posed in the RFI and submitted documents and information responsive to the Subpoena. Respondent's RFI responses and responsive Subpoena submittals included: copies of its sales invoices, containing information about automotive parts and components sold, and services provided, during the period of January 1, 2017 through January 16, 2020; an electronic spreadsheet containing information about additional automotive parts and components sold, and services provided, during that same time period and through February 10, 2020; information about the nature and function of each automotive part and component sold and installed by the Respondent during the period of January 1, 2017 through February 10, 2020; and a representation that the Respondent had recently disposed of its remaining stock and inventory of non-compliant automotive parts and components (identified

in Paragraph 34, immediately below, as those having a principal effect of bypassing, defeating, or rendering inoperative emission control systems or elements of design installed on a Motor Vehicle). This information was accompanied by a signed certification stating, to the best of Respondent's knowledge and information, that the information provided by the Respondent in these documents and submissions was true and complete.

34. The sales invoices, electronic spreadsheet and other information provided to EPA by the Respondent with its February 5, 2020, February 7, 2020 and February 18, 2020 correspondence, respectively, and attachments thereto, (collectively, "IRL & Subpoena Response") indicate that Respondent sold and installed automotive parts and components that have a principal effect of bypassing, defeating, or rendering inoperative emission control systems or elements of design installed on a Motor Vehicle (each hereinafter referred to as a "Defeat Device"), including: Aftermarket Engine Control Module ("ECM") Programmers, commonly referred to as "tuners" and containing software commonly referred to as "tunes," that modify ECM programming or calibrations and/or On-Board Diagnostic System ("OBD") operations of an EPA-certified Motor Vehicle or Motor Vehicle engine; Exhaust Gas Recirculation ("EGR") Delete Parts, which are automotive parts or components designed to physically remove, disable, or bypass a component or components of the EGR system installed on or in an EPA-certified Motor Vehicle or Motor Vehicle engine; and Exhaust Aftertreatment Delete Pipes, or "Delete Pipes," which are automotive components designed to physically remove, disable, or bypass aftertreatment emission control devices or other elements of design, such as a Diesel Particulate Filters ("DPFs"), Diesel Oxidation Catalysts ("DOCs"), or NO_x emission controlling Selective Catalytic Reduction ("SCR") sensors installed on or in an EPA-certified Motor Vehicle or Motor Vehicle engine.

35. Information provided in Respondent's IRL & Subpoena Response indicate that each of the Aftermarket ECM Programmer Defeat Devices, EGR Delete Parts Defeat Devices and Delete Pipes Defeat Devices referenced in Paragraph 34, immediately above, and further identified and listed by "Part Description" in Appendix A hereto, were designed and marketed for use on makes and models of diesel trucks manufactured by Fiat Chrysler Automobiles US LLC ("FCA") and its corporate predecessors, General Motors Co. ("GM") and Ford Motor Co. ("Ford"). Each of those OEMs sought and obtained COC's from the Agency for each of the motor vehicles they produced. In doing so, those OEMs each certified that their manufactured motor vehicles and motor vehicle engines demonstrated compliance with applicable federal emission standards, including certified design configurations, using elements of design such as fuel timing, DPF, EGR, DOC, SCR, and OBD systems. As a result, each of the motor vehicles manufactured by these OEMs is an "EPA-Certified" motor vehicle.

36. Information provided in Respondent's IRL & Subpoena Response and summarized in Appendix A hereto, indicates that between January 6, 2017 and February 10, 2020, Respondent sold one hundred and thirty-seven (137) Aftermarket ECM Programmer Defeat Devices, thirty-seven (37) EGR Delete Parts Defeat Devices and forty-seven (47) Delete Pipes Defeat Devices, as identified, listed and tabulated in Appendix A hereto.

37. Information provided in Respondent's IRL & Subpoena Response and summarized in Appendix A hereto, further indicates that between January 6, 2017 and February 10, 2020, Respondent installed Defeat Devices, including five (5) Aftermarket ECM Programmer Defeat Devices, seven (7) EGR Delete Parts Defeat Devices and eleven (11) Delete Pipes Defeat Devices into twenty-three (23) unique EPA-certified Motor Vehicles and/or Motor Vehicle engines, as identified, listed and tabulated in Appendix A hereto.

Count I
Sale of Defeat Devices

38. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

39. Between January 6, 2017 and February 10, 2020, Respondent sold two hundred and twenty-one (221) Defeat Devices, as referenced in paragraph 36, above, and as identified, listed and tabulated in Appendix A hereto.

40. The two hundred and twenty-one (221) Defeat Devices referenced in paragraph 36, above, which are identified, listed and tabulated in Appendix A hereto, include Aftermarket ECM Programmers designed to disable EGR systems and OBD oxygen sensors, EGR Delete Parts designed for EGR removal and/or bypass and Delete Pipes designed to remove and bypass DOC, DPF, and/or SCR systems installed on an EPA-certified motor vehicles and/or associated motor vehicle engines.

41. Each of the two hundred and twenty-one (221) Defeat Devices referenced in paragraph 36, above, and identified, listed and tabulated in Appendix A hereto, are automotive parts and/or components intended for use with, or as part of, motor vehicles or motor vehicle engines and which have a principal effect of bypassing, defeating, or rendering inoperative emissions-related elements of design that are installed on an EPA-certified motor vehicles and/or motor vehicle engines.

42. At the time that Respondent sold each of the two hundred and twenty-one (221) Defeat Devices referenced in paragraph 36, above, and identified, listed and tabulated in Appendix A hereto, Respondent knew or should have known that each such automotive part and/or component would be put to use for the purpose of bypassing, defeating, or rendering inoperative a device and/or element(s) of design installed on or in an EPA-certified motor vehicle and/or motor vehicle engine otherwise in compliance with CAA Title II motor vehicle emission and fuel standards.

43. Between January 6, 2017 and February 10, 2020, Respondent committed two hundred and twenty-one (221) violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling Defeat Devices, including Aftermarket ECM Programmers, EGR Delete Parts, and Delete Pipes that Respondent knew or should have known would be put to use for the purpose of bypassing, defeating, or rendering inoperative a device and/or element(s) of design installed on or in an EPA-certified motor vehicle or motor vehicle engine otherwise in compliance with CAA Title II motor

vehicle emission and fuel standards.

44. By selling Defeat Devices, including Aftermarket ECM Programmers, EGR Delete Parts, and Delete Pipes in violation of CAA section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), Respondent is subject to the assessment of civil penalties under section 203(c) of the Act, 42 U.S.C. § 7524(c).

Count II
Installation of Defeat Devices into EPA-Certified Motor Vehicles

45. The allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.

46. The IRL & Subpoena Response information provided to EPA by the Respondent also indicates that between January 6, 2017 and February 10, 2020, Respondent installed each of the Defeat Devices referenced in paragraph 37, above, which are identified, listed and tabulated in Appendix A hereto, into twenty-three (23) unique EPA-certified motor vehicles and/or motor vehicle engines.

47. Respondent's installation of Defeat Devices in twenty-three (23) unique EPA-certified motor vehicles and/or motor vehicle engines during the January 6, 2017 through February 10, 2020 time period constitutes twenty-three (23) violations of the vehicle tampering prohibition of CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(1).

48. By installing Defeat Devices, including Aftermarket ECM Programmers, EGR Delete Parts, and Delete Pipes in EPA-certified motor vehicles and motor vehicle engines in violation of the vehicle tampering prohibition of CAA Section 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), Respondent is subject to the assessment of civil penalties under section 203(c) of the CAA, 42 U.S.C. § 7524(c).

CIVIL PENALTY

49. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of **THIRTY THOUSAND DOLLARS ($30,000.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below.

50. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in CAA, Section 205(c)(2), 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 Clean Air Act Mobile Source Civil Penalty Policy – Vehicle and Engine Certification Requirements (Jan. 16,

2009) which reflects the statutory penalty criteria and factors set forth at CAA, Section 205(c)(2), and 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. EPA and Respondent further acknowledge and represent that the agreed civil penalty is also based, in part, upon EPA's consideration of the Respondent's ability to pay a civil penalty. EPA has reviewed and considered financial information provided to EPA by the Respondent, including Respondent's certified statement of its current financial condition and its articulation of the reasons in support of its contention that it is unable to pay the agreed civil penalty amount within 30 days, or absent the incorporated penalty payment provisions, without experiencing undue hardship. EPA further acknowledges the impacts that the COVID-19 pandemic may have on regulated entities, and EPA has considered the Respondent's specific circumstances, pursuant to applicable provisions of EPA's June 29, 2015 *Guidance on Evaluating a Violator's Ability to Pay a Civil Penalty in an Administrative Enforcement Action* and associated implementing memoranda, in determining an appropriate civil penalty amount and payment timeline for payment of the agreed civil penalty herein.

51. EPA reviewed financial information submitted by the Respondent, including federal Form 1040 income tax returns for the year 2014 through 2019, internal financial statements for the years 2018 through 2019 and for the first quarter of 2020, financial documentation and statements used to compile the referenced internal financial statements, responses to an EPA "Financial Statements for Business" questionnaire, information and a *certified statement* supporting Respondent's request for additional consideration due to the business impacts of COVID-19, and other supporting financial documentation. Upon review of such information, EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 49, above, in settlement of the above-captioned action.

52. Complainant has relied upon the financial information provided by Respondent and referenced in the preceding Paragraph and, based upon that information, it is Complainant's conclusion that the Respondent has established that it is unable to pay the full amount of the agreed civil penalty identified and set forth in Paragraph 49, above, within thirty (30) days of the effective date of this CAFO and that a payment plan of the nature and duration set forth below is necessary and appropriate. Pursuant to the provisions of this CAFO, Respondent will remit a total civil penalty (principal) of THIRTY THOUSAND DOLLARS ($30,000.00) and interest (calculated at the rate of 2% per annum on the outstanding principal balance) in the amount of THREE HUNDRED THIRTY-SEVEN DOLLARS AND FIFTY CENTS ($337.50), in accordance with the installment payment schedule set forth in Table I, immediately below:

Table I – Installment Payment Schedule

Installment Payment No.	**Date Payment Due**	**Principal Amount**	**Interest**	**Installment Payment Amount Due**
1	**Within 90 Days of *Effective Date of Consent Agreement,*** *but no later than* ***March 31, 2021***	$3,750.00	$75.00	$3,792.19
2	***June 30, 2021***	$3,750.00	$65.62	$3,792.19
3	***September 30, 2021***	$3,750.00	$56.25	$3,792.19
4	***December 31, 2021***	$3,750.00	$46.87	$3,792.19
5	***March 31, 2022***	$3,750.00	$37.50	$3,792.19
6	***June 30, 2022***	$3,750.00	$28.12	$3,792.19
7	***September 30, 2022***	$3,750.00	$18.75	$3,792.19
8	***December 31, 2022***	$3,750.00	$9.37	$3,792.19
Total:		$30,000.00	$337.50	$30,337.50

53. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the Table I installment payment schedule set forth in Paragraph 52, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment.

54. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.

55. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:

    a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. CAA-03-2021-0063;

    b. All checks shall be made payable to the "United States Treasury";

    c. All payments made by check and sent by regular mail shall be addressed and mailed to:

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

    d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

        https://www.epa.gov/financial/makepayment

    e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously to:

        A.J. D'Angelo
        Senior Assistant Regional Counsel
        U.S. EPA, Region III (3RC30)
        1650 Arch Street
        Philadelphia, PA 19103-2029
        dangelo.aj@epa.gov

56. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

57. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

58. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).

59. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a $15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional $15.00 for each subsequent thirty (30) days the penalty remains unpaid.

60. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).

61. Failure by Respondent to pay the CAA civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 205 of the CAA, 42 U.S.C. § 7524. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

62. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

63. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and represents that, to the best of Respondent's knowledge and belief, this CAFO does not contain any confidential business information or personally identifiable information from Respondent.

64. 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 CAFO, including information about respondent's ability to pay a penalty, 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.

CERTIFICATION OF COMPLIANCE

65. Respondent certifies to EPA, upon personal investigation and to the best of his knowledge and belief, that he currently is in compliance with regard to the violations alleged in this Consent Agreement.

66. Respondent acknowledges receipt of the Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices, attached as Appendix B of the Consent Agreement, with the goal of the Plan being to assist in maintaining continued compliance with the Act.

OTHER APPLICABLE LAWS

67. Nothing in this CAFO shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This CAFO does not constitute a waiver, suspension or modification of the requirements of the Clean Air Act, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

68. This CAFO resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this CAFO. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this CAFO

after its effective date.

EXECUTION /PARTIES BOUND

69. This CAFO shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this CAFO.

EFFECTIVE DATE

70. The effective date of this CAFO is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

71. This CAFO constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this CAFO.

For Respondent, Thomas Hassler:

Date: 2/5/21

By: _____

Mr. Thomas Hassler, Owner
Hassler Diesel Performance

For Complainant:

After reviewing the Consent 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 Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 2/17/21 By: KAREN MELVIN Digitally signed by KAREN MELVIN Date: 2021.02.17 16:04:37 -05'00'

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III

Attorney for Complainant:

Date:_____ By: ANGELO D'ANGELO Digitally signed by ANGELO D'ANGELO Date: 2021.02.08 08:04:17 -05'00'

A.J. D'Angelo
Senior Assistant Regional Counsel
U.S. EPA – Region III

Appendix A

In the Matter of: Thomas Hassler, *d/b/a* Hassler Diesel Performance

Docket No. CAA-03-2021-0063

Defeat Devices Sold and Installed by Respondent

Sale / Installation Date (from Invoice) or Sale / Installation Date Range (from Spreadsheet)	Part Description	ECM Programmers / Tuners Sold	EGR Delete Parts Sold	Exhaust After-treatment Delete Pipes Sold	Vehicles with Parts Installed
1/6/2017	4INCH TURBO BACK CC EXHAUST SYSTEM SHIPPED			1	
1/27/2017	SCT X4 TUNER	1			1
2/2/2017	SCT X4 TUNER	1			1
2/21/2017	EGR DELETE KIT		1		1
3/9/2017	EGR DELETE KIT 6.7 FORD		1		
3/30/2017	4INCH TURBO BACK EXHAUST WITH MUFFLER			1	
4/17/2017	TEST PIPE			1	
5/8/2017	DODGE TEST PIPE			1	
6/13/2017	2 TEST PIPES			1	
8/10/2017	DELETE EXHAUST PIPE			1	
8/25/2017	SINISTER EGR DELETE		1		
9/11/2017	TEST PIPE			1	
9/18/2017	TEST PIPE			1	
9/22/2017	SINISTER DIESEL EGR DELETE KIT		1		
10/6/2017	TEST PIPE			1	
10/16/2017	LMM EGR DELETE KIT		1		
10/31/2017	SINISTER EGR DELETE KIT		1		
11/6/2017	EGR DELETE KIT WITH ELBOW		1		
11/6/2017	EGR DELETE KIT		1		1
11/8/2017	FORD 6.7 EGR DELETE KIT		1		

Sale / Installation Date (from Invoice) or Sale / Installation Date Range (from Spreadsheet)	**Part Description**	**ECM Programmers / Tuners** **Sold**	**EGR Delete Parts** **Sold**	**Exhaust After-treatment Delete Pipes** **Sold**	**Vehicles with Parts** **Installed**
12/1/2017	SINISTER EGR DELETE KIT		1		
11/15/2017	AFE DELETE PIPE		1		
12/12/2017	MBRP 4INCH EXHAUST SYSTEM TURBO BACK, NO MUFFLER			1	1
12/12/2017	SCT TUNER X4	1			
11/27/2017	DODGE 07.5-12 CAT/DPF DELETE PIPE 230.00 230.00T			1	
11/27/2017	6.4L EGR DELETE		1		
12/2/2017	EGR DELETE 10-15 CUMMINS		1		
11/27/2017	LMM EGR DELETE		1		
11/27/2017	AFE DELETE PIPE			1	
12/13/2017	TEST PIPE			1	1
12/28/2017	SINISTER EGR DELETE		1		1
1/16/2018	TEST PIPE			1	
1/19/2018	FORD 6.7 TEST PIPE			1	
1/19/2018	SINISTER EGR DELETE KIT		1		
2/23/2018	EGR DELETE KIT		1		
2/5/2018	6.0 EGR DELETE KIT WITH UP PIPE		1		
2/6/2018	SINISTER EGR DELETE KIT		1		
2/23/2018	TURBO BACK 4 INCH EXHAUST SYSTEM WITH MUFFLER			1	
2/23/2018	SINISTER EGR DELETE KIT		1		
2/23/2018	SINISTER EGR DELETE KIT		1		
2/26/2018	EGR DELETE KIT		1		
3/15/2018	LML SINISTER EGR DELETE KIT		1		
3/21/2018	6.0 TOW TUNE WITH EGR DELETE		1		

Sale / Installation Date (from Invoice) or Sale / Installation Date Range (from Spreadsheet)	**Part Description**	**ECM Programmers / Tuners** **Sold**	**EGR Delete Parts** **Sold**	**Exhaust After-treatment Delete Pipes** **Sold**	**Vehicles with Parts** **Installed**
3/23/2018	SINISTER LLY EGR DELETE KIT		1		
4/19/2018	TEST PIPE			1	1
4/2/2018	SINISTER EGR DELETE		1		
4/11/2018	SINISTER EGR DELETE KIT		1		1
4/11/2018	SCT X4	1			
4/19/2018	SCT X4	1			
4/19/2018	TEST PIPE			1	1
5/4/2018	FLOW PRO EGR DELETE KIT		1		
5/15/2018	TEST PIPE			1	1
5/9/2018	EGR DELETE KIT		1		
5/9/2018	CAT DELETE PIPE WITH CLAMPS			1	
5/9/2018	TEST PIPE			1	1
5/24/2018	TEST PIPE			1	1
6/1/2018	EGR DELETE KIT		1		
6/1/2018	SINISTER EGR DELETE PIPE		1		
6/1/2018	TEST PIPE			1	
6/5/2018	TEST PIPE			1	1
6/16/2018	EGR DELETE WITH ELBOW		1		
6/16/2018	EXHAUST TEST PIPE			1	
6/19/2018	EGR DELETE		1		1
6/26/2018	AFE 49-02047 ATLAS 5" TURBO-BACK RACE EXHAUST SYSTEM			1	1
6/26/2018	EGR DELETE KIT		1		

Sale / Installation Date (from Invoice) or Sale / Installation Date Range (from Spreadsheet)	**Part Description**	**ECM Programmers / Tuners** **Sold**	**EGR Delete Parts** **Sold**	**Exhaust After-treatment Delete Pipes** **Sold**	**Vehicles with Parts** **Installed**
7/11/2018	DPF DELETE/MUFFLER			1	
7/11/2018	SCR DELETE PIPE			1	
7/12/2018	TEST PIPE			1	
7/17/2018	INSTALL EGR DELETE		1		
7/16/2018	EGR DELETE KIT WITH INTAKE ELBOW		1		1
7/16/2018	EGR DELETE		1		1
8/7/2018	TEST PIPE			1	1
8/8/2018	SCT X4	1			1
9/4/2018	TEST PIPE			1	
9/12/2018	SCT X4 TUNER	1			1
9/13/2018	SCT X4	1			1
9/13/2018	FORD ECM UPDATE WITH TEST PIPE	1		1	
10/17/2018	TEST PIPE			1	
10/22/2018	TEST PIPE			1	
10/29/2018	TEST PIPE			1	
1/22/2019	TEST PIPE			1	
2/1/2019	TEST PIPE			1	
2/20/2019	TEST PIPE			1	
3/5/2019	TEST PIPE			1	
5/3/2019	TEST PIPE			1	
4/7/2019	TEST PIPE			1	
7/17/2019	TEST PIPE WITH MUFFLER			1	
7/25/2019	TEST PIPE WITH MUFFLER			1	1
8/1/2019	TEST PIPE			1	
8/15/2019	TEST PIPE WITH MUFFLER			1	
9/18/2019	TEST PIPE			1	

Sale / Installation Date (from Invoice) or Sale / Installation Date Range (from Spreadsheet)	**Part Description**	**ECM Programmers / Tuners** **Sold**	**EGR Delete Parts** **Sold**	**Exhaust After-treatment Delete Pipes** **Sold**	**Vehicles with Parts** **Installed**
1/1/17-2/10/20	EFI Live Flash Scan Tune	9			
1/1/17-2/10/20	EFI Live Flash Scan Tune	40			
1/1/17-2/10/20	Gear Head Custom Tune (Ford truck)	21			
1/1/17-2/10/20	BDX 40490 Tuner	1			
1/1/17-2/10/20	Madz Smarty Tuner J06 (Dodge)	2			
1/1/17-2/10/20	Custom Tune	13			
1/1/17-2/10/20	MBRP PLM Series (s60200plm) exhaust			1	
1/1/17-2/10/20	SCT X4 Tuner 7015 (Ford truck)	42			
Total		**137**	**37**	**47**	**23**

Appendix B

In the Matter of: Thomas Hassler, *d/b/a* Hassler Diesel Performance

Docket No. CAA-03-2021-0063

Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices

This document explains how to help ensure compliance with the Clean Air Act's prohibitions on tampering and aftermarket defeat devices. The document specifies what the law prohibits and sets forth two principles to follow in order to prevent violations.

The Clean Air Act Prohibitions on Tampering and Aftermarket Defeat Devices

The Act's prohibitions against tampering and aftermarket defeat devices are set forth in section 203(a)(3) of the Act, 42 U.S.C. § 7522(a)(3), (hereafter "§ 203(a)(3)"). The prohibitions apply to all vehicles, engines, and equipment subject to the certification requirements under sections 206 and 213 of the Act. This includes all motor vehicles (e.g., light-duty vehicles, highway motorcycles, heavy-duty trucks), motor vehicle engines (e.g., heavy-duty truck engines), nonroad vehicles (e.g., all-terrain vehicles, off road motorcycles), and nonroad engines (e.g., marine engines, engines used in generators, lawn and garden equipment, agricultural equipment, construction equipment). Certification requirements include those for exhaust or "tailpipe" emissions (e.g., oxides of nitrogen, carbon monoxide, hydrocarbons, particulate matter, greenhouse gases), evaporative emissions (e.g., emissions from the fuel system), and onboard diagnostic systems.

The prohibitions are as follows:

> "The following acts and the causing thereof are prohibited–"
>
> > **Tampering:** CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1): "for any person to remove or render inoperative any device or element of design installed on or in a [vehicle, engine, or piece of equipment] in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser;"
> >
> > **Defeat Devices:** CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2): "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 [vehicle, engine, or piece of equipment], 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 [vehicle, engine, or piece of equipment] 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."

Section 203(a)(3)(A) prohibits tampering with emission controls. This includes those controls that are in the engine (e.g., fuel injection, exhaust gas recirculation), and those that are in the exhaust (e.g., filters, catalytic convertors, and oxygen sensors). Section 203(a)(3)(B) prohibits (among other things) aftermarket defeat devices, including hardware (e.g., certain modified exhaust pipes) and software (e.g., certain engine tuners and other software changes).

The EPA's longstanding view is that conduct that may be prohibited by § 203(a)(3) does not warrant enforcement if the person performing that conduct has a documented, reasonable basis for knowing that the conduct does not adversely affect emissions. *See* Mobile Source Enforcement Memorandum 1A (June 25, 1974).

The EPA evaluates each case independently, and the absence of such reasonable basis does not in and of itself constitute a violation. When determining whether tampering occurred, the EPA typically compares the vehicle after the service to the vehicle's original, or "stock" configuration (rather than to the vehicle prior to the service). Where a person is asked to perform service on an element of an emission control system that has already been tampered, the EPA typically does not consider the service to be illegal tampering if the person either declines to perform the service on the tampered system or restores the element to its certified configuration.

Below are two guiding principles to help ensure Respondent commits no violations of the Act's prohibitions on tampering and aftermarket defeat devices.

Principle 1: Respondent Will Not Modify any OBD System

Respondent will neither remove nor render inoperative any element of design of an OBD system.[1] Also, Respondent will not manufacture, sell, offer for sale, or install any part or component that bypasses, defeats, or renders inoperative any element of design of an OBD system.

Principle 2: Respondent Will Ensure There is a *Reasonable Basis* for Conduct Subject to the Prohibitions

For conduct unrelated to OBD systems, Respondent will have a *reasonable basis* demonstrating that its conduct[2] does not adversely affect emissions. Where the conduct in question is the manufacturing or sale of a part or component, Respondent must have a *reasonable basis* that the installation and use of that part or component does not adversely affect emissions. Respondent will fully document its *reasonable basis*, as specified in the following section, at or before the time the conduct occurs.

Reasonable Bases

This section specifies several ways that Respondent may document that it has a "reasonable basis" as the term is used in the prior section. In any given case, Respondent must consider all the facts including any unique circumstances and ensure that its conduct does not have any adverse effect on emissions.[3]

A. Identical to Certified Configuration: Respondent generally has a reasonable basis if its conduct: is solely for the maintenance, repair, rebuild, or replacement of an emissions-related element of design; and restores that element of design to be identical to the certified configuration (or, if not certified, the original configuration) of the vehicle, engine, or piece of equipment.[4]

B. **Replacement After-Treatment Systems:** Respondent generally has a reasonable basis if the conduct:

(1) involves a new after-treatment system used to replace the same kind of system on a vehicle, engine or piece of equipment and that system is beyond its emissions warranty; and

(2) the manufacturer of that system represents in writing that it is appropriate to install the system on the specific vehicle, engine or piece of equipment at issue.

C. **Emissions Testing:**[5] Respondent generally has a reasonable basis if the conduct:

(1) alters a vehicle, engine, or piece of equipment;

(2) emissions testing shows that the altered vehicle, engine, or piece of equipment will meet all applicable emissions standards for its full useful life; and

(3) where the conduct includes the manufacture, sale, or offering for sale of a part or component, that part or component is marketed only for those vehicles, engines, or pieces of equipment that are appropriately represented by the emissions testing.

D. **EPA Certification:** Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the EPA under 40 C.F.R. Part 85 Subpart V (or any other applicable EPA certification program).[6]

E. **CARB Certification:** Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the California Air Resources Board ("CARB").[7]

ENDNOTES

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[1] *OBD system* includes any system which monitors emission-related elements of design, or that assists repair technicians in diagnosing and fixing problems with emission-related elements of design. If a problem is detected, an OBD system should record a diagnostic trouble code, illuminate a malfunction indicator light or other warning lamp on the vehicle instrument panel, and provide information to the engine control unit such as information that induces engine derate (as provided by the OEM) due to malfunctioning or missing emission-related systems. Regardless of whether an element of design is commonly considered part of an OBD system, the term "OBD system" as used in this Appendix includes any element of design that monitors, measures, receives, reads, stores, reports, processes or transmits any information about the condition of or the performance of an emission control system or any component thereof.

[2] Here, the term *conduct* means: all service performed on, and any change whatsoever to, any emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3); the manufacturing, sale, offering for sale, and installation of any part or component that may alter in any way an emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3), and any other act that may be prohibited by § 203(a)(3).

[3] General notes concerning the Reasonable Bases: Documentation of the above-described reasonable bases must be provided to EPA upon request, based on the EPA's authority to require information to determine compliance. CAA § 208, 42 U.S.C. § 7542. The EPA issues no case-by-case pre-approvals of reasonable bases, nor exemptions to the Act's prohibitions on tampering and aftermarket defeat devices (except where such an exemption is available by regulation). A reasonable basis consistent with this Appendix does not constitute a certification, accreditation, approval, or any other type of endorsement by EPA (except in cases where an EPA Certification itself constitutes the reasonable basis). No claims of any kind, such as "Approved [or certified] by the Environmental Protection Agency," may be made on the basis of the

reasonable bases described in this Policy. This includes written and oral advertisements and other communication. However, if true on the basis of this Appendix, statements such as the following may be made: "Meets the emissions control criteria in the United States Environmental Protection Agency's Tampering Policy in order to avoid liability for violations of the Clean Air Act." There is no reasonable basis where documentation is fraudulent or materially incorrect, or where emissions testing was performed incorrectly.

[4] Notes on Reasonable Basis A: The conduct should be performed according to instructions from the original manufacturer (OEM) of the vehicle, engine, or equipment. The "certified configuration" of a vehicle, engine, or piece of equipment is the design for which the EPA has issued a certificate of conformity (regardless of whether that design is publicly available). Generally, the OEM submits an application for certification that details the designs of each product it proposes to manufacture prior to production. The EPA then "certifies" each acceptable design for use, in the upcoming model year. The "original configuration" means the design of the emissions-related elements of design to which the OEM manufactured the product. The appropriate source for technical information regarding the certified or original configuration of a product is the product's OEM. In the case of a replacement part, the part manufacturer should represent in writing that the replacement part will perform identically with respect to emissions control as the replaced part, and should be able to support the representation with either: (a) documentation that the replacement part is identical to the replaced part (including engineering drawings or similar showing identical dimensions, materials, and design), or (b) test results from emissions testing of the replacement part. In the case of engine switching, installation of an engine into a different vehicle or piece of equipment by any person would be considered tampering unless the resulting vehicle or piece of equipment is (a) in the same product category (e.g., light-duty vehicle) as the engine originally powered and (b) identical (with regard to all emissions-related elements of design) to a certified configuration of the same or newer model year as the vehicle chassis or equipment. Alternatively, Respondent may show through emissions testing that there is a reasonable basis for an engine switch under Reasonable Basis C. Note that there are some substantial practical limitations to switching engines. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration.

[5] Notes on emissions testing: Where the above-described reasonable bases involve emissions testing, unless otherwise noted, that testing must be consistent with the following. The emissions testing may be performed by someone other than the person performing the conduct (such as an aftermarket parts manufacturer), but to be consistent with this Appendix, the person performing the conduct must have all documentation of the reasonable basis at or before the conduct. The emissions testing and documentation required for this reasonable basis is the same as the testing and documentation required by regulation (e.g., 40 C.F.R. Part 1065) for the purposes of original EPA certification of the vehicle, engine, or equipment at issue. Accelerated aging techniques and in-use testing are acceptable only insofar as they are acceptable for purposes of original EPA certification. The applicable emissions standards are either the emissions standards on the Emission Control Information Label on the product (such as any stated family emission limit, or FEL), or if there is no such label, the fleet standards for the product category and model year. To select test vehicles or test engines where EPA regulations do not otherwise prescribe how to do so for purposes of original EPA certification of the vehicle, engine, or equipment at issue, one must choose the "worst case" product from among all the products for which the part or component is intended. EPA generally considers "worst case" to be that product with the largest engine displacement within the highest test weight class. The vehicle, engine, or equipment, as altered by the conduct, must perform identically both on and off the test(s), and can have no element of design that is not substantially included in the test(s).

[6] Notes on Reasonable Basis D: This reasonable basis is subject to the same terms and limitations as EPA issues with any such certification. In the case of an aftermarket part or component, there can be a reasonable basis only if: the part or component is manufactured, sold, offered for sale, or installed on the vehicle, engine, or equipment for which it is certified; according to manufacturer instructions; and is not altered or customized, and remains identical to the certified part or component.

[7] Notes on Reasonable Basis E: This reasonable basis is subject to the same terms and limitations as CARB imposes with any such certification. The conduct must be legal in California under California law. However, in the case of an aftermarket part or component, the EPA will consider certification from CARB to be relevant even where the certification for that part or component is no longer in effect due solely to passage of time.

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103

In the Matter of:	:	
	:	
Thomas Hassler	:	
d/b/a Hassler Diesel Performance	:	**Docket No. CAA-03-2021-0063**
	:	
Respondent.	:	
	:	
261 Airport Road	:	**Proceeding under CAA Section 205(c)(1)**
Bethel, PA 19507,	:	
	:	
Facility.	:	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, Thomas Hassler, have executed a document entitled "Consent 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 Consent 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 Consent 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 January 16, 2009 *Clean Air Act Mobile Source Civil Penalty Policy - Vehicle and Engine Certification Requirements* 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 ***THIRTY THOUSAND DOLLARS ($30,000.00)***, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent 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 Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of Title II of the CAA, 42 U.S.C. §§ 7521 *et seq.*, and the regulations promulgated thereunder.

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

2/22/21
DATE

JOSEPH LISA
Digitally signed by JOSEPH LISA
Date: 2021.02.22 11:32:03 -05'00'

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