

BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Four Penn Center – 1600 John F Kennedy Blvd  
Philadelphia, Pennsylvania 19103-2852



IN THE MATTER OF: )  
)  
Empty Tank Garage, LLC ) DOCKET NO.: CAA-03-2023-0100  
2480 W College Ave )  
York, PA 17408 ) EXPEDITED SETTLEMENT  
) 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 III (“Complainant”), and Empty Tank Garage, 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 2480 W College Ave, York, PA 17408 (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 January 2018 and May 2019, Respondent sold or installed **Thirty-Seven (37)** 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/install of these defeat devices, identified in Table 1, below, constitutes **Thirty-Seven (37)** 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).

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

Part #	Production Description	Quantity Installed	Quantity Sold	Motor Vehicle Application
Not Provided	2010-2017 6.7 Cummins CSP4 or 5 Tune File		1	2011 Dodge Ram
FLO661848	FLO SS148 10-12 DG 6.7 T		1	2011 Dodge Ram
Not Provided	2010-2017 6.7 Cummins CSP4 or 5 Tune File		1	2012 Dodge Ram
FLO661848	FLO SS148 10-12 DG 6.7 T		1	2012 Dodge Ram
Not Provided	07.5-09 CSP5 Tune File	1	1	2008 Dodge Ram
Not Provided	EZ Lynk Auto Agent Powerstroke, EX Lynk SOTF Switch		1	2015 Ford
SS652NB	Flo~Pro SS652NB	1	1	2015 Ford
Not Provided	EZ Lynk Auto Agent Powerstroke		1	2011 Ford
SS653NB	FLO SS653NB	1	1	2011 Ford
FLO 864	FLO 864 11-13 GM 6.6L	1	1	2012 Chevrolet Silverado
SS653NB	Flo~Pro 5" Stainless Back Exhaust	1	1	2013 Ford
SS864	FLO SS 864		1	2012 GMC Sierra
SS864	Flo~Pro 4" Stainless Steel Downpipe Back w/ Muffler	1	1	2015 Chevrolet Silverado

Not Provided	2010-2017 6.7 Cummins CSP4 or CSP5 Tune File	1	1	2012 Dodge Ram
Not Provided	2010-2017 6.7 Cummins CSP4 or CSP5 Tune File	1	1	2010 Dodge Ram
Not Provided	2010-2017 6.7 Cummins CSP4 or CSP5 Tune File		1	2013 RAM
SS1874	FLO SS 1874	1	1	2013 RAM
Not Provided	2010-2017 6.7 Cummins CSP4 or CSP5 Tune File;	1	1	2012 Dodge Ram
Not Provided	Ez Lynk Auto Agent 2.0 Powerstroke	1	1	2012 Ford
F005DB-MD	JAMO Performance 4" Stainless Downpipe Back		1	2014 Ram
Not Provided	LML Mercernary Level 1 Tune File; T1 EZ Lynk Auto Agent 2. 0 PowerStroke		1	2014 Ram
Not Provided	LML Mercernary Level 1 Tune File; T1 EZ Lynk Auto Agent 2.0 Powerstroke		1	2011 Chevrolet Silverado
SS852NB	SCS 422013 Exhaust	1	1	2011 Chevrolet Silverado
Not Provided	EZ Lynk Auto Agent 2.0 Powerstroke		1	2015 Ford
Not Provided	EZ Lynk Auto Agent 2.0 Powerstroke		1	2017 Ford

6. Respondent certifies that it has not had the same, or closely related violation(s), that were the subject of an enforcement action under Title II of the CAA within five (5) years of the date of Respondent's execution of this Agreement.
  
7. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **TWENTY-SEVEN THOUSAND, THREE HUNDRED AND FORTY-TWO DOLLARS (\$27,342)**, 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.

8. Respondent agrees that, within thirty (30) calendar days of the effective date of this Agreement, Respondent shall make a payment of **TWENTY-SEVEN THOUSAND, THREE HUNDRED AND FORTY-TWO DOLLARS (\$27,342)**, by one of following four (4) methods, as further specified and directed below: a) electronic funds transfer (“EFT”); b) Automated Clearinghouse; c) Pay.gov; or d) a cashier’s check, or certified check, payable to the “United States Treasury” with the case name, address and docket number of this Agreement (CAA-03-2023-0100) referenced on the check for the amount specified above. A list of the payment methods is also provided on the website <https://www.epa.gov/financial/makepayment>.

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

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

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

U.S. Treasury REX/Cashlink ACH Receiver  
  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
  
CTX Format Transaction Code 22- Checking  
  
Physical Location of the U.S. Treasury Facility  
5700 Rivertech Court  
Riverdale, MD 20737  
  
Remittance Express (REX): 1-866-234-5681

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

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

- (1) You DO NOT need a username and password or account.
  - (2) Enter SFO 1.1 in the form search box on the top left side of the screen.
  - (3) Open the form and follow the on-screen instructions.
  - (4) Select your method of payment from the “Type of Payment” drop down menu.
  - (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
  - (6) Enter the docket number of this Agreement (CAA-03-2023-0100) into the field.
- d) Payment of the penalty amount **by cashier’s check, or by certified check**, payable to the “United States Treasury” with the case name, address, and docket number of this Agreement (CAA-03-2023-0100) referenced on the check which shall be sent:

- (1) via U.S. regular mail to:  
U.S. Environmental Protection Agency  
P.O. Box - Cincinnati Finance Center Box 979078  
St. Louis, MO 63197-9000

or

- (2) via overnight mail (FedEx or other non-U.S. Postal Service express mail) to:  
  
U.S. Bank  
1005 Convention Plaza  
Mail Station SL-MO-C2GL  
St. Louis, MO 63101

9. 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:

Parmatma Adhikari (3ED21)  
[Adhikari.parmatma@epa.gov](mailto:Adhikari.parmatma@epa.gov)

and

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

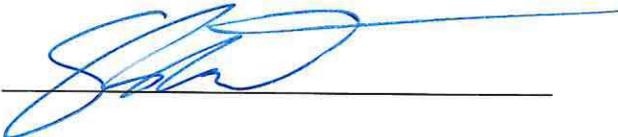
10. In signing this Agreement, the Respondent:
  - a) admits the jurisdictional allegations set forth in this Agreement;
  - b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above;
  - c) agrees not to contest 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.
  
11. 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.
  
12. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
  
13. 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.

14. 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.
15. 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).
16. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.
17. 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: Adhikari.parmatma@epa.gov (for Complainant), and Shawn@emptytankgarage.com (for Respondent).
18. 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: Empty Tank Garage**

Name: Mr. Shawn Eisenhart

Title: Owner

Signature: 

Date: 9/2/23

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

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

\_\_\_\_\_  
[Digital Signature and Date]  
Karen Melvin, Director  
Enforcement and Compliance Assurance Division



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 III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
Four Penn Center - 1600 John F Kennedy Blvd  
Philadelphia, Pennsylvania 19103-2852**

**In the Matter of:** :  
 :  
**Empty Tank Garage, LLC** :  
**2480 W College Ave** : **U.S. EPA Docket No. CAA-03-2023-0100**  
**York, PA 17408** :  
 : **EXPEDITED SETTLEMENT AGREEMENT**  
**Respondent.** :  
 :

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**CERTIFICATE OF SERVICE**

I certify that the foregoing *Expedited Settlement Agreement and Final Order* was filed with the EPA Region III 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:

Shawn Eisenhart (Owner)  
Empty Tank Garage, LLC  
Shawn@emptytankgarage.com  
2480 W College Ave  
York, PA 17408

Parmatma Adhikari  
Environmental Engineer  
U.S. EPA, Region III  
Adhikari.parmatma@epa.gov

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[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region III