

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jul 24, 2025

2:50 pm

U.S. EPA REGION 3
HEARING CLERK

In the Matter of: :
:
Built Not Bought Automotive, LLC : U.S. EPA Docket No. CAA-03-2025-0113
628 Prosperity Way :
Chesapeake, VA 23320 : Proceeding under Section 205(c) of the Clean Air
: Act, 42 U.S.C. § 7524(c)
Respondent. :

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3 ("Complainant") and Built Not Bought Automotive, LLC ("Respondent") (collectively, the "Parties"), pursuant to Section 205(c) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c), 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. Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions to address the violations alleged herein. The Administrator has delegated enforcement authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under the CAA for the violations alleged herein.
2. 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

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of the EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
11. By signing this Consent Agreement, Respondent waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the Consent Agreement.

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) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. 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 non-methane hydrocarbons ("NMHC"), particulate matter ("PM") oxides of nitrogen ("NOx"), and carbon monoxide ("CO").
14. The term "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."
15. 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. *See generally* 40 C.F.R. Part 86.

16. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity (“COC”).
17. Vehicle manufacturers (also known as “original equipment manufacturers” or “OEMs”) obtain COCs by submitting an application that must describe, among other things, the emissions-related elements of design of the motor vehicle or motor vehicle engine. *See e.g.*, 40 CFR § 86.1844-01(e). This includes all auxiliary emission control devices, which are defined as “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purposes of activating, modulating, delaying, or deactivating the operation of any part of the emission control system” of the motor vehicle. 40 CFR § 86.1803-01.
18. An “element of design” means “any control system (*i.e.*, computer software, electronic control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.” 40 CFR § 86.1803-01.
19. Exhaust gas recirculation (“EGR”) is an emissions-related element of design that reduces NO_x emissions, which are formed at the high temperatures caused during fuel combustion. By recirculating exhaust gas through the engine, EGR reduces engine temperature and NO_x emissions.
20. Diesel oxidation catalysts (“DOCs”) are emissions-related elements of design that reduce CO and NMHC emissions by promoting the conversion of those pollutants into less harmful gases in diesel-fueled motor vehicles.
21. Diesel particulate filters (“DPFs”) are emissions-related elements of design that collect PM pollution contained in engine exhaust gas using a catalytic filter.
22. Selective catalytic reduction (“SCR”) is an emissions-related element of design that reduces NO_x emissions by chemically converting exhaust gas that contains NO_x into nitrogen and water through the injection of diesel exhaust fluid.
23. Engine control module (“ECM”) means an-electronic hardware device, together with the software and calibrations installed on the-device, that is capable of controlling, among other things, the operation of the emission control system in a motor vehicle.
24. On-board diagnostic systems (“OBDS”) are elements of design that include systems of components and sensors designed to detect, record, and report malfunctions of monitored emissions-related systems or components. *See* 42 U.S.C. § 7521(m); 40 C.F.R. § 86.1806-17 (requiring OBD in light-duty vehicles).
25. EPA issues COCs to vehicle manufacturers 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.

26. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits any person from manufacturing, selling, offering to sell, or installing any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative (“Defeat Devices”) any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with Title II of the CAA, such as EGR, DPF, SCR, DOC or OBD systems, 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.
27. Persons violating Sections 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), are subject to a civil penalty of up to \$5,911 for each violation that occurred on or after November 2, 2015, where penalties are assessed on or after January 8, 2025. Section 205(a) of the CAA, 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4; Civil Monetary Penalty Inflation Adjustment Rule, 90 Fed. Reg. 1375, 1378 (January 8, 2025).
28. Respondent is a Virginia LLC with a principal place of business located at 628 Prosperity Way, Chesapeake, VA 23320 (the “Facility”).
29. Respondent is a “person” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e), and within the meaning Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).
30. Pursuant to its authority under Section 208(a)-(b) of the CAA, 42 U.S.C. § 7542(a)-(b), the EPA issued a Request for Information letter dated February 9, 2023 (“2023 RFI”) and conducted an inspection of the Facility on March 30, 2023, to determine Respondent’s compliance with the CAA and the regulations promulgated thereunder (collectively, the “Investigation”).
31. During and after the Facility inspection, Respondent provided responses and information responsive to the 2023 RFI (“RFI Response”).
32. On September 5, 2024, the EPA issued a Notice to Show Cause letter setting forth the violations alleged herein and, on October 31, 2024, the EPA received a written response from the Respondent.
33. On November 4, 2024, the parties participated in a show cause hearing to discuss the alleged violations and further oral and written exchanges took place thereafter.

Count I - Sale of Defeat Devices

34. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
35. In its RFI Response, Respondent provided information showing that, from at least January 2019 through March 2022, it sold 1,079 Defeat Devices that have 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; and that it knew or should have known such parts were being offered for sale for such use.
36. Respondent's conduct described in Paragraph 35 constitutes sales of Defeat Devices and violates Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).
37. Pursuant to Section 205(a) of the CAA, 42 U.S.C. § 7524(a), each sale of a Defeat Device constitutes a separate violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), with respect to each part or component.
38. In failing to comply with Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), Respondent is subject to the assessment of penalties under Section 205(a) of the CAA, 42 U.S.C. § 7524(a).

CIVIL PENALTY

39. EPA has considered the appropriateness of a penalty pursuant to the criteria set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), i.e., 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. The EPA has determined that the appropriate civil penalty for the violations alleged herein is Two Hundred and Fifty-Seven Thousand Five Hundred and Seven Dollars (\$257,507). Pursuant to the statutory requirement that the EPA consider the economic impact of the penalty on Respondent's business, and based upon confidential business information submitted to the EPA by Respondent, including tax returns, the EPA concludes that Respondent is unable, and therefore is not required, to pay any penalty in this matter.

GENERAL SETTLEMENT CONDITIONS

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

41. Respondent certifies that any information or representation it has supplied or made to the 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. The EPA shall have the right to institute further actions to recover appropriate relief if the EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this Consent Agreement and Final Order, 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 the 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

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

OTHER APPLICABLE LAWS

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

RESERVATION OF RIGHTS

44. This Consent Agreement and Final Order resolves only the EPA's claims for civil penalties for the specific violation alleged against Respondent in this Consent Agreement and Final Order. The EPA reserves the right to commence action against any person, including Respondent, in response to any condition which the 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). The EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

45. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By providing the signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that the person signing is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

46. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of the EPA, Region 3, or the Regional Administrator's 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

47. This Consent Agreement and Final Order 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 Consent Agreement and Final Order.

For Respondent: Built Not Bought Automotive, LLC

Date: 7/17/2025

By:


Justin Frank
Owner

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or the Regional Administrator's designee, the Regional Judicial Officer, issue the attached Final Order.

ANDREA BAIN
Digitally signed by
ANDREA BAIN
Date: 2025.07.22 08:11:23
-04'00'

By:

[Digital Signature and Date]

Acting Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region 3
Complainant

Attorney for Complainant:

ANDREW INGERSOLL
Digitally signed by
ANDREW INGERSOLL
Date: 2025.07.18
14:00:55 -04'00'

By:

[Digital Signature and Date]

Andrew Ingersoll
Assistant Regional Counsel
U.S. EPA – Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

FILED

Jul 24, 2025

2:51 pm

U.S. EPA REGION 3
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 : Air Act, 42 U.S.C. § 7524(c)
Respondent. :
 :

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Built Not Bought Automotive, LLC 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 into this Final Order as if fully set forth at length herein.

NOW, THEREFORE, PURSUANT TO Section 205(c) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent 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 the CAA and the regulations promulgated thereunder.

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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.

By: **DONZETT
A THOMAS** Digitally signed by
DONZETTA THOMAS
Date: 2025.07.24
14:22:25 -04'00'

Regional Judicial and Presiding Officer
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 3
Philadelphia, Pennsylvania 19103

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| Chesapeake, VA 23320 | : Proceeding under Section 205(c) of the Clean |
| | : Air Act, 42 U.S.C. § 7524(c) |
| Respondent. | : |

CERTIFICATE OF SERVICE

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent 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:

Robert Manning
Gregory Munson
Gunster
RManning@gunster.com
GMunson@gunster.com
215 S. Monroe Street, Suite 601
Tallahassee, FL 32301

Andrew Ingersoll
Assistant Regional Counsel
U.S. EPA, Region 3
Ingersoll.andrew@epa.gov

Kyle Krall
Environmental Engineer
U.S. EPA, Region 3
krall.kyle@epa.gov

**BEVIN
ESPOSITO**

Digitally signed by BEVIN
ESPOSITO
Date: 2025.07.24 14:54:08
-04'00'

[Digital Signature and Date]

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 3