

**UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE ADMINISTRATOR**

In the Matter of:)	Docket No.: CAA-03-2021-0058
)	
Keystone Automotive Operations, Inc.)	COMPLAINANT’S INITIAL
)	PREHEARING EXCHANGE
Respondent)	

COMPLAINANT’S INITIAL PREHEARING EXCHANGE

Pursuant to 40 C.F.R. § 22.19(a) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”) and in response to Chief Administrative Law Judge Susan L. Biro’s March 31, 2021 Prehearing Order (“Prehearing Order”), Complainant, the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency (“EPA”) Region 3, hereby sets forth its Initial Prehearing Exchange. Complainant respectfully reserves its right to supplement this Initial Prehearing Exchange in accordance with 40 C.F.R. § 22.19(f).

I. WITNESSES

At this time, Complainant expects to call as witnesses the following individuals, whose testimony is expected to include, but may not be limited to, the matters described generally below. Complainant reserves the right to revise and supplement the matters to which each witness identified below may testify. Complainant anticipates that it may be appropriate to present the testimony of certain witnesses in written or affidavit form. Consequently, Complainant reserves the right to seek leave of the Court to present in written or affidavit form, all or part of the testimony of some of the witnesses described below. In addition, Complainant anticipates that the parties will be able to stipulate that many of the exhibits are what they purport to be. In the event that parties are unable to so stipulate, Complainant reserves the right to present the testimony of the appropriate records custodians or other witnesses, live or in written form, for the sole purposes of establishing that certain documents are what they purport to be.

To the extent that the parties can agree on stipulations and narrow the issues, or the issues are narrowed by accelerated decision, the number of witnesses, and/or length of their testimonies, may be reduced.

1. Jason Gumbs (2242A)
Environmental Protection Agency
Office of Enforcement and Compliance Assurance
1200 Pennsylvania Ave., N.W.
Washington, DC 20460

Mr. Gumbs is an Environmental Engineer in EPA's Vehicle & Engine Enforcement Branch ("VEEB"), Air Enforcement Division, Office of Civil Enforcement, Office of Enforcement and Compliance Assurance. As part of his various roles and responsibilities in EPA's VEEB, he provides technical assistance to regional case teams in mobile source matters.

In connection with his role/responsibility in providing technical assistance to regional case teams in mobile source matters, Mr. Gumbs may be called to testify as a FACT WITNESS and/or EXPERT WITNESS with respect to: a) his education, training, experiences, and credentials; b) his roles and duties working in EPA's VEEB and Office of Transportation and Air Quality ("OTAQ"); c) EPA's Clean Air Act ("CAA") vehicle and engine regulatory program; d) EPA's motor vehicle and motor vehicle engine certification process, documents, and associated databases; e) motor vehicle/motor vehicle engine exhaust systems and associated pollutants; f) emissions-related elements of design such as exhaust gas recirculation systems, diesel oxidation catalysts, diesel particulate filters, catalytic converters, NOx adsorption catalysts, selective catalytic reduction systems, air injection reactors, oxygen sensors and on-board diagnostic systems and their impact on motor vehicles/engines' ability to meet emission standards; g) automotive aftermarket parts and the aftermarket parts marketplace; h) relevant EPA reports and policies; i) EPA certification of the advertised motor vehicle/engine applications for the parts at issue in this matter; j) the emissions-related elements of design for the EPA-certified motor vehicles/engine applications advertised for the parts at issue in this matter; and k) the parts at issue in this matter, their fitment, and their effect on emissions-related elements of design on advertised EPA-certified motor vehicle/engine applications.

A copy of Mr. Gumbs curriculum vitae is included as an exhibit in accordance with the Prehearing Order. Mr. Gumbs may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

2. Brent Ruminski
Eastern Research Group, Inc.
14555 Avion Parkway, Suite 200
Chantilly, VA 20151

Mr. Ruminski is an engineer at Eastern Research Group, Inc. ("ERG"), an EPA contractor, with experience performing or otherwise participating in inspections or enforcement investigations for EPA to determine whether entities are in compliance with the tampering and aftermarket defeat device prohibitions under the CAA.

Mr. Ruminski may be called to testify as a FACT WITNESS with respect to: a) his education, training, and experiences performing or otherwise participating in inspections or enforcement investigations for EPA to determine whether entities are in compliance with the

tampering and aftermarket defeat device prohibitions under the CAA, and b) his participation in EPA's enforcement investigation of Respondent, including, but not limited to, his review, collection and capture of webpage advertisements, installation instructions, and other online content relevant to this matter.

3. Gail Coad
Industrial Economics, Incorporated
2067 Massachusetts Avenue
Cambridge, MA 02140

Ms. Coad is a Principal at Industrial Economics, Incorporated, an EPA contractor, with an expertise in financial analyses.

Ms. Coad may be called to testify as a FACT WITNESS and/or EXPERT WITNESS with respect to: a) her education, training, experiences and credentials; b) the various forms of economic benefit considered in environmental enforcement matters and the specific form of economic benefit applicable to this matter; c) the information she relied on, the methodology she employed, and her conclusions in analyzing Respondent's economic benefit of noncompliance for the violations alleged in the Complaint; d) Respondent's financial condition or size of its business; and/or e) the impact of a penalty on Respondent's ability to continue in business.

A copy of Ms. Coad's curriculum vitae is included as an exhibit in accordance with the Prehearing Order. Ms. Coad may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

4. Amelie Isin (3ED21)
Air Enforcement Section
U.S. EPA Region III
1650 Arch Street
Philadelphia, PA 19103

Ms. Isin is an Environmental Engineer in the Air Section in EPA Region 3's Enforcement and Compliance Assurance Division ("ECAD"). Ms. Isin is the lead investigator and case development officer in this matter.

In her capacity as lead investigator and case development officer, Ms. Isin may be called to testify as a FACT WITNESS with respect to: a) her education, training, and experiences prior to working in EPA Region 3 ECAD's Air Section; b) her roles and duties with EPA Region 3 ECAD's Air Section, c) her experiences conducting inspections and developing cases under the CAA; d) her case development activities obtaining information relevant to Respondent's liability and EPA's penalty calculation for the violations alleged in the Complaint, f) the factual bases supporting the violations alleged in the Complaint, and g) the calculation and appropriateness of EPA's proposed penalty, in consideration and application of the statutory factors set forth in Section 205(c)(2) of the CAA and applicable penalty policies.

Ms. Isin may also be called to testify as a rebuttal witness to provide testimony in rebuttal to that provided by Respondent's witnesses.

5. Upon adequate notice to Respondent, Complainant reserves the right to call: a) witnesses listed by Respondent in its Prehearing Exchange, b) additional witnesses to rebut the testimony of Respondent’s witnesses, and c) such other witnesses as otherwise may become necessary.

II. EXHIBITS

Complainant intends to introduce the following exhibits at hearing, copies of which are attached hereto:

Exhibit Number	Description of Exhibit	No. Pages
Cx1	Curriculum vitae – Jason Gumbs*	1
Cx2	U.S Environmental Protection Agency, “Air pollution control; new motor vehicles and engines: Light-duty vehicles and trucks; gaseous and particulate emissions,” Final Rule, 56 <i>Fed. Reg.</i> 25,724 (June 5, 1991)	67
Cx3	U.S Environmental Protection Agency, “Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Regulations Requiring On-Board Diagnostic Systems on 1994 and Later Model Year Light-Duty Vehicles and Light-Duty Trucks,” Final Rule, 58 <i>Fed. Reg.</i> 9,468 (February 19, 1993)	21
Cx4	U.S Environmental Protection Agency, “Control of Air Pollution From New Motor Vehicles: Tier 2 Motor Vehicle Emissions Standards and Gasoline Sulfur Control Requirements,” Final Rule, 65 <i>Fed Reg</i> 6,698 (February 10, 2000)	173
Cx5	U.S Environmental Protection Agency, “Control of Air Pollution From Motor Vehicles: Tier 3 Motor Vehicle Emission and Fuel Standards,” Final Rule, 79 <i>Fed Reg</i> 23,414 (April 28, 2014)	473
Cx6	Energy and Environmental Analysis, Inc, “Emission Control Technology Distribution Final Report,” EPA Report Number: EPA420-P-98-013, 1997.	61
Cx7	Gandhi, H., Piken, A., Shelef, M., & Delosh, R., “Laboratory Evaluation of Three-Way Catalysts,” SAE Paper 760201, 1976.	13
Cx8	Mooney, J., Thompson, C., & Dettling, J., “Three-Way Conversion Catalysts Part of the New Emission Control System,” SAE Paper 770365, 1977.	11
Cx9	Öser, P., “Catalyst Systems with an Emphasis on Three-Way Conversion and Novel Concepts,” SAE Paper 790306, 1979.	15
Cx10	Collins, N., Chandler, G., Brisley, R., Andersen, P., Shady, P., & Roth, S., “Catalyst Improvements to Meet European Stage III and ULEV Emissions Criteria,” SAE Paper 960799, 1996	17
Cx11	Chen, S., Chen, S., Amundsen, A., Rabinowitz, H., & Yamada, T., “The Development of a Close Coupled Plus Underfloor Catalyst for a ULEV Application,” SAE Paper 960796, 1996.	9
Cx12	Manufacturers of Emission Controls Association, “Tier 2/LEVII Emission Control Technologies for Light-duty Gasoline Vehicles,” 2003.	52
Cx13	Clemmens, W., Sabourin, M., & Rao, T., “Detection of Catalyst Performance Loss Using On-Board Diagnostics,” SAE Paper 900062, 1990.	19
Cx14	Meitzler, A., “Application of Exhaust-Gas-Oxygen Sensors to the Study of Storage Effects in Automotive Three-Way Catalysts,” SAE Paper 800019, 1980.	10
Cx15	Seiter, R., & Clark, R., “Ford Three-Way Catalyst and Feedback Fuel Control System,” SAE Paper 780203, 1978	16
Cx16	Gast, R., “Pulsair—a Method for Exhaust System Induction of Secondary Air for Emission Control,” SAE Paper 750172, 1975.	16
Cx17	Grimm, R., Bremer, R., & Stonestreet, S., “GM Micro-Computer Engine Control System,” SAE Paper 800053, 1980.	17
Cx18	Ring, H., “Diesel Electronic Engine Emission Controls”, SAE Paper 840545, 1984.	8
Cx19	Stumpp, G., & Banzhaf, W., “An Exhaust Gas Recirculation System for Diesel Engines,” SAE Paper 780222, 1978.	13
Cx20	Manufacturers of Emission Controls Association, “Emission Control Technologies for Diesel-Powered Vehicles,” 2007	42
Cx21	ESI International, “Diesel Emission Control Strategies Available to the Underground Mining Industry”, 1999	41

Cx22	Part 4690076: Manufacturer advertisement, https://afepower.com/afe-power-46-90076-egr-track-kit , printed 11/21/2017.	4
Cx23	Part 4690072: Manufacturer advertisement, https://afepower.com/afe-power-46-90072-bladerunner-egr-cooler-delete-manifold , printed 12/11/2017	3
Cx24	Part 1090001: Distributer advertisement, https://www.xtremediesel.com/BD-Power-EGR-Cooler-Race-Track-Kit-1090001.aspx , printed 12/11/2017.	4
Cx25	Part 1090011: Distributor advertisement, https://www.performanceeverything.ca/1090011-p/bd-1090011.htm printed 12/11/2017	2
Cx26	Part 9125BO: Distributor advertisement, http://www.jegs.com/i/Kooks-Custom-Headers/579/9125BO/10002/-1 , printed 12/13/2017.	4
Cx27	Part 7631: Manufacturer Product Catalog ©2014, http://www.carquestprofessionals.com/catalogs/high_performance/MR%20Gasket%20Catalog.pdf , printed 9/24/2020.	164
Cx28	Part 9007: Distributor advertisement, http://www.jegs.com/i/Weiland/925/9007/10002/-1 , printed 12/13/2017	4
Cx29	Part 4943036: Manufacturer Installation Instructions, 06-85385 Updated: August, 2017 http://afepower.com/media/catalog/product/files/pdpfiles/0/6/06-85385_49-03012_43036_ford_diesel_trucks_11-17_v8-6.7l_td_ins.pdf , printed 5/22/2020	1
Cx30	Part 4902010: Manufacturer advertisement, https://afepower.com/afe-power-49-02010-atlas-4-aluminized-steel-race-pipe , printed 11/21/2017, Manufacturer Installation Instructions, 06-85330 Updated: August, 2012 https://afepower.com/media/pdp-files/49-02010-is.pdf , printed 5/22/2020	4
Cx31	Part 4904021: Manufacturer advertisement, https://afepower.com/afe-power-49-04021-atlas-4-aluminized-steel-race-pipe , printed 12/11/2017, Manufacturer Installation Instructions, 06-85407 Updated: February, 2014 https://afepower.com/media/pdp-files/49-04021-is.pdf , printed 5/22/2020	4
Cx32	Part 4904014: Manufacturer advertisement, https://afepower.com/afe-power-49-04014-atlas-4-aluminized-steel-race-pipe , printed 12/11/2017, Manufacturer Installation Instructions, 06-85341 Updated: November, 2011 https://afepower.com/media/pdp-files/49-04014-is.pdf , printed 5/22/2020	4
Cx33	Part 4904010: Manufacturer advertisement, https://afepower.com/afe-power-49-04010-atlas-4-aluminized-steel-race-pipe , printed 11/21/2017, Manufacturer Installation Instructions, 06-85348 Updated: March, 2015 https://afepower.com/media/pdp-files/49-04010-is.pdf , printed 5/22/2020	4
Cx34	Part 4904015: Manufacturer advertisement, https://afepower.com/afe-power-49-04015-atlas-4-aluminized-steel-race-pipe , printed 12/11/2017, Manufacturer Installation Instructions, 06-85426 Updated: November, 2011 https://afepower.com/media/pdp-files/49-04015-is.pdf , printed 5/22/2020	4
Cx35	Part 4904022: Manufacturer Installation Instructions, 06-85406 Updated: February 2015 http://afepower.com/media/pdp-files/49-04022-is.pdf , printed 5/22/2020	1
Cx36	Part 4836604HN: Manufacturer advertisement, https://afepower.com/afe-power-48-36604-hn-twisted-steel-down-pipe , printed 12/11/2017, Distributor advertisement https://www.carpartsdiscount.com/auto/exhaust-intermediate-connecting-pipe/honda~civic.html?3593=1470171 , printed 11/18/2020	4
Cx37	Part 4843020HN: Manufacturer advertisements, https://afepower.com/afe-power-48-43020-hn-twisted-steel-down-pipes-w-no-cats , printed 12/11/2017, https://afepower.com/afe-power-48-43020-hn-twisted-steel-down-pipe-3-in-409-stainless-steel , printed 11/18/2020, and https://afepower.com/afe-power-48-43020-hc-twisted-steel-down-pipe-3-in-409-stainless-steel-w-cat , printed 11/18/2020.	5
Cx38	Part 4836311: Manufacturer advertisement, https://afepower.com/afe-power-48-36311-elite-twisted-steel-down-pipe-race-series#overview , printed 12/11/2017	3
Cx39	Part FDOM0335: Manufacturer advertisement, http://www.bbexhaust.com/shop/cadillac-cts-v-cat-delete-pipes-fdom-0335 , printed 11/21/2017	3
Cx40	Parts 60627 and 60629: Distributer advertisement, http://www.jegs.com/i/Borla/157/60627/10002/-1 , printed 12/11/2017, Distributer advertisement, http://www.jegs.com/i/Borla/157/60629/10002/-1 , printed 12/11/2017, and Manufacturer installation instructions, Document Part Number A-358887 Rev. C, https://www.borla.com/60627.pdf , printed 12/21/2020.	13
Cx41	Part 25018: Distributor advertisement, http://www.jegs.com/i/Corsa/255/25018/10002/-1 , printed 12/11/2017	4
Cx42	Part MCD6011: Manufacturer advertisement, http://www.dcsports.com/CompetitionParts/MCD6011_Mitsubishi.html , printed 12/11/2017	2

Cx43	Part SCD7049: Manufacturer advertisement, http://www.dcsports.com/CompetitionParts/SCD7049_Scion.html , printed 12/11/2017	2
Cx44	Part SES1204DP: Distributor advertisement, https://www.rallysportdirect.com/part/downpipes-and-y-pipes/inj-ses1204dp-injen-downpipe-divorced-wastegate , printed 12/12/2017	3
Cx45	Part S6212PLM Distributor advertisement, https://www.xtremediesel.com/mbrp4plmseriesturbo-backexhaustsystems6212plm.aspx , printed 12/19/2017	4
Cx46	Part S6126409: Manufacturer advertisement https://mbrpautomotive.com/?page=products&part=S6126409 , printed 1/25/2018, Manufacturer advertisement https://mbrp.com/products/infosheets/S6126US.pdf (undated), printed 5/22/2020 and Manufacturer advertisement, http://mbrpexhauststore.com_s6126p-mbrp-4-turbo-back-single-2500-3500-04-5-07-perf/ , printed 3/13/2019	5
Cx47	Part S6004409: Distributor advertisement, https://www.xtremediesel.com/mbrp-4-xp-series-downpipe-back-exhaust-system-s6004409 (undated), printed 1/25/2018, Seller advertisement https://www.ebay.com/itm/MBRP-4-EXHAUST-01-07-CHEVY-GMC-DURAMAX-DIESEL-6-6L-NO-MUFFLER-STAINLESS-STEEL-/222793338979?trksid=p2349526.m4383.l4275.c1#viTab=0 , printed 7/16/2019 and Manufacturer installation instructions S6004 ©12/09, printed 1/5/2021 (available at https://www.manualsdir.com/manuals/403155/mbrp-s6004.html?original=1).	14
Cx48	Part FAL414: Manufacturer advertisement, http://mbrpexhauststore.com/fal414-mbrp-catalytic-converter-test-pipe-f250-350-03-07-alum , printed 12/8/2017	1
Cx49	Part S6212409: Distributor advertisement, https://www.xtremediesel.com/mbrp4xpseriesturbo-backexhaustsystems6212409.aspx , printed 12/19/2017	4
Cx50	Part DAL417: Manufacturer advertisement, http://mbrpexhauststore.com/dal417-mbrp-catalytic-converter-test-pipe-2500-3500-04-5-07-alum , printed 12/13/2017	1
Cx51	Part DS9417: Manufacturer advertisement, http://mbrpexhauststore.com/ds9417-mbrp-catalytic-converter-test-pipe-2500-3500-04-5-07-t409-ss , printed 12/13/2017	1
Cx52	Part FS9414: Distributor advertisement, http://www.jegs.com/i/MBRP/679/FS9414/10002/-1 , printed 12/13/2017	4
Cx53	Part S6020409: Distributor advertisement, https://www.xtremediesel.com/mbrp5xpseriesdownpipe-backexhaustsystems6020409.aspx , printed 12/19/2017, Manufacturer installations instructions S6020 © 02/09 S6020.pdf , printed 11/16/2020, Manufacturer installation instructions S6020PLM/S6020SLM November 11, 2010 MBR-S62020OLM.pdf , printed 11/16/2020	8
Cx54	Part S60200409: Distributor advertisement, https://www.xtremediesel.com/mbrp-5-xp-series-downpipe-back-exhaust-system-s60200409.aspx , printed 12/19/2017, Manufacturer installations instructions S6020 © 02/09 S6020.pdf , printed 11/16/2020, Manufacturer installation instructions S6020PLM/S6020SLM November 11, 2010 MBR-S62020OLM.pdf , printed 11/16/2020	8
Cx55	Part DAL435: Distributor advertisement, https://www.xtremediesel.com/MBRP-DAL435-4-Installer-Series-Downpipe.aspx , printed 12/12/2017 and Manufacturer installation instructions, D435 © 4/15, https://static.summitracing.com/global/images/instructions/mbr-dal435.pdf , printed printed 5/22/2020	6
Cx56	Part CFGS016: Distributor advertisement, https://www.lethalperformance.com/mbrp-2016-focus-rs-t304-stainless-steel-3-offroad-downpipe.html , printed 12/13/2017	1
Cx57	Part M8604A50: Distributor advertisement, https://www.summitracing.com/parts/fms-m-8604-a50 , printed 11/16/2020 and Distributor advertisement, https://www.walmart.com/ip/FORD-M8604A50-1979-1993-Ford-Mustang-Off-Road-Idler-Bracket/655650334 , printed 11/16/2020	2
Cx58	Part 68110: Distributor advertisement, http://www.jegs.com/i/Proform/778/68110/10002/-1 , printed 12/13/2017	4
Cx59	Part 9126BO: Distributor advertisement, https://www.summitracing.com/parts/kok-9126bo , printed 5/22/2020	1
Cx60	Parts 7015 and 7416: Manufacturer User Manual (undated) SCT_7015_Manual.pdf , printed 6/18/2015, Distributor advertisement, http://www.xtremediesel.com/sct-7015-x4-power-flash-programmer.aspx , printed 6/16/2015, and Distributor advertisement, https://www.xtremediesel.com/sct-7416-x4-power-flash-programmer.aspx , printed 12/19/2017	24

Cx61	Parts 5015P and 5416P: Manufacturer User Manual (undated) SCT 5015 Manual.pdf , printed 6/29/2015, Manufacturer User Guide (undated) livewire ts.pdf , printed 5/6/2021 (available at https://www.manualslib.com/download/1519766/Sct-Livewire-TsPlus.html), Distributor advertisement, https://www.xtremediesel.com/sct-5015p-livewire-ts-performance-programmer.aspx.html , printed 12/3/2020 (<i>Will sct livewire work with an EGR Delete?</i>), Distributor advertisement, https://www.xtremediesel.com/sct-5015p-livewire-ts-performance-programmer.aspx.html , printed 12/3/2020 (<i>Will this delete the check engine light when I delete my EGR?</i>), Distributor advertisement, https://www.xtremediesel.com/sct-5015p-livewire-ts-performance-programmer.aspx.html , printed 12/3/2020 (<i>The SCT5015 only offer the EGR delete function for the Ford 6.0L</i>)	40
Cx62	Part 3015: Manufacturer User Manual (undated) 3015-and-3416-manual.pdf , printed 11/18/2020 and Distributor advertisement, https://www.xtremediesel.com/SCT-SF3-Power-Flash-Ford-Programmer-3015.aspx , printed 12/19/2017	18
Cx63	Information about Family Naming Conventions for Vehicles and Engines, https://www.epa.gov/ve-certification/information-about-family-naming-conventions-vehicles-and-engines , printed 4/14/2021	2
Cx64	Annual Certification Data for Vehicles, Engines, and Equipment, https://www.epa.gov/compliance-and-fuel-economy-data/annual-certification-data-vehicles-engines-and-equipment (Heavy-Duty Highway Gasoline and Diesel Engines, expanded), printed 4/14/2021	1
Cx65	HD_Gas_and_Diesel_Archive(1996-2011).xlsx**	N/A
Cx66	Search - EPA's Transportation and Air Quality Document Index System (DIS), https://iaspub.epa.gov/otaqpub/ , printed 5/6/2021	1
Cx67	Parts 4690076, 1090001, 4904014, 4904010, 4904015, 25018, S6212PLM, S6126409, S6004409, FAL414, S6212409, DAL417, DS9417, FS9414, S6020409, S60200409, 7015, 5015P, 7416, 5416P, and 3015: HD_Gas_and_Diesel_Archive(1996-2011).xlsx – “Family Info” Tab - Relevant Data Only	1
Cx68	Annual Certification Data for Vehicles, Engines, and Equipment, https://www.epa.gov/compliance-and-fuel-economy-data/annual-certification-data-vehicles-engines-and-equipment (Light-Duty Vehicles and Trucks, expanded), printed 4/14/2021	1
Cx69	Parts 4690076, 1090001, S6212PLM, FAL414, S6212409, FS9414, 7015, 5015P, and 3015: FORD 6.0L DIT Power Stroke 2003.25 “F” Series Super Duty publication, 2002 International Truck and Engine Corporation, printed 3/29/2021 (available at https://www.forddoctorsdts.com/coffectablebooks.html/)	106
Cx70	Parts 4690076, 1090001, S6212PLM, FAL414, S6212409, FS9414, 7015, 5015P, and 3015: https://www.fleet.ford.com/programs/resources-support/emissions-guide/ (6NVXH06.0AED), printed 4/29/2021	2
Cx71	Part 4836604HN: light-duty-vehicle-test-results-report-2014-present_0.xlsx**	N/A
Cx72	Parts S6212PLM, S62126409, S6004409, S6212409, S6020409, S60200409: https://realtruck.com/c/performance/exhausts-mufflers/exhaust-systems/f/mbrp/ , printed 5/6/2021	3
Cx73	Part 4836311 and MCD6011: light-duty-vehicle-models-2009-2013.xlsx**	N/A
Cx74	RESERVED	
Cx75	Part M8604A50: 1979 Light Duty Certified Vehicle Test Report	130
Cx76	Part M8604A50: 1982 Light Duty Certified Vehicle Test Report	167
Cx77	Parts 7631 and 9007: 1985 Light Duty Certified Vehicle Test Report	340
Cx78	Parts M8604A50 and 68110: 1993 Light Duty Certified Vehicle Test Report	359
Cx79	Parts 7631 and 9007: 1995 Light Duty Certified Vehicle Test Report	125
Cx80	Parts 9125BO and 9126BO: 1997 Light Duty Certified Vehicle Test Report	520

Cx81	Part 68110: 1990 Light Duty Certified Vehicle Test Report	295
Cx82	RESERVED	
Cx83	Parts 4690076, 1090001, S6212PLM, FAL414, S6212409, FS9414, 7015, 5015P and 3015: California Air Resources Board Executive Order 6NVXH06.0AED	1
Cx84	Parts 4690076, 1090001, S6212PLM, FAL414, S6212409, FS9414, 7015, 5015P, and 3015: https://www.fleet.ford.com/programs/resources-support/emissions-guide/ (5NVXH06.0AED), printed 4/26/2021	2
Cx85	Parts 4690076, 1090001, S6212PLM, FAL414, S6212409, FS9414, 7015, 5015P, and 3015: California Air Resources Board Executive Order 5NVXH06.0AED	1
Cx86	Part 4690072: Certificate of Conformity and Certificate Summary Information Report ACEXD06.78VV*	4
Cx87	Part 4690072: Certificate of Conformity and Certificate Summary Information Report ACEXD06.78WW*	5
Cx88	Parts 4690072, 4902010, and DAL435: Certificate of Conformity and Certificate Summary Information Report CCEXD06.78VV	10
Cx89	Parts 4690072, 4902010, and DAL435: Certificate of Conformity and Certificate Summary Information Report CCEXD06.78WW	10
Cx90	Parts 4690072 and 4902010: Certificate of Conformity and Certificate Summary Information Report BCEXD06.78VV	5
Cx91	Parts 4690072 and 4902010: Certificate of Conformity and Certificate Summary Information Report BCEXD06.78WW	5
Cx92	Parts 1090011: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 7CEXK06.7TXW*	5
Cx93	Parts 1090011: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 7CEXK06.7UXW*	5
Cx94	Part 1090011, 4902010 and DAL435: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 8CEXK06.7TXW	7
Cx95	Part 1090011, 4902010 and DAL435: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 8CEXK06.7UXW	6
Cx96	Parts 9125BO and 9126BO: https://www.proxibid.com/Collector-Cars/1999-Chevrolet-Camaro-Z28/lotinformation/54997622 , printed 5/7/2021	3
Cx97	Dodge LD Diesel Diagrams_Technician's Reference.pdf, https://my.alldata.com/TechRef/Technicians_Reference.htm#t=Diesel_Emission_Component_Locator%2FGVWR_14%2C000_Lbs_Or_Less%2FDodge_Light_Trucks.htm , printed 5/6/2021	18
Cx98	Ford LD Diesel Emission Diagrams_Technician's Reference.pdf, https://my.alldata.com/TechRef/Technicians_Reference.htm#t=Diesel_Emission_Component_Locator%2FGVWR_14%2C000_Lbs_Or_Less%2FFord.htm , printed 5/6/2021	15
Cx99	GM LD Diesel Emission Diagrams_Technician's Reference.pdf, https://my.alldata.com/TechRef/Technicians_Reference.htm#t=Diesel_Emission_Component_Locator%2FGVWR_14%2C000_Lbs_Or_Less%2FChevrolet_GMC.htm , printed 5/6/2021	32
Cx100	Part 4943036: Certificate of Conformity and Certificate Summary Information Report(s) BFMXD06.761A	110
Cx101	Part 4943036: Certificate of Conformity, Application for Certification and Certificate Summary Information Report HFMXD06.761B	63

Cx102	Part 4943036: Certificate of Conformity, Application for Certification and Certificate Summary Information Report HFMXD06.771D	23
Cx103	Parts 4904021 and 4904022: Certificate of Conformity and Certificate Summary Information Report BGMXD06.6355	5
Cx104	Parts 4904021 and 4904022:: Certificate of Conformity and Certificate Summary Information Report BGMXD06.6365	5
Cx105	Parts 4904021 and 4904022:: Certificate of Conformity and Certificate Summary Information Report FGMXD06.6355	12
Cx106	Parts 4904021 and 4904022:: Certificate of Conformity and Certificate Summary Information Report BGMXD06.6365	12
Cx107	Parts 4904014, 4904010, 4904015, 7416 and 5416P: https://gmauthority.com/blog/gm/gm-engines/gm-6-6-liter-lmm-v-8-duramax-turbo-diesel-engine/ , printed 4/14/2021	3
Cx108	Part 4836604HN: Certificate of Conformity and Certificate Summary Information Report GHNXV01.53H2	42
Cx109	Part 4836604HN: Certificate of Conformity and Certificate Summary Information Report GHNXV01.56K2	45
Cx110	Part 4836604HN: Certificate of Conformity and Certificate Summary Information Report HHNXV01.56H3	41
Cx111	Part 4836604HN: Certificate of Conformity, Application for Certification and Certificate Summary Information Report HHNXV01.5XH2	66
Cx112	Part 4836604HN: Certificate of Conformity, Application for Certification and Certificate Summary Information Report HHNXV01.5562	65
Cx113	Part 4836604HN: Certificate of Conformity and Certificate Summary Information Report HHNXV02.07H3	47
Cx114	Part 4843020HN: Certificate of Conformity and Certificate Summary Information Report HFMXT03.54JL	38
Cx115	Part 4843020HN: Certificate of Conformity and Certificate Summary Information Report JFMXT03.54JM	38
Cx116	Part 4836311: Certificate of Conformity and Certificate Summary Information Report CBMXJ03.0N55	24
Cx117	Part 4836311: Certificate of Conformity and Certificate Summary Information Report CBMXV03.0ULR	23
Cx118	Part 4836311: Certificate of Conformity and Certificate Summary Information Report DBMXJ03.0N55	23
Cx119	Part 4836311: Certificate of Conformity and Certificate Summary Information Report DBMXV03.0ULR	22
CX120	Part FDOM0335: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 9GMXV06.2087	22
Cx121	Part FDOM0335: Certificate of Conformity and Certificate Summary Information Report EGMXV06.2087	26
Cx122	Part 60627: Certificate of Conformity and Certificate Summary Information Report FFMXT03.54IG	29
Cx123	Part 60627: Certificate of Conformity and Certificate Summary Information Report GFMXT03.54JG	31
Cx124	Part 60629: Certificate of Conformity and Certificate Summary Information Report BFMXT03.54EP	16

Cx125	Part 60629: Certificate of Conformity and Certificate Summary Information Report EFMXT03.54DX	24
Cx126	Parts 25018, S6004409, S6020409, and S60200409: https://gmauthority.com/blog/gm/gm-engines/gm-6-6-liter-lly-v-8-duramax-turbo-diesel-engine/ , printed 4/14/2021	3
Cx127	Part MCD6011: Certificate of Conformity and Certificate Summary Information Report DMTXV02.0GRB	23
Cx128	Part MCD6011: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 8MTXV02.0GRB	23
Cx129	Parts 25018, S6004409, S6020409 and 60200409: https://duramax-engines.com/duramax-history , printed 5/5/2021	1
Cx130	Part SCD7049: Certificate of Conformity and Certificate Summary Information Report DFJXV02.0AJM	31
Cx131	Part SCD7049: Certificate of Conformity and Certificate Summary Information Report EFJXV02.0AJM	31
Cx132	Part SES1204DP: Certificate of Conformity and Certification and Fuel Economy Information System Summary Sheet 8FJXB02.5PYH	22
Cx133	Part SES1204DP: Certificate of Conformity and Certificate Summary Information Report DFJXJ02.5PHL	30
Cx134	Part CFGS016: Certificate of Conformity and Certificate Summary Information Report GFMXV02.3VKA	31
Cx135	Part CFGS016: Certificate of Conformity and Certificate Summary Information Report JFMXV02.3VKA	29
Cx136	Parts 7015, 5015P and 3015: Certificate of Conformity and Certificate Summary Information Report CFMXV05.0VD5	15
Cx137	Parts 7015, 5015P and 3015: Certificate of Conformity and Certificate Summary Information Report EFMXV05.0VD5	21
Cx138	Parts 7416 and 5416P: Certificates of Conformity, and related certification information 9GMXT05.3381	87
Cx139	Parts 7416 and 5416P: Certificate of Conformity and Certificate Summary Information Report DGMXT05.3381	35
Cx140	Curriculum vitae – Amelie Isin*	2
Cx141	EPA’s July 11, 2017 Request for Information Under Section 208 of the Clean Air Act	19
Cx142	KOA’s August 9, 2017 Initial Response to EPA’s Request for Information Under Section 208 of the Clean Air Act, narrative response only. <i>Attachment not included due to potential CBI¹ and because information in attachment was incorporated in subsequent KOA responses or submissions (i.e., Cx143, Cx146, Cx150).</i>	3

¹ KOA did not claim CBI in its Section 208 response but claimed similar information as CBI in its post NOV submission of information (see Cx150). **NOTE: After the Complaint was filed, KAO narrowed the scope of its CBI claim in its post NOV submission of information.**

Cx143	<p>KOA's September 8, 2017 Supplemental Response to EPA's Request for Information Under Section 208 of the Clean Air Act.</p> <ul style="list-style-type: none"> • Narrative response • Exhibit B – Advertising file for 390 parts in Exhibit A* • Exhibit E – Reproductions of advertising materials flagged in Exhibit B • Exhibit F - Product data file for 390 parts in Exhibit A, provided by manufacturer*/** • Exhibit G – Statement of Certification • Exhibit H – LKQ Corporate Chart <p><i>Exhibits A, C and D not included due to potential CBI¹ and because these exhibits were superseded in subsequent KOA responses or submissions (i.e., Cx146 and Cx150)</i></p>	27
Cx144	<p>KOA's September 8, 2017 Supplemental Response to EPA's Request for Information Under Section 208 of the Clean Air Act, <u>Exhibit F - Relevant data only</u></p>	1
Cx145	EPA's October 5, 2017 request for clarification e-mail	2
Cx146	<p>KOA's October 24, 2017 Response to EPA's request for clarification e-mail.</p> <ul style="list-style-type: none"> • Narrative response <p><i>Revised Exhibits A, C and D not included due to potential CBI¹ and because these exhibits were superseded in subsequent KOA responses or submissions (i.e., Cx150)</i></p>	3
Cx147	EPA's November 15, 2017 e-mail concerning Keystone's Response to EPA's Request for Information	2
Cx148	<p>KOA's December 12, 2017 Response to EPA's November 15, 2017 email.</p> <ul style="list-style-type: none"> • Narrative response • Attachment – “image2017-12-14-090651” (manufacturer communications) • Enclosure - Ad Copies • Enclosure - Additional Parts Notes <p><i>Enclosures KOA EPA Retail Data file ADDITIONAL 12 PARTS 11-17-17, KOA EPA SI file ADDITIONAL 12 PARTS 11-16-17, and KOA EPA Wholesale Transactions Data file ADDITIONAL 12 PARTS 11-16-17 not included due to potential CBI¹ and because these exhibits were superseded in subsequent KOA responses or submissions (i.e., Cx150.) Parts Catalog submitted in hard copy, also not included..</i></p>	13
Cx149	EPA's May 1, 2018 Notice of Violation*	8
Cx150	<p>KOA's August 29, 2018 Submission of Materials Requested by U.S. Environmental Protection Agency at August 9, 2018 Meeting with Keystone Automotive Operations, Inc. Pursuant to May 1, 2018 Notice of Violation.</p> <ul style="list-style-type: none"> • Narrative response • Attachment A – Part Numbers on Original 390 List with Executive Orders 8-20-2018.pdf • Attachment B -SKU Data for BR 8-12-2018* • Attachment C – KOA EPA Wholesale Transaction Data File (Group 1a -32 SKUs) 8-24-2018* • Attachment D– KOA EPA Wholesale Transaction Data File (Group 1b -358 SKUs) 8-24-2018* • Attachment E - KOA EPA Wholesale Transaction Data File (Group 2 -12 SKUs) 8-24-2018* • Attachment F- KOA EPA Retail Data File (Group 1a -32 SKUs) 8-24-2018* • Attachment G - KOA Retail Data File (Group 1b -358 SKUs) 8-24-2018* • Attachment H- KOA EPA Retail Data File (Group 2 -12 SKUs) 8-24-2018* • Attachment I- KOA EPA SI File (Group 1a -32 SKUs) 8-24-2018* • Attachment J - KOA EPA SI File (Group 1b -358 SKUs) 8-24-2018* • Attachment K- KOA EPA SI File (Group 2 -12 SKUs) 8-24-2018* • Attachment L- Ad Copies_11_8.20.18 • Attachment M - KOA EPA Wholesale Transaction Data File (Group 3 -11 SKUs) 8-24-2018* • Attachment N- KOA EPA Retail File (Group 3 -11 SKUs) 8-24-2018* • Attachment O- KOA EPA SI File (Group 3 -11 SKUs) 8-24-2018* 	411
Cx151	Pennsylvania Secretary of State Online Information – Keytone Automotive, Inc. and A&A Auto Part Stores, Inc.	6
Cx152	https://www.aaautostores.com/ourhistory , printed 2/8/2021	1
Cx153	https://www.aaautostores.com/products/engine/air-intake-filtration/egr/SpeedFX-EGR-Block-Off-Plate-FX-7631--SPFFX-7631 , printed 2/5/2021	3

Cx154	https://www.aaautostores.com/products/engine/air-intake-filtration/egr/PC-Racing-Power-Company-R2300-EGR-Block-Off-Plate--RPCR2300 , printed 2/5/2021	7
Cx155	https://www.keystoneautomotive.com/ , printed 4/14/2021	1
Cx156	https://www.sc.keystone.com/login?Logout=true&RedirectURL=/ , printed 4/14/2021	1
Cx157	https://www.partsvia.com/testimonials , printed 4/14/2021	1
Cx158	http://www.theengineblock.com/ , printed 4/14/2021	3
Cx159	https://www.theengineblock.com/diesel-market-mbrp/ , printed 4/14/2021	3
Cx160	https://www.theengineblock.com/rpm-act/ , printed 4/14/2021	3
Cx161	U.S Environmental Protection Agency, “Part 85 – Control of Air Pollution from New Motor Vehicles and New Motor Vehicle Engines, Exclusion and Exmption of Motor Vehicles and Motor Vehicle Engines,” Final Rule, 39 <i>Fed. Reg.</i> 32,609 (September 10, 1974)	4
Cx162	https://www.epa.gov/pm-pollution/particulate-matter-pm-basics , printed 11/24/2020	3
Cx163	https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics#formation , printed 11/24/2020	4
Cx164	https://www.epa.gov/no2-pollution/basic-information-about-no2#What , printed 11/24/2020	2
Cx165	https://www.epa.gov/co-pollution/basic-information-about-carbon-monoxide , printed 11/24/2020	2
Cx166	EPA-DOJ Waiver correspondence, letters dated 3/29/19 and 4/12/2019	3
Cx167	Tolling Agreement As Between U.S. EPA Region III and Keystone Automotive Operations, Inc., 6/30/2020***	4
Cx168	Tolling Agreement As Between U.S. EPA Region III and Keystone Automotive Operations, Inc., 11/27/2019	4
Cx169	EPA’s January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy	39
Cx170	D&B Hoovers OneStop Report for Keystone, dated September 4, 2020.	49
Cx171	U.S. SEC Form 10-K LKQ Corporation, 2015 Annual Report	282
Cx172	U.S. SEC Form 10-K LKQ Corporation, 2016 Annual Report	119
Cx173	U.S. SEC Form 10-K LKQ Corporation, 2017 Annual Report	130
Cx174	U.S. SEC Form 10-K LKQ Corporation, 2018 Annual Report	139
Cx175	U.S. SEC Form 10-K LKQ Corporation, 2019 Annual Report	222
Cx176	U.S. SEC Form 10-K LKQ Corporation, 2020 Annual Report	123
Cx177	Curriculum vitae – Gail Coad*	6
Cx178	Part 4843020HN (2017 Ford Truck F 150 Raptor): my_alldata_com_repair_repair_article_56850_component_400_itype_401_nonstandard_112326_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/56850/component/400/itype/401/nonstandard/112326/selfRefLink/false , printed 5/6/2021, and my_alldata_com_repair_repair_article_56850_component_400_itype_401_nonstandard_112327_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/56850/component/400/itype/401/nonstandard/112327/selfRefLink/false , printed 5/6/2021	5
Cx179	Part 4843020HN (2018 Ford Truck F 150 Raptor): my_alldata_com_repair_repair_article_58188_component_400_itype_401_nonstandard_111900_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/58188/component/400/itype/401/nonstandard/111900/selfRefLink/false , printed 5/6/2021 and my_alldata_com_repair_repair_article_58188_component_400_itype_401_nonstandard_111901_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/58188/component/400/itype/401/nonstandard/111901/selfRefLink/false , printed 5/6/2021	5
Cx180	Part S6212409 (2003 Ford Truck F350 2WD Super Duty 6.0L): my_alldata_com_repair_repair_article_37771_component_617_itype_32_nonstandard_1053846_selfRefLink_true.pdf, https://my.alldata.com/repair/#/repair/article/37771/component/617/itype/32/nonstandard/1053846/selfRefLink/true , printed 5/6/2021	1
Cx181	Part S6212409 (2006 Ford Truck F350 2WD Super Duty 6.0L): my_alldata_com_repair_repair_article_43324_component_617_itype_46_nonstandard_selfRefLink_true.pdf , https://my.alldata.com/repair/#/repair/article/43324/component/617/itype/46/nonstandard/selfRefLink/true , printed 5/6/2021	1

Cx182	Parts 6004409 and 60200409 (2004 Chevy Truck Silverado 2500 2WD 6.6L): my_alldata_com_repair_repair_article_38981_component_400_itype_376_nonstandard_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/38981/component/400/itype/376/nonstandard//selfRefLink/false , printed 5/6/2021	3
Cx183	Parts 6004409 and 60200409 (2005 Chevy Truck Silverado 3500 4WD 6.6L): my_alldata_com_repair_repair_article_40217_component_400_itype_376_nonstandard_selfRefLink_true.pdf, https://my.alldata.com/repair/#/repair/article/40217/component/400/itype/376/nonstandard//selfRefLink/true , printed 5/8/2021	4
Cx184	Part DAL435 (2008 Dodge or RAM 2500 Truck 4WD 6.7L): my_alldata_com_repair_repair_article_47280_component_400_itype_401_nonstandard_1119896_selfRefLink_true.pdf, https://my.alldata.com/repair/#/repair/article/47280/component/400/itype/401/nonstandard/1119896/selfRefLink/true , printed 5/6/2021	1
Cx185	Part DAL435 (2012 Dodge or RAM 2500 Truck 4WD 6.7L): my_alldata_com_repair_repair_article_50588_component_7618_itype_401_nonstandard_112112_selfRefLink_false.pdf, https://my.alldata.com/repair/#/repair/article/50588/component/7618/itype/401/nonstandard/112112/selfRefLink/false , printed 5/6/2021	1

*** In accordance with 40 C.F.R. § 22.5(d) and the Prehearing Order, Complainant is filing this exhibit (or part of exhibits) under seal as it contains information that has been claimed confidential business information (CBI) by Respondent or that may be personally identifiable information (PII).**

**** The native format of this exhibit is in the form excel spreadsheet that cannot be effectively reduced to a .pdf file due to its complexity/size. Since it cannot be uploaded into OALJ's electronic filing system in its native format, Complainant is filing this exhibit separately. At hearing, Complainant may have a testifying witness manipulate the data to illustrate analysis.**

***** This exhibit could not be identified/labeled as required by the Prehearing Order as it was electronically signed by EPA's Region 3's Regional Counsel and any edits would render the signature invalid.**

Note: At hearing, Complainant may present enlargements of one or more of these exhibits in the nature of demonstrative aids.

Upon adequate notice to Respondent, Complainant reserves the right to introduce: a) exhibits included by Respondent in its Prehearing Exchange, b) additional exhibits to rebut evidence presented by Respondent, and c) such other exhibits as otherwise may become necessary.

III. TIME NEEDED FOR HEARING AND TRANSLATION SERVICE NEEDS

At this time, Counsel for Complainant estimates that the time needed to present Complainant's case in chief will require five (5) full days. Complainant does not anticipate that translation services will be necessary in regard to the testimony of any of its witnesses.

IV. SERVICE OF THE COMPLAINT

A copy of the “proof of service” showing that service of the Complaint was completed pursuant to Section 22.5(b)(1) of the Consolidated Rules of Practice is being filed as an attachment hereto.

V. BASES FOR FACTUAL ALLEGATIONS DENIED/NOT ADMITTED

In paragraph 42 of its Answer, Respondent denies to the extent the allegations imply it manufactured parts, and further denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the statement regarding EPA’s issuance of its July 11, 2017 Request for Information (“RFI”) letter to determine Respondent’s compliance with Section 203(a) of the CAA. Complainant does not allege that Respondent manufactured any of the parts at issue in this matter. Complainant plans to introduce Complainant’s Ex. 141 as well as the testimony of Amelie Isin in support of its allegations.

In paragraph 44 of its Answer, other than admitting that EPA issued a Notice of Violation and that the Notice of Violation speaks for itself, Respondent denies the allegations. Complainant plans to introduce Complainant’s Ex. 149 as well as the testimony of Amelie Isin in support of its allegations.

In paragraph 46 of its Answer, Respondent denies that the additional information on its products and 2018 sales it provided on August 29, 2018 evidences additional violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). In addition to the exhibits and witnesses identified to support its allegations set forth in Counts ONE, TWO, THREE and FOUR of the Complaint below, Complainant plans to introduce Complainant’s Ex 150, as well as the testimony of Amelie Isin.

In paragraphs 48, 59 and 73 of its Answer (relating to Counts ONE, TWO and THREE of the Complaint), Respondent:

- denies insofar as the quantities of parts and part numbers identified in paragraph 48 of the Complaint as having been sold by Respondent do not reflect returned stock as identified in Respondent’s RFI Response;
- denies that it identified the name/description, number, type and manufacturer information categorized by part type, as alleged in paragraphs 48, 59 and 73;
- denies that it provided the charts listed in paragraphs 48, 59 and 73, or all the information listed in the chart, including the marketing or advertising statements identified as “Manufacturer/Information” which it claims is not attributable to the Respondent.

Complainant does not dispute that the approximate quantities of parts alleged to have been sold by Respondent include some parts that may have been subsequently returned by Respondent’s customers. Complainant plans to introduce Complainant’s Exs. 141, 143 (with specific reference to Exhibit F), 144, and 150, as well as the testimony of Amelie Isin in support of its allegations.

In paragraph 49 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations. Complainant plans to introduce Complainant's Exs. 22, 23, 24, 25, 26, 27 and 28, as well as the testimonies of Amelie Isin and Brent Ruminski in support of its allegations.

In paragraphs 50 and 52 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the violations. Complainant plans to introduce Complainant's Exs. 22, 23, 24, 25, 26, 27, 28, 63, 64, 65, 66, 67, 68, 69, 70, 77, 79, 80, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, and 96, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 53, Complainant plans to introduce Complainant's Exs. 22, 23, 24, 25, 26, 27, 28, 63, 64, 65, 66, 67, 68, 69, 70, 77, 79, 80, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 141, 142, 143, 144 and 150 as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 54, Complainant plans to introduce Complainant's Exs. 22, 23, 24, 25, 26, 27, 28, 63, 64, 65, 66, 67, 68, 69, 70, 77, 79, 80, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, and 160, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

In paragraph 60 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations. Complainant plans to introduce Complainant's Exs. 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55 and 56, as well as the testimonies of Amelie Isin and Brent Ruminski in support of its allegations.

In paragraph 61 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the violations. Complainant plans to introduce Complainant's Exs. 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 83, 84, 85, 88, 89, 90, 91, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 178, 179, 180, 181, 182, 183, 184, and 185 as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

In paragraph 63 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the violations. Complainant plans to introduce Complainant's Exs. 29, 30, 31, 32, 33, 34, 35, 41, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 63, 64, 65, 66, 67, 68, 69, 70, 72, 83, 84, 85, 88, 89, 90, 91, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 126, 129, 180, 181, 184 and 185 as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 64, Complainant plans to introduce Complainant's Exs., 29, 30, 31, 32, 33, 34, 35, 41, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 63, 64, 65, 66, 67, 68, 69, 70, 72, 83, 84, 85, 88, 89, 90, 91, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 126, 129, 141, 142,

143, 144, 145, 146, 147, 148, 149, 150, 180, 181, 184 and 185 as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 65, Complainant plans to introduce Complainant's Exs. 29, 30, 31, 32, 33, 34, 35, 41, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 63, 64, 65, 66, 67, 68, 69, 70, 72, 83, 84, 85, 88, 89, 90, 91, 94, 95, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 126, 129, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 180, 181, 184 and 185, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

In paragraph 66 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the violations. Complainant plans to introduce Complainant's Exs. 36, 37, 38, 39, 40, 42, 43, 44, 56, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 84, 97, 98, 99, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 178, and 179, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 67, Complainant plans to introduce Complainant's Exs. 36, 37, 38, 39, 40, 42, 43, 44, 56, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 84, 97, 98, 99, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 178, and 179, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 68, Complainant plans to introduce Complainant's Exs. Exs. 36, 37, 38, 39, 40, 42, 43, 44, 56, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 84, 97, 98, 99, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 178, and 179, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

In paragraph 74 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations. Complainant plans to introduce Complainant's Exs. 57, 58 and 59. as well as the testimonies of Amelie Isin and Brent Ruminski in support of its allegations.

In paragraphs 75 and 77 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the violations. Complainant plans to introduce Complainant's Exs. 57, 58, 59, 63, 68, 75, 76, 78, 80, 81, 96, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 78, Complainant plans to introduce Complainant's Exs. 57, 58, 59, 63, 68, 75, 76, 78, 80, 81, 96, 141, 142, 143, 144, 145, 146, 147, 148, 149, and 150, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 79, Complainant plans to introduce Complainant's Exs. 57, 58, 59, 63, 68, 75, 76, 78, 80, 81, 96, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, and 160, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

In paragraph 84 of its Answer, Respondent:

- denies insofar as the quantities sold do not reflect returned stock as identified in Respondent's RFI Response;
- denies that it identified the name/description, number, type and manufacturer information categorized by part type;
- denies that it provided the chart or all the information listed in the chart, including the marketing or advertising statements identified as "Manufacturer/Information" which it claims is not attributable to the Respondent.

Complainant does not dispute that the approximate quantities of parts alleged to have sold by Respondent include some parts that may have been subsequently returned by Respondent's customers. Complainant plans to introduce Complainant's Ex. 150 as well as the testimony of Amelie Isin in support of its allegations.

In paragraph 85 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations. Complainant plans to introduce Complainant's Exs. 60, 61 and 62, as well as the testimonies of Amelie Isin and Brent Ruminski in support of its allegations.

In paragraphs 86 and 88 of its Answer, Respondent denies based on a lack of knowledge or information sufficient to form a belief as to the truth of the allegations. Complainant plans to introduce Complainant's Exs. 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 83, 84, 85, 97, 98, 99, 107, 126, 129, 136, 137, 138, 139, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 89, Complainant plans to introduce Complainant's Exs. 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 83, 84, 85, 97, 98, 99, 107, 126, 129, 136, 137, 138, 139, 142, 143, 144, 145, 146, 147, 148, 149, 150, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

For paragraph 90, Complainant plans to introduce Complainant's Exs. . 60, 61, 62, 63, 64, 65, 66, 67, 69, 70, 83, 84, 85, 97, 98, 99, 107, 126, 129, 136, 137, 138, 139, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, and 160, as well as the testimonies of Amelie Isin, Brent Ruminski and Jason Gumbs in support of its allegations.

VI. INFORMATION AND DOCUMENTATION RELEVANT TO PENALTY

In Sections I. and II. above, EPA has included a description of the factual information, supporting documentation, and guidances it currently intends to rely on to calculate a proposed penalty, in conjunction with U.S. EPA's BEN Model Version 2021.0.0, available at: <https://www.epa.gov/enforcement/penalty-and-financial-models>.

VII. RELEVANT GUIDANCES AND POLICES

In Section II. above, EPA has included a description of all EPA guidance documents and/or policies it currently is intending to rely on to support the allegations set forth in the Complaint.

Respectfully submitted,

Date

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