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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105**

In the Matter of:

PPE Inc.

Montclair, California

Respondent.

Docket No. CAA-09-2024-0030

**CONSENT AGREEMENT AND FINAL ORDER
PURSUANT TO 40 C.F.R. §§ 22.13 AND 22.18**

CONSENT AGREEMENT

A. Preliminary Statement

1. This civil administrative penalty assessment proceeding was commenced pursuant to section 205(c)(1) of the Clean Air Act ("CAA"), 42 U.S.C. § 7524(c)(1), and sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits, as codified at 40 C.F.R.

Part 22. In accordance with 40 C.F.R. §§ 22.13 and 22.18, entry of this Consent Agreement and Final Order (“CAFO”) simultaneously commences and concludes this matter.

2. Complainant is the Assistant Director of the Air, Waste, and Chemicals Branch within the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region IX (the “EPA”), who has been duly delegated the authority to commence and settle civil administrative penalty proceedings under section 205(c)(1) of the CAA, 42 U.S.C. § 7424(c)(1).

3. Respondent is PPE Inc. (“Respondent”), a California corporation that manufactures, sells, and distributes motor vehicle parts throughout the United States. Respondent is headquartered at 5011 Brooks Street, Montclair, California.

4. On June 6, 2023, Complainant and Respondent entered into a Tolling Agreement in order to facilitate settlement discussions and reach an amicable resolution. The tolling period commenced June 7, 2023, and tolled any alleged CAA violations through September 7, 2023, was extended through the Amended Tolling Agreement to October 20, 2023, further extended through the Second Amended Tolling Agreement to December 1, 2023, further extended through the Third Amended Tolling Agreement to January 15, 2024, and finally extended through the Fourth Amended Tolling Agreement to February 12, 2024.

5. Complainant and Respondent, having agreed that settlement of this action is in the public interest, has been negotiated by the Parties in good faith and will avoid litigation among the Parties, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. Governing Law

6. This proceeding arises under Part A of Title II of the CAA, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including particulate matter (“PM”), non-methane hydrocarbons (“NMHC”), oxides of nitrogen (“NOx”), and carbon monoxide (“CO”). In creating the CAA, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.” Section 101(a)(2) of the CAA, 42 U.S.C. § 7401(a)(2).

7. The EPA’s allegations in this CAFO concern parts or components for motor vehicles and motor vehicle engines that are subject to emission standards. The CAA requires the EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or motor vehicle engines that cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare. *See* sections 202(a)(1) and (3)(B) of the CAA, 42 U.S.C. §§ 7521(a)(1) and (3)(B). As required by the CAA, the emission standards must “reflect the greatest degree of emission reduction achievable through the application of [available] technology.” Section 202(a)(3)(A)(i) of the CAA, 42 U.S.C. § 7521(a)(3)(A)(i).

8. Under section 202 of the CAA, 42 U.S.C. § 7521, the EPA has promulgated emission standards for PM, NMHC, NOx, and CO that are applicable to motor vehicles and motor vehicle engines based on a vehicle or engine’s class and model year. *See generally* 40 C.F.R. Part 86.

9. The EPA issues certificates of conformity to vehicle manufacturers under section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles conforms to

the applicable requirements governing motor vehicle emissions.

10. The application for a certificate of conformity must describe, among other things, the emissions-related elements of design of the motor vehicle or motor vehicle engine. See 40 C.F.R. § 86.1844-01.

11. EPA-certified motor vehicles and motor vehicle engines employ a variety of hardware, software devices, and software as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air to meet the emission standards in 40 C.F.R. Part 86.

12. Exhaust Gas Recirculation (“EGR”) is an emission control technology used as an element of design in motor vehicles to reduce NO_x emissions, which are formed at high temperatures caused during fuel combustion. By recirculating exhaust gas through the engine, EGR technology reduces combustion temperatures and NO_x emissions.

13. Modern vehicles are also equipped with an electronic control module (“ECM”) and onboard diagnostic system (“OBD”). ECMs are devices that receive inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. ECMs continuously monitor engine and other operating parameters to manage the operation of the emission control systems and elements of design. The OBD detects and reports malfunctions of emissions-related elements of design through a network of sensors installed throughout a motor vehicle or motor vehicle engine. See CAA § 202(m), 42 U.S.C. § 7521(m).

14. “Person” is defined in section 302(e) of the CAA, 42 U.S.C. § 7602(e), to include “an individual, corporation, partnership, association, State, municipality, political subdivision of a

State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof.”

15. “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.”

16. “Element of design” is defined in 40 C.F.R. §§ 86.094-2 and 86.1803-01 as “any control system (i.e., computer software, electronic control system, emission 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.”

17. Pursuant to section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B),

The following acts and the causing thereof are prohibited—for any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as part of, any motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with regulations under this subchapter, and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use[.]

18. Any person who violates section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), is subject to a civil penalty of up to \$5,580 for each violation. Section 205(a) of the CAA, 42 U.S.C. § 7524(a), 40 C.F.R. § 19.4, Table 1.

C. Allegations

19. Complainant re-alleges and incorporates by reference herein Paragraphs 1 through 18 of this CAFO.

20. At all times relevant to this CAFO, Respondent was a “person” as defined by section

302(e) of the CAA, 42 U.S.C. § 7602(e).

21. Respondent manufactures, sells, and distributes motor vehicle parts to various individual customers located throughout the United States.
22. On January 7, 2020, pursuant to section 208 of the CAA, 42 U.S.C. § 7542(a), the EPA sent an Information Request (“Information Request”) to Respondent requesting, among other things, the number of parts and components Respondent offered for sale or sold from January 1, 2018, through January 7, 2020.
23. On May 7, 2020, Respondent responded (“Response”) to the EPA’s Information Request.
24. Based on Respondent’s Response, Respondent sold the parts or components identified in the Appendix to this CAFO (“Subject Parts,” each of which is a “Subject Part”).
25. The Subject Parts consisted of three (3) down-pipes, ninety-seven (97) up-pipes, and twenty-one (21) engine tuners or aftermarket ECM programmers (“tuners”).
26. Each Subject Part, at all relevant times herein, was intended for use with certified motor vehicles and motor vehicle engines including those manufactured by General Motors Company (“Motor Vehicles and Motor Vehicle Engines”).
27. A principal effect of each Subject Part was to bypass, defeat, or render inoperative device(s) and/or element(s) of design (including EGRs, ECMs, and/or OBDs) that were installed on or in the Motor Vehicle and Motor Vehicle Engines.
28. Complainant alleges Respondent knew or should have known that each Subject Part was being offered for sale or installed for such use or put to such use.
29. On November 10, 2021, the EPA issued a Notice of Violation to Respondent alleging

potential violations of section 203(a)(3)(B) of the CAA, from January 1, 2018, through January 7, 2020.

30. Respondent's sale of the Subject Parts constitute 121 separate violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), which prohibits any person from manufacturing, selling, offering to sell, or installing parts or components where a principal effect is to bypass, defeat, or render inoperative a motor vehicle emission control device or element of design, where the person knows or should know that the part is being offered for sale or installed for such use.

D. Terms of Consent Agreement

31. In accordance with 40 C.F.R. § 22.18(b)(2) and for the purpose of this proceeding, Respondent:

- a. admits the jurisdictional allegations alleged in this CAFO;
- b. neither admits nor denies the specific factual allegations contained within this Consent Agreement;
- c. consents to the assessment of the stated civil penalty below;
- d. consents to the conditions specified in this Consent Agreement; and
- e. waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying this Consent Agreement.

Civil Penalty

32. Complainant reviewed Respondent's financial information and determined Respondent demonstrated a limited ability to pay a civil penalty in this matter. Based on those findings, the

parties agree to the assessment of a civil penalty in the amount of TWENTY-FOUR THOUSAND DOLLARS (\$24,000) ("Assessed Penalty") as final settlement of the civil claims against Respondent arising under the CAA as alleged above.

33. Respondent agrees to the following:

- a. Pay the Assessed Penalty within thirty (30) days of the Effective Date of this CAFO.
- b. Pay the Assessed Penalty using any method, or combination of methods, provided on the website <https://www.epa.gov/financial/makepayment>, and identifying the payment with "Docket No. CAA-09-2024-0030." Within 24 hours of payment of the Assessed Penalty, Respondent agrees to send proof of payment to Yvezee Lapada at Lapada.Yvezeenikita@epa.gov and the EPA Region IX Regional Hearing Clerk at R9HearingClerk@epa.gov. "Proof of payment" means a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, or any other information required to demonstrate the payment of the Assessed Payment has been made in accordance with this Consent Agreement. The proof of payment shall be identified with "Docket No. CAA-09-2024-0030."

34. Payments of the above civil administrative penalty shall not be used by Respondent or any other person as a tax deduction from Respondent's federal, state, or local taxes.

35. If Respondent does not pay the Assessed Penalty within 30 days of the effective date of this CAFO, then Respondent shall pay to the EPA a stipulated penalty in the amount of five hundred dollars (\$500) for each day the default continues plus the remaining balance of the Assessed Penalty upon written demand by the EPA.

36. If Respondent fails to timely pay any portion of the penalty due under this Consent Agreement, the EPA may:
- a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed (plus interest at rates established pursuant to 26 U.S.C. § 6621(a)(2)); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7524(c)(6);
 - b. refer the debt to a collection agency, credit reporting agency, or the Department of Justice, 42 U.S.C. § 7524(c)(6), 40 C.F.R. §§ 13.13, 13.14, and 13.33;
 - c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and
 - d. suspend or revoke Respondent's licenses or other privileges granted by the EPA; or suspend or disqualify Respondent from doing business with the EPA or engaging in programs the EPA sponsors or funds, 40 C.F.R. § 13.17.

Respondent's Certification of Compliance

37. Respondent certifies that, to the best of its knowledge, it is complying fully with section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3), as of the date of it signing this Consent Agreement.
38. Respondent has represented to the EPA that it is no longer manufacturing, selling, or offering for sale the three parts listed as Defeat Devices in the Appendix to this CAFO.

39. Respondent is aware of the EPA's November 23, 2020 "Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act."

40. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Prior to payment of the Assessed Penalty and providing payment notification in accordance with this CAFO, Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to the EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless the EPA has provided written approval of the release of said obligations or liabilities.

41. By signing this Consent Agreement, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

42. By signing this Consent Agreement, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this Consent Agreement and has the legal capacity to bind the party he or she represents to this Consent Agreement. This Consent Agreement may be signed in counterparts, and its validity shall not be challenged on that basis.

43. By signing this Consent Agreement, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

44. Each party agrees to bear its own costs and attorney's fees in this action.

E. Effect of Consent Agreement and Final Order

45. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged in this Consent Agreement.

46. The civil penalty paid pursuant to this CAFO is not deductible for federal tax purposes.

47. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, 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, or determination of, any issue related to any federal, state, or local permit.

48. This CAFO constitutes the entire agreement between the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

F. Effective Date

49. Respondent and Complainant agree to the issuance of the attached Final Order. Upon

filing, the EPA will transmit a copy of the filed CAFO to the Respondent. This Consent Agreement shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement, In the Matter of: PPE Inc., EPA Docket No. CAA-09-2024-0030, is hereby stipulated, agreed, and approved for entry:

FOR RESPONDENT:

1-19-2024
Date



Joe Komaromi
Chief Executive Officer
PPE Inc.

The foregoing Consent Agreement, In the Matter of: PPE Inc., EPA Docket No. CAA-09-2024-0030, is hereby stipulated, agreed, and approved for entry:

FOR COMPLAINANT:

Date

KAORU MORIMOTO Digitally signed by
KAORU MORIMOTO
Date: 2024.02.01
08:42:41 -08'00'

Kaoru Morimoto
Assistant Director
Air, Waste, and Chemicals Branch
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX

FINAL ORDER

Complainant and Respondent, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this Consent Agreement and Final Order (EPA Docket No. CAA-09-2024-0030) be entered, and that Respondent shall pay a civil penalty in the amount of TWENTY-FOUR THOUSAND DOLLARS (\$24,000) in accordance with the terms of this Consent Agreement and Final Order.

This Consent Agreement and Final Order shall become effective upon filing.

DATE

Beatrice Wong
Regional Judicial Officer
U.S. Environmental Protection Agency, Region IX

APPENDIX

PPE Inc.'s violations of CAA § 203 for the period January 1, 2018, through January 7, 2020, for the sale of 121 Down-Pipes, Up-Pipes, and Tuners

| | <u>Part Number</u> | <u>Description Provided by PPE Inc.</u> | <u>Vehicle Group</u> | <u>Quantity</u> |
|---|---------------------------|---|------------------------------|------------------------|
| 1 | 116006060 | 304 Stainless Steel Down-Pipes (Downpipe 42 series SS) | GM 6.6L Duramax 2001-2016 | 3 |
| 2 | 116111100 | Race High-Flow Up-Pipes and Exhaust Manifolds Kit Compound Turbo (Round-Pipe) | GM 6.6L Duramax 2001-2016 | 97 |
| 3 | 111040000 | Hot +2 E.T. Race Xcelerator tuners | GM 6.6L Duramax 2001-2007 | 21 |
| | | | SUM | 121 |

