



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

August 3, 2022

VIA E-MAIL
DELIVERY RECEIPT REQUESTED

James MacEachern, Chief Operating Officer
Lane Automotive Incorporated
8300 Lane Drive
Watervliet, Michigan 49098

Email: WGuerry@KellyDrye.com

Dear James MacEachern:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Lane Automotive Inc., docket no. CAA-05-2022-0020. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on August 3, 2022.

Pursuant to paragraph 31 of the CAFO, Lane Automotive Inc. must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to John Matson, Associate Regional Counsel (312) 886-2243.

Sincerely,

Frank,
Nathan

Digitally signed by Frank,
Nathan
Date: 2022.07.25
16:12:43 -05'00'

Nathan Frank, Supervisor
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail
Coyle.ann@epa.gov

Regional Hearing Clerk/via electronic mail
R5hearingclerk@epa.gov

John Matson/via electronic mail
matson.john@epa.gov

Jenine Camilleri/via electronic mail
Enforcement Unit Supervisor
Michigan Department of Environment Great Lakes and Energy (EGLE)
camillerij@michigan.gov

Rex Lane/via electronic mail
District Supervisor
Michigan Department of EGLE
laner@michigan.gov

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

In the Matter of:)	Docket No. CAA-05-2022-0020
)	
Lane Automotive Inc.,)	Proceeding to Assess a Civil Penalty
Watervliet, Michigan)	Under Section 205(c)(1) of the Clean Air Act,
)	42 U.S.C. § 7524(c)(1)
Respondent.)	
<hr/>)	

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 205(c)(1) of the Clean Air Act (the CAA), 42 U.S.C. § 7524(c)(1), and Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (Consolidated Rules), as codified at 40 C.F.R. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Lane Automotive, Inc. (Respondent), a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). *See* 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO and its right to appeal this CAFO.

Statutory and Regulatory Background

9. 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).

10. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. *See* Section 216(2) of the CAA, 42 U.S.C. § 7550(2); 40 C.F.R. § 85.1703.

11. “Motor vehicle engine” means an engine that is designed to power a motor vehicle. *See* Section 216(3) of the CAA, 42 U.S.C. § 7550(3).

12. EPA issues COCs to motor vehicle and motor vehicle engine manufacturers to certify that a particular group of motor vehicles or motor vehicle engines conforms to applicable EPA requirements governing motor vehicle emissions. *See* Section 206(a) of the CAA, 42 U.S.C. § 7525(a).

13. EPA promulgated emissions standards for particulate matter, nitrogen oxides, hydrocarbons, and other pollutants applicable to motor vehicles and motor vehicle engines, including standards for heavy-duty diesel engines (HDDE). *See* Section 202 of the CAA, 42 U.S.C. § 7521; 40 C.F.R. Part 86.

14. To meet the emission standards in 40 C.F.R. Part 86 and qualify for a COC, HDDE motor vehicle manufacturers may utilize devices and elements of design such as exhaust gas recirculation (EGRs) or clean gas induction systems (CGIs), diesel oxidation catalysts (DOCs), catalytic converters (CATs), diesel particulate filters (DPFs), and/or selective catalytic reduction systems (SCRs).

15. Modern HDDE motor vehicles are equipped with electronic control modules (ECMs). ECMs continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the engine fueling strategy, EGR/CGI, DOC, DPF, and SCR systems.

16. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDDE motor vehicles to have numerous devices or elements of design that, working together, can detect problems with the vehicle's emission related systems, alert drivers to these problems, and store electronically-generated malfunction information. *See* 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05. These devices or elements of design are referred to as “onboard diagnostic systems” or “OBD” systems.

17. It is unlawful for “any person to remove 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 [Title II of the CAA] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser.” Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1). This is also referred to as “tampering.”

18. It is unlawful 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 engine in compliance with regulations under [Title II of the CAA], and where the person knows or should know that such part or component is being offered for sale or installed for such use or put to such use.” Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2). These parts or components are also referred to as “Defeat Devices.”

19. The Administrator of EPA (the Administrator) may assess a civil penalty of up to \$5,179 per motor vehicle, motor vehicle engine, or part or component, with a maximum administrative penalty of \$414,364, for violations that occurred after November 2, 2015, where penalties are assessed on or after January 12, 2022, pursuant to Section 205(a) and (c) of the CAA, 42 U.S.C. § 7524(a) and (c), and 40 C.F.R. Part 19.4.

Factual Allegations

20. Respondent is a “person,” as that term is defined in Section 302(e) of the CAA. 42 U.S.C. § 7602(e).

21. On April 8, 2020, EPA issued an Information Request (Request) to Respondent pursuant to Section 208 of the CAA, 42 U.S.C. § 7542. The Request sought information related to the Respondent’s purchase, sale, offer for sale, distribution, and/or installation, of certain motor vehicle and engine parts or components.

22. In July 2020, and as amended on January 2021, February 2021, and July 2021, EPA received Respondent’s submitted responses to the Request (Responses) which included a

“List” of products purchased and sold by Respondent that may have bypassed, defeated, or rendered inoperative emission control components and/or elements of design.

23. Based on the information provided in Respondent’s Responses, EPA determined that some of the products contained within the List were Defeat Devices sold between January 1, 2018 and April 9, 2020 including a subset of certain types of EGR block plates, straight pipe exhausts, and ECM tuners, sold, and/or offered for sale by Respondent. Many of these devices were intended for “motor vehicles” and were designed for use with motor vehicle or motor vehicle engines, for which the affected manufacturer obtained COCs establishing compliance with CAA emissions standards.

24. On April 7, 2021, EPA issued a Finding of Violation (FOV) to Respondent alleging Respondent violated Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), related to Respondent’s sale, and/or offer for sale of Defeat Devices for motor vehicle or motor vehicle engines.

25. As of the Effective Date of this CAFO, Respondent confirms that it no longer sells, offers for sale, or distributes, manufactures, sells, and/or installs any Defeat Devices which tamper with motor vehicles or motor vehicle engines.

Alleged Violation

26. Beginning on or after January 2, 2018, and continuing thereafter, on at least 500 occasions (as set forth in Table 1 below) Respondent sold and offered to sell parts or components, including EGR DPF, and CAT delete components, intended for use with, or as part of, a motor vehicle or motor vehicle engine, where a principal effect of the part or component was to bypass, defeat or render inoperative devices and elements of design that control

emissions, such as the engine fueling strategy, EGR/CGI, DOC, CAT, DPF, SCR, OBD systems, installed on or in a motor vehicle or motor vehicle engine in compliance with the CAA.

Table 1:

Product	Quantity
EGR Delete Kits	452
Cat/DPF Delete kits	48
Total sales	500

27. Respondent knew or should have known that such part or component was being offered for sale or installed for such use or put to such use, as described in the previous paragraph.

28. Respondent violated Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling, or offering for sale, the Defeat Devices which may have bypassed, defeated, or rendered inoperative emission control components and/or elements of design of or tampered with motor vehicles or motor vehicle engines.

29. Each part or component described in Paragraph 26 that was sold or offered for sale, is a separate violation of Section 203(a)(3)(B) of the Act, 42 U.S.C. § 7522(a)(3)(B).

Civil Penalty

30. Based on analysis of the factors specified in Section 205(c) of the CAA, 42 U.S.C. § 7524(c), EPA’s Clean Air Act Title II Vehicle & Engine Civil Penalty Policy, the facts of this case, the compliance steps that Respondent has taken and agrees to take, Respondent’s certifications set forth herein, and Respondent’s cooperation in resolving this

matter, Complainant has determined that an appropriate civil penalty to settle this action is \$291,000.

31. Within 30 days after the effective date of this CAFO, Respondent must pay the above civil penalty by ACH electronic funds transfer, payable to “Treasurer, United States of America,” and sent to:

US Treasury REX/Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22-checking

In the comment area of the electronic funds transfer, state Respondent’s name and the docket number of this CAFO.

32. Respondent must send a notice of payment that states Respondent’s name and the docket number of this CAFO to EPA at the following addresses when it pays the penalty:

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
r5airenforcement@epa.gov

John Matson(C-14J)
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
matson.john@epa.gov

Regional Hearing Clerk (E-19J)
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

33. This civil penalty is not deductible for federal tax purposes.

34. If Respondent does not pay timely the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the

collection action under Section 113(d)(5) of the CAA, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

35. Respondent must pay the following on any amount overdue under this CAFO. Interest will accrue on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2). Respondent must pay the United States enforcement expenses, including but not limited to attorney's fees and costs incurred by the United States for collection proceedings. In addition, Respondent must pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue. This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter. 42 U.S.C. § 7524(c)(6)(B).

Other Conditions

36. By signing this Consent Agreement, Respondent agrees to take the following actions: (i) Respondent will comply with Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), and will not remove or render inoperative any emissions-related device or element of design installed on or in a motor vehicle or motor vehicle engine in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A); (ii) Respondent will not manufacture, sell, offer for sale, or install any part or component in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).; and (iii) Respondent acknowledges receipt of EPA's November 23, 2020 "Tampering Policy: The EPA Enforcement Policy on Vehicles and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act."

37. By signing this Consent Agreement, Respondent understands that the violations addressed in this CAFO may be considered as a "History of Noncompliance" for any future

violations by Respondent of Title II of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B), as addressed in the January 18, 2021, Clean Air Act Title II Vehicle & Engine Civil Penalty Policy.

38. Within 30 days after the date of Respondent's signature on this CAFO, Respondent shall remove all Defeat Devices from all vehicles and engines owned or operated by Respondent and return the ECM of each vehicle and engine to factory settings.

39. By the date of Respondent's signature on this CAFO, Respondent shall permanently remove from commerce or return to the manufacturer all Defeat Devices in its inventory and/or possession.

40. Within 30 calendar days from the Respondent's signature on this CAFO, Respondent shall certify with proof that Respondent has completed the actions required in Paragraphs 38 and 39.

41. Within 14 calendar days from the Respondent's signature on this CAFO, Respondent shall (i) cease the sale or offering for sale of any products which are subject to this CAFO and so designated as defeat devices; and (ii) for a period of no less than 60 calendar days from the cessation date thereafter, for each of the Defeat Devices advertised on any of Respondent's webpages and any social media platform(s) conspicuously post the product-specific prohibitive warning contained in Appendix A (Posting on Specific Prohibited Parts) adjacent to such product listing or its details.

42. Within 14 calendar days from the Respondent's signature on this CAFO, Respondent shall post a publicly-accessible announcement about Respondent's settlement with EPA on Respondent's current website homepage(s), Respondent's social media homepage(s), including, but not limited to, all Facebook, Twitter, Pinterest, and Instagram accounts associated with Respondent and its subsidiaries. The announcement shall remain posted for at least 60

calendar days from the date the announcement is posted. Respondent shall use the text contained in Appendix B (Announcement) in at least 12-point font (or substantially similar font size for which such platform(s) allows), or another notice reviewed and approved by EPA, to provide such announcement. Respondent shall provide EPA with proof of posting the announcement within 30 calendar days from the Effective Date of this CAFO.

43. Within 30 calendar days from the Effective Date of this CAFO, Respondent shall notify, in writing, all of its business customers who purchased any defeat device of Respondent's from April 20, 2018, through the Effective Date of this CAFO described in this settlement with EPA. Respondent shall use the letter contained in Appendix B (Announcement), or another letter reviewed and approved by EPA to provide such notice. The Letters shall be transmitted by certified U.S. Mail, return receipt requested, or via email provided Respondent has provided EPA reasonable evidence of delivery associated therewith proof of mailing within 30 calendar days from the Effective Date of this CAFO to verify that all letters have been sent.

44. Failure to comply with Paragraphs 36-43 of this CAFO may constitute a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and Respondent could be subject to penalties of up to the statutory civil penalties in 40 C.F.R. § 19.4.

45. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, to Respondent's knowledge at the time of submission true, accurate, and complete and that there has been no known material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondent to the EPA regarding matters relevant to this CAFO are false or, in any material respect, inaccurate. This right shall be in

addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondent is 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.

46. For purposes of the identification requirement in Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), and 26 C.F.R. § 162-21(b)(2), performance of the Other Conditions Section above (paragraphs 36- 45) is restitution, remediation, or required to come into compliance with the law.

General Provisions

47. The parties consent to service of this CAFO by e-mail at the following valid e-mail addresses: matson.john@epa.gov (for Complainant), and WGuerry@KellyDrye.com (for Respondent). Respondent understands that the CAFO will become publicly available upon filing.

48. This CAFO resolves Respondent's liability for federal civil penalties for the violations alleged in this CAFO.

49. The effect of the settlement described in paragraph 48, is conditioned upon the accuracy of Respondent's representations to EPA.

50. The CAFO does not affect the rights of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

51. This CAFO does not affect Respondent's responsibility to comply with the CAA and other applicable federal, state and local laws. Except as provided in paragraph 49 compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

52. Respondent certifies that it is fully comply with Sections 203(a)(3)(A) and (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B).

53. This CAFO constitutes an “enforcement response” as that term is used in EPA’s January 18, 2021, Clean Air Act Title II Vehicle & Engine Civil Penalty Policy to determine Respondent’s “full compliance history” under Section 205(b) of the CAA, 42 U.S.C. § 7524(b).

54. The terms of this CAFO bind Respondent, its successors and assigns.

55. Each person signing this consent agreement certifies that he or she has the authority to sign for the party whom he or she represents and to bind that party to its terms.

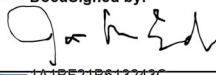
56. Each party agrees to bear its own costs and attorney’s fees in this action.

57. This CAFO constitutes the entire agreement between the parties.

Lane Automotive, Inc, Respondent

7/20/2022

Date

DocuSigned by:


JA1BF21B613243C...
James MacEachern, Chief Operating Officer
Lane Automotive Inc.

United States Environmental Protection Agency, Complainant

**MICHAEL
HARRIS**

Digitally signed by
MICHAEL HARRIS
Date: 2022.07.26
12:52:41 -05'00'

Michael D. Harris
Division Director
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region 5

Consent Agreement and Final Order
In the Matter of: Lane Automotive, Inc.
Docket No. CAA-05-2022-0020

Final Order

This Consent Agreement and Final Order, as agreed to by the parties, shall become effective immediately upon filing with the Regional Hearing Clerk. This Final Order concludes this proceeding pursuant to 40 C.F.R. §§ 22.18 and 22.31. IT IS SO ORDERED.

Date

ANN COYLE Digitally signed by ANN
COYLE
Date: 2022.08.01
13:44:08 -05'00'

Ann L. Coyle
Regional Judicial Officer
U.S. Environmental Protection Agency
Region 5

Appendix A:

Posting on the Specific Prohibited Parts

Based on the manufacturer's description, this part is an illegal "defeat device" that could cause certain affected vehicles to emit excess amounts of regulated air pollutants. Defeat devices are prohibited for sale or installation by the Clean Air Act. Due to this prohibition, this part can no longer be sold or offered for sale by Lane Automotive, Inc, and should not be offered for sale by any other affected seller.

Appendix B:

Announcement of EPA Settlement with Lane Automotive

On [date] Lane Automotive cooperatively entered into a settlement with U.S. Environmental Protection Agency (EPA) in order to resolve alleged Clean Air Act violations related to the sale and/or offer to sell emission control “defeat devices” on motor vehicles and engines. As part of this settlement, Lane Automotive has agreed to pay a civil penalty of \$291,336, comply with a consent agreement and committed to post on its online website(s) an express warning for each of these affected parts.

For additional information on EPA’s National Enforcement Initiative on “defeat devices”, visit the following links: <https://www.epa.gov/enforcement/aftermarket-defeat-devices-and-tampering-are-illegal-and-undermine-vehicle-emissions>.

Consent Agreement and Final Order
In the matter of: Lane Automotive Inc.
Docket Number: **CAA-05-2022-0020**

CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **CAA-05-2022-0020**, which was filed on August 3, 2022, in the following manner to the following addressees:

Copy by E-mail to Respondent: David Meadow
dmeadow@laneautomotive.com

Copy by E-mail to John Matson
Attorney for Complainant: matson.john@epa.gov

Copy by E-mail to William Guerry
Attorney for Respondent: WGuerry@KellyDrye.com

Copy by E-mail to Ann Coyle
Regional Judicial Officer: coyle.ann@epa.gov

Isidra Martinez
Acting Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5