

11:47AM

**Enclosure**

**CLEAN AIR ACT VEHICLE AND ENGINE  
EXPEDITED SETTLEMENT AGREEMENT**

Received by  
EPA Region 7  
Hearing Clerk

**DOCKET NO. CAA-07-2022-0079**

**Respondent:** Garber Diesel Service LLC  
701 North Monroe Street  
Versailles, Missouri 65084

1. The parties enter into this Clean Air Act Vehicle and Engine Expedited Settlement Agreement (Agreement) in order to settle the civil violation(s) discovered as a result of the information request as specified in Table 1, attached and incorporated into this Agreement by reference. The civil violations that are the subject of this Agreement are described in Table 2, attached, incorporated into the Agreement by reference, regarding the vehicle(s)/engine(s) specified therein.
2. Respondent admits to being subject to the Clean Air Act (CAA) and its associated regulations and that the United States Environmental Protection Agency (EPA) has jurisdiction over Respondent and Respondent's conduct described in Table 2. Respondent neither admits nor denies the findings detailed therein and waives any objections Respondent may have to the EPA's jurisdiction.
3. Respondent certifies that payment of the penalty has been made in the amount of **\$12,432** and Respondent has followed the instructions in "CAA Vehicle and Engine Expedited Settlement Agreement Instructions," attached and incorporated into this Agreement by reference. Respondent certifies that the required remediation, specified in Table 3 and incorporated into this Agreement by reference, has been carried out.
4. By its first signature below, the EPA approves the findings resulting from the investigation and alleged violation(s) set forth in Table 1 and Table 2. Respondent acknowledges that this Agreement is binding on the parties signing below and becomes effective on the date of the EPA Delegated Official's ratifying signature.
5. The parties consent to service of this Agreement by electronic delivery at Respondent's e-mail noted below.

**APPROVED AND RATIFIED BY EPA:**

Date: \_\_\_\_\_

\_\_\_\_\_  
 Tracey Casburn, Chief  
 Air Branch  
 Enforcement and Compliance Assurance Division  
 United States Environmental Protection Agency  
 Region 7

**APPROVED BY RESPONDENT:**

Name: \_\_\_\_\_

*Melvin Garber*

Title: \_\_\_\_\_

*GM*

Email (print) \_\_\_\_\_

*melvin@garderdiesels.com*

Signature: \_\_\_\_\_

*Melvin Garber*

Date: \_\_\_\_\_

*10/3/22*

**Table 1 - Information Collection**

<b>Date(s) Information Collected:</b>		<b>Docket Number:</b>	
12/3/21		C A A 0 7 2 0 2 2 0 0 7 9	
<b>Respondent Location:</b>			
701 North Monroe Street			
<b>City:</b>		<b>Inspector(s) Name(s):</b>	
Versailles		Cassie Mance	
<b>State:</b>	<b>Zip Code:</b>	<b>EPA Approving Official:</b>	
MO	65084	Tracey Casburn, Air Branch Chief	
<b>Respondent:</b>		<b>EPA Enforcement Contact(s):</b>	
Garber Diesel Service LLC		Cassie Mance, ECAD/AB Kasey Barton, ORC/ACCIB	

**Table 2 - Description of Violations and Vehicles/Engines**

The EPA obtained evidence through an information request, issued pursuant to CAA § 208, that Garber Diesel Service LLC (Respondent) sold and/or installed defeat devices listed below which render inoperative emission control systems on EPA-certified motor vehicles. It is a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 1068.101(b)(2), to manufacture, sell, 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 an EPA-certified motor vehicle or motor vehicle engine, 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. Based on information summarized below, EPA alleges that Respondent has committed six (6) violations of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and 40 C.F.R. § 1068.101(b)(2).

**Defeat Device Violation(s)**

<b>Defeat Device Description</b>	<b>Make</b>	<b>Part #</b>	<b>Quantity</b>	<b>Sold, installed, and/or offered for sale?</b>	<b>Date Range</b>
Engine Control Module Tuning Software	Maxxforce	N/A	5	Sold and installed	February 2021 – September 2021
Engine Control Module Tuning Software	CAT	N/A	1	Sold and installed	June 2021

<b>Table 3 - Penalty and Required Remediation</b>	
Penalty	\$12,432
Required Remediation	<p>In addition to paying the monetary penalty, Respondent agrees to the following:</p> <ol style="list-style-type: none"> <li>(1) Respondent must cease and refrain from selling or installing any device that defeats, bypasses, or otherwise renders inoperative an emission component of any motor vehicle or engine regulated by the EPA.</li> <li>(2) Respondent must cease and refrain from tampering with emission control systems on EPA-certified motor vehicles and engines.</li> <li>(3) Respondent is aware of EPA’s November 23, 2020 “<a href="#">Tampering Policy: The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act.</a>”</li> <li>(4) Within 14-calendar days of the Effective Date of this Agreement, Respondent shall permanently destroy all defeat devices (including, but not limited to, EGR delete hardware, aftertreatment delete hardware, and ECM tuning products), remaining in Respondent’s inventory and/or possession, by compacting or crushing the defeat devices and all of the associated parts and components to render them useless. Respondent shall provide EPA with photographic proof in accordance with Paragraph 6 below.</li> <li>(5) Within 14-calendar days of the Effective Date of this Agreement, Respondent shall remove from its webpages and any social media platform(s) all advertisements, photos, videos, and information that relate to performing tampering and/or selling, offering to sell, and/or installing defeat devices except advertisements, photos, videos, or information relating to how to comply with the CAA. Respondent shall provide EPA the web address of each of its webpages and social media platforms and Respondent’s certification that it has removed from its webpages and social media platforms all tampering and defeat device content and that its webpages and social media platforms do not and will not contain any tampering and/or defeat device content. Respondent shall send its certification and supporting material in accordance with Paragraph 6 below.</li> <li>(6) Within 30-calendar days of the Effective Date of this Agreement, Respondent shall provide EPA with its certification and proof that Respondent has completed the actions required by Paragraphs 4 and 5 via e-mail to <a href="mailto:mance.cassandra@epa.gov">mance.cassandra@epa.gov</a>.</li> </ol>

## CAA VEHICLE AND ENGINE EXPEDITED SETTLEMENT AGREEMENT INSTRUCTIONS

**Within 30-days from your receipt of the Agreement, you must pay the penalty as described below:**

**Payment method 1 – Preferred (electronic):** Pay online through the Department of the Treasury using WWW.PAY.GOV. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center and complete the SFO Form Number 1.1. The payment shall be identified in the online system with Docket Number listed below.

On the same day after submitting your payment, send an email to [cinwd\\_acctsreceivable@epa.gov](mailto:cinwd_acctsreceivable@epa.gov) and the EPA contact email address noted below. Include in the subject line: “Payment Confirmation for Garber Diesel Service LLC Docket Number CAA-07-2022-0079.” Attach a copy of the Agreement and your payment receipt to the email.

**Payment method 2 (check):** Mail, via CERTIFIED MAIL, a certified check payable to the United States of America marked with Garber Diesel Service LLC, and the Docket Number listed below, with a copy of the Agreement to:

U. S. Environmental Protection Agency  
Government Lockbox 979077  
1005 Convention Plaza  
SL-MO-C2-GL  
St. Louis, MO 63101  
Attn: Docket Number CAA-07-2022-0079

---

**Within 30 days of your receipt of the Agreement, you must email [mance.cassandra@epa.gov](mailto:mance.cassandra@epa.gov) a scanned copy of the original signed Agreement, the documentation of your Required Remediation corrective action(s) taken, and proof of payment (meaning, as applicable, a photocopy of the original certified penalty check or confirmation of electronic payment). If you prefer to mail this information via CERTIFIED MAIL, you may contact the EPA at the number listed below to arrange (Note that mailed information must be postmarked within 30 days of your receipt of the Agreement).**

If you have any questions or would like to request an extension due to extraordinary circumstances, you may contact Cassie Mance at (913) 551-7355. The EPA will consider whether to grant an extension on a case-by-case basis where appropriate justification is provided. The EPA will not accept or approve any Agreement returned more than 30-days after the date of your receipt of the Agreement unless an extension has been granted by the EPA. If you believe that the alleged violations are without merit (and you can provide evidence contesting the allegations), please provide such information to the EPA as soon as possible but no later than 30 days from your receipt of the Agreement.

Unless an extension has been granted in writing by the EPA, if you do not sign and return the Agreement with proof of payment of the penalty amount and a report detailing your corrective action(s) within 30-days of your receipt of the Agreement, the Agreement is automatically withdrawn, without prejudice to the EPA's ability to file an enforcement action for the above or any other violations. Failure to return the Agreement within the approved time does not relieve you of the responsibility to comply fully with the regulations, including correction of the violation(s) specifically identified in the enclosed Tables. If you choose not to enter into this Agreement and fully comply with its terms, the EPA may pursue more formal enforcement measures to correct the violation(s) and seek penalties of up to \$5,179 per violation pursuant to 40 C.F.R. § 19.4.

## CERTIFICATE OF SERVICE

To be completed by EPA

I certify that that a true and correct copy of the foregoing Consent Agreement and Final Order, EPA Docket No. CAA-07-2022-0079, was sent this day in the following manner to the addressees:

Copy via e-mail to Complainant:

Erin Weekley  
Office of Regional Counsel  
*weekley.erin@epa.gov*

Cassandra Mance  
Enforcement and Compliance Assurance Division  
*mance.cassandra@epa.gov*

Milady Peters  
Office of Regional Counsel  
*peters.milady@epa.gov*

Copy via e-mail to Respondent:

Kenneth Garber  
Garber Diesel Service LLC  
*melvin@garberdiesel.com*

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2022

---

Signature