

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:

Diesel Works, LLC

Respondent.

)
) **DOCKET NO.: CAA-03-2020-0077**
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) **EXPEDITED SETTLEMENT**
) **AGREEMENT**
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EXPEDITED SETTLEMENT AGREEMENT

1. This Expedited Settlement Agreement (“Agreement”) is entered into by the Director, Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“EPA” or “Complainant”), and Diesel Works, LLC (“Respondent”), pursuant to Section 205(c)(1) of the Clean Air Act (“CAA”), as amended, 42 U.S.C § 7524(c)(1), and the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 (with specific reference to 40 C.F.R. §§ 22.13(b), 22.18(b)(2), and (3)). The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant.
2. EPA has jurisdiction over the above-captioned matter pursuant to Section 205(c)(1) of the CAA, 42 U.S.C § 7524(c)(1), and 40 C.F.R. §§ 22.1(a)(2) and 22.4 of the Consolidated Rules of Practice.
3. Respondent is a “person” as defined under Section 302(e) of the CAA, 42 U.S.C § 7602(e), and a “manufacturer” as defined under Section 216(1) of the CAA, 42 U.S.C § 7550(1) and 40 C.F.R. § 1068.30.
4. EPA alleges that Respondent failed to comply with Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(1).
5. As a result of EPA’s investigation, EPA obtained evidence pursuant to its enforcement authority under Section 208(b) of the CAA, 42 U.S.C. § 7542(b), indicating that Respondent tampered with emissions controls on the 15 EPA-certified motor vehicles listed below, by removing or rendering inoperative a device or element of design installed on or in the vehicle or engine in compliance with regulations under Title II of the CAA, between March 7, 2018 and July 5, 2018. Specifically, EPA’s investigation found invoices that confirmed tampering in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(1). Respondent has provided no documented reasonable basis to conclude that such conduct does not adversely affect emissions.

Table 1: Violation Summary

Invoice #	Invoice Date	Defeat Device Description	Vehicle Identification #	Quantity Sold
18-0235	3/7/2018	EGR delete kit	1FDAF57P37EA86724	1
18-0324	3/30/2018	EGR delete kit	1FTSW21P55ED32024	1
18-0324	3/30/2018	Delete pipe	1FTSW21P55ED32024	1
18-0369	4/13/2018	EGR delete kit	1FTNW21P64ED14403	1
18-0392	4/23/2018	Delete Pipe for 6.7L Powerstroke (Flo Pro SS857NB)	1FT8W3DT2BEC14548	1
18-0392	4/23/2018	EGR delete kit	1FT8W3DT2BEC14548	1
18-0411	4/26/2018	Ford X4 Powerflash Race (SCT 7015R)	1FD8W3HT0BEC84135	1
18-0411	4/26/2018	EGR delete kit	1FD8W3HT0BEC84135	1
18-0411	4/26/2018	Delete Pipe for 6.7L Powerstroke (Flo Pro SS857NB)	1FD8W3HT0BEC84135	1
18-0444	5/3/2018	Delete pipe installation	1FTWW31R89EB01827	0
18-0440	5/3/2018	5" Stainless steel delete pipe	1GT125E88EF128999	1
18-0447	5/5/2018	Ford X4 Powerflash Race (SCT 7015R)	1FT7W2BT9FEA90812	1
18-0447	5/5/2018	Race Exhaust (Flo Pro SS653NB)	1FT7W2BT9FEA90812	1
18-0451	5/7/2018	Ford X4 Powerflash (SCT 7015)	1FTSX21P55EC32244	1
18-0453	5/7/2018	EGR delete kit	1FDXF47PX5C18752	1
18-0463	5/9/2018	5" Stainless steel delete pipe installation	3C6UR5DL2FG668287	0
18-0463	5/9/2018	EGR delete kit installation	3C6UR5DL2FG668287	0
18-0492	5/15/2018	5" Stainless steel delete pipe (Flo Pro SS664)	1GC4K0C82FF543157	1
18-0499	5/17/2018	Ford X4 Powerflash Race (SCT 7015R)	1FT7W2BT4BEA65732	1
18-0627	6/21/2018	EGR delete kit installation	3D3MX48A28G118082	0
18-0706	7/5/2018	Race Exhaust (Flo Pro SS653NB)	1FT7W2BTXEED83577	1
18-0706	7/5/2018	Ford X4 Powerflash Race (SCT 7015R)	1FT7W2BTXEED83577	1

6. EPA alleges that Respondent failed to comply with Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).
7. As a result of EPA's investigation, Respondent provided information pursuant to EPA's enforcement authority under Section 208(b) of the CAA, 42 U.S.C. § 7542(b), indicating that Respondent sold the 18 defeat devices listed in Table 1 above in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b). Between March 7, 2018 and July 5, 2018, Respondent sold and installed aftermarket parts, components or devices intended for use with, or as part of, a motor vehicle, equipment, or engine, where a principle effect of the part, component or device is to bypass, defeat, or render inoperative any device or element of design installed on or in a motor vehicle, equipment, or engine in compliance with regulations under Title II of the CAA. Respondent knew or should have known that the product was being offered for sale, or installed for such use, or put to such use. The 18 identified defeat devices in Table 1 included (1) engine control module reprogrammers (also known as "tuners") that disable emission control systems on EPA-certified motor vehicles, such as Exhaust Gas Recirculation (EGR) systems, vehicle engine active fuel management, on-board diagnostic systems, rear oxygen sensors, and/or Diesel Particulate Filter (DPF) systems; (2) EGR deletion kits or components used for the removal or bypass of EGR systems; and (3) DPF or Selective Catalytic Reduction (SCR) delete kits ("straight pipes") to remove or bypass the DPF or SCR systems.
8. Respondent certifies that it has not had the same, or closely-related violation(s), that were the subject of an enforcement action under Title II of the CAA in the past five (5) years.
9. After taking into account the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), EPA and Respondent agree that settlement of this matter for a penalty in the amount of **TWENTY-TWO THOUSAND, ONE HUNDRED AND SEVENTY-ONE DOLLARS (\$22,171)** is in the public interest and has been calculated pursuant to EPA's June 21, 2019 *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy.
10. Respondent certifies that it has provided EPA with true and accurate documentation demonstrating completion of remedial measures to correct the violations alleged above and come into compliance with the CAA.
11. Respondent agrees that payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made in the following manner. Respondent shall submit a check made out to "United States Treasury" with the case name, address and docket number of this Agreement (CAA-03-2020-0077, for the amount specified above, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000

Respondent shall send a copy of the payment to:

Amelie Isin (3ED21)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
Isin.Amelie@EPA.gov

and,

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

Late payment of the agreed upon penalty may subject Respondent to interest, administrative costs and late payment penalties in accordance with 40 C.F.R. § 13.11.

12. Respondent shall pay the civil penalty to the United States in two installments as follows:

Installment	Due By	Payment
Payment #1	The effective date of ESA	\$11,085.50
Payment #2	Within 30 days of effective date of ESA	\$11,085.50

13. In signing this Agreement, the Respondent: admits the jurisdictional allegations set forth in this Agreement; neither admits nor denies the specific factual allegations and conclusions of law set forth in this Agreement, except as provided in the jurisdictional admission above; agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement the Agreement; expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order; consents to the issuance of the Agreement and agrees to comply with its terms; and bear its own costs and attorney's fees.

14. Respondent certifies that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. 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 Agreement 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 and its officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

15. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
16. EPA reserves the right to commence action against any person, including Respondent, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.
17. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
18. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.

For Respondent: Diesel Works, LLC

Name (print): Sean P. Loop

Title (print): Owner

Signature: *S.P. Loop*

Date 4.20.20

For Complainant: U.S. Environmental Protection Agency, Region III

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

05/12/2020
Date

**KAREN
MELVIN**

Digitally signed by
KAREN MELVIN
Date: 2020.05.12
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Karen Melvin, Director
Enforcement and Compliance Assurance Division

**BEFORE THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

IN THE MATTER OF:)	DOCKET NO.: CAA-03-2020-0077
)	
Diesel Works, LLC)	FINAL ORDER
3861 Old Harrisburg Pike)	
Mount Joy, PA 17552)	
)	
Respondent.)	

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency - Region III, and Respondent, Diesel Works, LLC, have executed a document entitled “Expedited Settlement Agreement,” which I hereby ratify as a Consent Agreement in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (“Consolidated Rules of Practice”), 40 C.F.R. Part 22, (with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3)). The terms of the foregoing Expedited Settlement Agreement are accepted by the undersigned and incorporated herein as if set forth at length.

Based upon the representations of the parties in the attached Expedited Settlement Agreement, after taking into account the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), the penalty agreed to therein is in the public interest and has been calculated pursuant to EPA’s June 21, 2019 *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy.

NOW, THEREFORE, PURSUANT TO Section 205(c)(1) of the Clean Air Act (“CAA”), as amended, 42 U.S.C § 7524(c)(1), and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **TWENTY-TWO THOUSAND, ONE HUNDRED AND SEVENTY-ONE DOLLARS (\$22,171)** in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Expedited Settlement Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of Title II of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7521 *et seq.*, and the regulations promulgated thereunder.

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

In the matter of: Diesel Works, LLC

Docket No: CAA-03-2020-0077

Date

**JOSEPH
LISA**

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JOSEPH LISA
Date: 2020.05.13
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Joseph J. Lisa
Regional Judicial Officer
U.S. EPA - Region III

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

In the Matter of:)	
)	Docket No. CAA-03-2020-0077
Diesel Works, LLC)	
3861 Old Harrisburg Pike)	
Mount Joy, PA 17552)	
)	Proceeding under the Clean Air Act,
)	Section 113(a)(3)(A) and (d)(1)(B)
RESPONDENT.)	

CERTIFICATE OF SERVICE

I certify that on May 13, 2020, the original and one (1) copy of foregoing *Expedited Settlement Agreement and Final Order*, were filed with the EPA Region III Regional Hearing Clerk. I further certify that on the date set forth below, I served a true and correct copy of the same to each of the following persons, in the manner specified below, at the following addresses:

Copy served via **Electronic Mail, Return Receipt Requested**, to:

Sean Kopp, Owner
3861 Old Harrisburg Pike
Mount Joy, PA 17552
dieselworksllc@gmail.com

Copy served via **electronic delivery service** to:

Patrick J. Foley
Assistant Regional Counsel
Office of Regional Counsel (3RC30)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
Foley.Patrick.J@epa.gov
(Attorney for Complainant)

Dated: May 13, 2020

**BEVIN
ESPOSITO**

Digitally signed by BEVIN
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Date: 2020.05.13 15:47:19
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Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III