**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**
**REGION 5**

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| **In the Matter of:** | ) | **Docket No. CAA-05-2025-0005** |
| | ) | |
| **NCD LLC** | ) | **Proceeding to Assess a Civil Penalty** |
| **Middletown, Connecticut**, | ) | **Under Section 205(c) of the Clean Air Act,** |
| | ) | **42 U.S.C. § 7524(c)** |
| **Respondent.** | ) | |
| _____ | ) | |

## Consent Agreement and Final Order

### A. Preliminary Statement

1. This is an administrative penalty assessment proceeding commenced and concluded under Section 205(c) of the Clean Air Act (the CAA), 42 U.S.C. § 7524(c), 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. §§ 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3).

2. Complainant is the U.S. Environmental Protection Agency (EPA). The EPA Administrator has delegated the authority to settle civil administrative penalty proceedings under Section 205(c) of the CAA to the Division Director of the Region 5 Enforcement and Compliance Assurance Division.

3. Respondent is NCD LLC (NCD), a limited liability company doing business in Connecticut. Respondent is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

4. The EPA and Respondent agree that settling this action is in the public interest and consent to the entry of this Consent Agreement and Final Order (CAFO) without the adjudication of any issues of law or fact.

5. Respondent agrees to comply with the terms of this CAFO.

## B. Jurisdiction

6. The alleged violations in this CAFO are pursuant to Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1).

7. On March 4, 2024, the EPA issued to Respondent a Finding of Violation (FOV) providing notice to Respondent that the EPA found Respondent committed the alleged violations described in Section E of this CAFO and providing Respondent an opportunity to confer with the EPA. On April 19, 2024, representatives of Respondent and the EPA conferred regarding the FOV.

8. The Regional Judicial Officer of Region 5 is authorized to ratify the consent agreement memorializing the settlement between the EPA and Respondent and to issue the attached Final Order. 40 C.F.R. §§ 22.4(b) and 22.18(b).

## C. Statutory and Regulatory Background

9. Title II of the CAA, 42 U.S.C. §§ 7521-7554, was enacted to reduce air pollution from mobile sources. In enacting 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). Congress's purpose in enacting the CAA included "to protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population," and "to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution." Section 101(b)(1)-(2) of the CAA, 42 U.S.C. § 7401(b)(1)-(2).

10. Section 216(2) of the CAA, 42 U.S.C. § 7550(2) defines "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway." See also 40 C.F.R. § 85.1703 (further defining "motor vehicle"). These definitions are based on vehicle attributes

(e.g., ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use (e.g., claim that a vehicle is used solely for competition).

11. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides ($NO_X$), and other pollutants applicable to motor vehicles and motor vehicle engines, including diesel engine (diesel engine) vehicles, under Section 202 of the CAA, 42 U.S.C. § 7521. See the implementing regulations at 40 C.F.R. Part 86. Vehicle and engine emissions standards "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).

12. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer of motor vehicles or motor vehicle engines from selling a new motor vehicle or motor vehicle engine in the United States unless the motor vehicle or motor vehicle engine is covered by a certificate of conformity (COC). EPA issues COCs to motor vehicle and motor vehicle engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicle and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The COC will include, among other things, a description of the engines, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.

13. Engine manufacturers employ many devices and elements of design to meet emission standards. "Element of design" means "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." See 40 C.F.R. §§ 86.094-2 and 86.1803-01.

14. To meet the emission standards in 40 C.F.R. Part 86 and qualify for a COC, engine manufacturers may utilize control devices or elements of design such as Exhaust Gas Recirculation

(EGR), Clean Gas Induction (CGI), Diesel Oxidation Catalyst (DOC), Diesel Particulate Filter (DPF), and/or Selective Catalytic Reduction (SCR) systems.

15. Engine and vehicle manufacturers may also employ engine fueling strategies, such as retarded fuel injection timing, as a primary element of design to limit emissions of NOx. See 59 Fed. Reg. 23,264 at 23,418 (May 5, 1994) ("[I]njection timing has a very significant impact on NOx emission rates, with advanced timing settings being associated with higher NOx . . . .").

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

17. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations for motor vehicles manufactured after 2007 that require 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. 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.

18. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits "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, 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". This is also referred to as "tampering".

19. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits "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 [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". These parts or components are also referred to as "defeat devices".

20. The CAA does not exempt "off-road use only" or "competition only" motor vehicles or motor vehicle engines. The definitions for motor vehicle at CAA § 216(2); 42 U.S.C. § 7550(2) and 40 C.F.R. § 85.1703 make no exemption for motor vehicles or motor vehicle engines used for competition.[1] More generally, these definitions are based on vehicle attributes (e.g., ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use.

### D. Stipulated Facts

21. NCD is an e-commerce automotive sales shop located in Middletown, Connecticut 06457.

22. On October 17, 2023, EPA issued an Information Request (Request) to NCD pursuant to Sections 208 of the CAA, 42 U.S.C. § 7542. The Request sought information related to the sale and/or

[1] In contrast, the CAA exempts from the definition of "nonroad vehicle" and "nonroad engine" those vehicles and engines used solely for competition. CAA § 216(10)-(11); 42 U.S.C. § 7550(10)-(11). EPA has implemented regulations describing how to exempt from CAA requirements nonroad vehicles and engines used solely for competition. 40 C.F.R. § 1068.235. These regulations explicitly do not apply to motor vehicles and motor vehicle engines. 40 C.F.R. § 85.1701(a)(1).

installation, and/or offer to sell and/or install certain parts, components, and products which bypass, defeat, or render inoperative emission control components, elements of design, or emission related parts or components for the period of January 1, 2020, to October 17, 2023.

23. NCD submitted responses to the Requests on November 16, 2023 (First Response), December 16, 2023 (Second Response), and January 16, 2024 (Third Response).

24. The Third Response included a spreadsheet (referred to as "the NCD Invoice Data 2020 to 2023") containing information related to the sale and/or installation, in the United States, of parts, components, and products which bypass, defeat, or render inoperative emission control components, elements of design, or emissions related parts or components for the period of January 2020 to October 2023.

25. The NCD Invoice Data 2020 to 2023, as well as other information provided in the First Response and Second Response, indicate that NCD sold, offered to sell, and/or caused the sale of parts, components, and products which bypass, defeat, or render inoperative emission control components, elements of design, or emission related parts or components installed on motor vehicles or motor vehicle engines. These parts and/or components are known as "defeat devices".

26. The information submitted by NCD indicates that between January 1, 2020, and October 16, 2023, NCD sold, offered to sell, and/or caused the sale of approximately 2,497 defeat devices which included tunes, tuners, exhaust kits, and EGR block plates.

27. As of April 19, 2024, Respondent has removed any defeat devices from any vehicles they own. Respondent certifies that as of the date of their signatures on this CAFO, there are no defeat devices on any vehicles and engines owned or operated by Respondent and that the ECM of each vehicle and engine owned or operated by Respondent is at factory settings.

28. As of April 19, 2024, Respondent states that it has stopped selling and has not sold any defeat devices. Respondent certifies that as of the date of its signatures on this CAFO there are no defeat devices in its possession (including, but not limited to, straight pipes or race pipes, EGR delete kits, defeat tuners, etc.).

## E. Alleged Violations of Law

29. EPA finds that NCD manufactured, sold, offered to sell, and/or caused the sale of parts or 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 elements of design that control emissions, such as the EGR, DPF, SCR, catalyst, OBD systems and/or other elements of design on motor vehicles and motor vehicle engines, and NCD 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, in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

## F. Terms of Consent Agreement

30. For the purposes of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

a. admits to the jurisdictional allegations in this CAFO;

b. admits to the stipulated facts stated above and neither admits nor denies the alleged violations of law stated above;

c. consents to the assessment of a civil penalty as stated below;

d. consents to any conditions specified in this CAFO;

e. waives any right to contest the alleged violations of law set forth in Section E of this CAFO; and

f. waives its right to appeal this CAFO.

31. For the purposes of this proceeding, Respondent:

a. agrees this CAFO states a claim upon which relief may be granted against Respondent;

b. acknowledges this proceeding constitutes an enforcement action for purposes of considering the compliance history of the Respondent or any other business entity owned or operated by NCD in any subsequent enforcement actions;

c. waives any and all remedies, claims for relief and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CAFO, including any right of judicial review under Section 307(b)(1) of the Clean Air Act, 42 U.S.C. § 7607(b)(1);

d. waives any rights or defenses that respondent has or may have for this matter to be resolved in federal court, including but not limited to any right to a jury trial, and waives any right to challenge the lawfulness of the final order accompanying the consent agreement; and

e. waives any rights it may possess at law or in equity to challenge the authority of the EPA to bring a civil action in a United States District Court to compel compliance with the CAFO, and to seek an additional penalty for noncompliance, and agrees that federal law shall govern in any such civil action.

32. Based on analysis of the factors specified in Section 205(c) of the CAA, 42 U.S.C. § 7524(c), the facts of this case, and Respondent's ability to pay, the EPA has determined that an appropriate civil penalty to settle this action is $60,000.

33. Respondent agrees to pay a civil penalty in the amount of $60,000 (Assessed Penalty) within thirty (30) days after the date the Final Order ratifying this Agreement is filed with the Regional Hearing Clerk (Filing Date). EPA conducted an analysis of Respondent's financial information and determined Respondent has a limited ability to pay. Consequently, in accordance with applicable law, EPA determined that the Assessed Penalty is an appropriate amount to settle this action.

34. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: https://www.epa.gov/financial/makepayment. For additional instructions see: https://www.epa.gov/financial/additional-instructions-making-payments-epa.

35. When making a payment, Respondent shall:

a. Identify every payment with Respondent's name and the docket number of this Agreement, CAA-05-2025-0005;

b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve proof of such payment to the following person(s):

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

Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency, Region 5
R5airenforcement@epa.gov

Cynthia King
Office of Regional Counsel
U.S. Environmental Protection Agency, Region 5
King.Cynthia@epa.gov

U.S. Environmental Protection Agency
Cincinnati Finance Center
Via electronic mail to:
CINWD_AcctsReceivable@epa.gov

"Proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

36. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7524(c)(6), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay the full amount of the Assessed Penalty per this Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately owing, and the EPA is authorized to recover the following amounts.

a. Interest. Interest begins to accrue from the Filing Date. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed

Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid in full. Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

b. Handling Charges. The United States' enforcement expenses including but not limited to, attorneys' fees and costs of handling collection.

c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.

37. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Agreement, the EPA may take additional actions. Such actions the EPA may take include, but are not limited to, the following.

a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.

b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.

c. Suspend or revoke Respondent's licenses or other privileges or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.

d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7524(c)(6). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.

38. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.

39. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Agreement shall not be deductible for purposes of federal taxes.

40. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (IRS) annually, a completed IRS Form 1098-F (Fines, Penalties, and Other Amounts) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, $50,000 for the payor's violation of any law or the investigation or inquiry into the payor's potential violation of any law, including amounts paid for "restitution or remediation of property" or to come "into compliance with a law." EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (TIN), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R. § 301.6723-1. To provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

a. Respondent shall complete an IRS Form W-9 (Request for Taxpayer Identification Number and Certification), which is available at https://www.irs.gov/pub/irs-pdf/fw9.pdf;

b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent's correct TIN or that Respondent has applied and is waiting for issuance of a TIN;

c. Respondent shall email its completed Form W-9 to EPA's Cincinnati Finance Center at wise.milton@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence; and

d. In the event that Respondent has certified in its completed IRS Form W-9 that it does not yet have a TIN but has applied for a TIN, Respondent shall provide EPA's Cincinnati Finance Center with Respondent's TIN, via email, within five (5) days of Respondent's receipt of a TIN issued by the IRS.

41. Other Conditions. As a condition of settlement, Respondent agrees to the following:

a. Respondent will not remove or render inoperative (or cause thereof) 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) (i.e., 'tampering' prohibition).

b. Respondent will not manufacture, sell, offer for sale, cause the sale of, 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 of component is to bypass, defeat, or render inoperative any device or element of design in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B) (i.e., 'defeat device' prohibition).

c. 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."

d. Within 14 calendar days from the Respondent's signature on this CAFO, Respondent shall remove from their website homepage(s) 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 of Defeat Devices except advertisements, photos, videos, or information relating to how to comply with the CAA.

e. Within 14 calendar days from date of the Respondent's signatures on this CAFO, the Respondent shall post a publicly-accessible announcement about Respondent's settlement with EPA on Respondent's current website homepage(s), if any, and all of Respondent's social media homepage(s), including, but not limited to, all Facebook, Twitter, Pinterest, and Instagram accounts associated with Respondent. 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 A (Announcement) in 12-point font, 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.

f. Within 30 calendar days from the date of Respondent's signatures on this CAFO, Respondent shall notify, in writing, all customers who purchased any of the devices, equipment, and services described in Paragraphs 29 and 37 of Respondent's settlement with EPA. Respondent shall use the form of letter contained in Appendix B (Letter), 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 by e-mail, return delivery receipt requested. Respondent shall notify EPA with proof of mailing or e-mailing within 45 calendar

days from the Effective Date of this CAFO to verify that all Letters have been sent.

g. In each report that Respondent submits as provided by this CAFO, Respondent must certify that the report is true and complete by including the following statement signed by one of its officers:

> *I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, it is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.*

h. 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 conditions of this paragraph is restitution, remediation, or required to come into compliance with the law.

42. By signing this CAFO, Respondent consents to the release of any information in this CAFO to the public and agrees this CAFO does not contain business information that is entitled to confidential treatment under 40 C.F.R. Part 2.

43. By signing this CAFO, the undersigned representative of the EPA and the undersigned representative of Respondent each certify that they are fully authorized to execute and enter into the terms and conditions of this CAFO and have the legal capacity to bind the party they represent to this CAFO.

44. By signing this CAFO, Respondent certifies 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, under 18 U.S.C. § 1001, there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information.

45. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding, except in the case of a civil action brought by the Attorney General of the United States to recover unpaid penalties as described above.

**G. Effect of Consent Agreement and Attached Final Order**

46. The parties consent to service of this CAFO by e-mail at the following e-mail addresses: King.Cynthia@epa.gov (for the EPA), and stewart@hassancables.com (for Respondent).

47. 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 CAFO.

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

49. The terms, conditions, and compliance requirements of this CAFO may not be modified or amended except upon the written agreement of both parties and approval of the Regional Judicial Officer.

50. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, successors, and assigns (including but not limited to Tyler Brancifort, owner of NCD, LLC/North Coast Diesel Performance).

51. Any violation of this CAFO may result in a civil judicial action for an injunction or civil penalties of up to $5,761 per part or component, as provided in Section 205(a) of the CAA, 42 U.S.C. § 7524(a), and 40 C.F.R. § 19.4, as well as criminal sanctions as provided in Section 113(c) of the CAA, 42 U.S.C. § 7413(c). The EPA may use any information submitted under this CAFO in an administrative, civil judicial, or criminal action.

52. Nothing in this CAFO relieves Respondent of the duty to comply with all applicable provisions of the CAA and other federal, state, or local laws or statutes, nor does it restrict the EPA's authority to seek compliance with any applicable laws or regulations, nor is it a ruling on, or determination of, any issue related to any federal, state, or local permit.

53. Nothing in this CAFO limits the power of the EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

54. The EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that the EPA finds, after signing this CAFO, that any information provided by Respondent and Tyler Brancifort (owner of NCD, LLC and North Coast Diesel Performance) was materially false or inaccurate at the time such information was provided to the EPA, and to assess and collect any civil penalties permitted by statute for any violation described herein. The EPA will give Respondent written notice of its intent to revoke this CAFO, which will not be effective until received by Respondent.

## H. Effective Date

55. This CAFO will be effective after the Regional Judicial Officer executes the attached Final Order, on the date of filing with the Regional Hearing Clerk. Upon filing, the EPA will transmit a copy of the filed CAFO to Respondent.

**NCD LLC, Respondent**

4/21/2025
Date

Signed by:
Tyler Brancifort
FAB86F3FED0A479...
Tyler Brancifort, Owner
NCD LLC

**United States Environmental Protection Agency, Complainant**

MICHAEL HARRIS

Digitally signed by MICHAEL HARRIS
Date: 2025.05.15 10:58:12 -05'00'

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

## 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.

ANN COYLE Digitally signed by ANN COYLE Date: 2025.05.15 16:33:24 -05'00'

_____ _____

Date

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

**Appendix A:**
**Announcement**

On [DATE], North Coast Diesel (NCD) entered into a settlement with the United States Environmental Protection Agency (EPA) to resolve alleged violations of Section 203(a)(3)(A) and 203(a)(3)(B) of the Clean Air Act, related to the removal and/or rendering inoperative of emission control devices and elements of design and the manufacturing selling, offering to sell, and/or installing defeat devices for use on heavy-duty diesel engines.

By signing a consent agreement with EPA, NCD has certified that it will comply with Section 203(a)(3) of the CAA, which makes it unlawful for: "(A) 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 purchasers, 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; or (B) 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."

NCD will pay a penalty of $60,000 and comply with the consent agreement to ensure ongoing compliance with the Clean Air Act.

If you have any questions regarding this announcement, please ask for Tyler Brancifort.

Thank you,
Tyler Brancifort

**Appendix B:**
**Letter**

To Whom It May Concern:

On [DATE], North Coast Diesel (NCD) entered into a settlement with the United States Environmental Protection Agency (EPA) to resolve alleged violations of Section 203(a)(3)(A) and 203(a)(3)(B) of the Clean Air Act, related to the removal and/or rendering inoperative of emission control devices or elements of design and selling, offering to sell, and/or installing defeat devices for use with heavy-duty diesel engines.

By signing a consent agreement with EPA, NCD has certified that it will comply with Section 203(a)(3) of the CAA, which makes it unlawful for: "(A) 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 purchasers, 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; or (B) 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."

NCD will pay a penalty of $60,000 and comply with the consent agreement to ensure ongoing compliance with the Clean Air Act.

If you have any questions regarding this letter, please ask for Tyler Brancifort.

Thank you,
Tyler Brancifort