



REGION 5

CHICAGO, IL 60604

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U.S. EPA REGION 5 HEARING CLERK

ESA NO: EPA-5-24-CAA-ESA-03

Docket No: CAA-05-2024-0012

This ESA is issued to: Johns Disposal Service, Inc. and Johns Recycling, Inc.

At: 107 County Road U, Whitewater, Wisconsin 53190

for violations of the Mobile Source Requirements under Section 203(a)(3)(A) of the Clean Air Act.

EXPEDITED SETTLEMENT AGREEMENT

The United States Environmental Protection Agency, Region 5 (EPA), and Johns Disposal Service, Inc. and Johns Recycling, Inc. (Respondents), have agreed to 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 EPA’s investigation and the alleged violations identified in Table 1, below.

ALLEGED VIOLATIONS

On August 28, 2023, EPA issued an Information Request under Section 208 of the CAA to determine the Respondents’ compliance with Section 203(a)(3) of the CAA. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits “any person to [knowingly] 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]. This is also referred to as “tampering.”

Based on the documents submitted by Respondents, EPA has determined that Respondents tampered with the vehicles/engines listed in Table 2 below:

Table 2: List of Tampered Motor Vehicles/Engine

Table with 7 columns: Date, Truck #, Model Year, Make, Model, Engine, Tampered Emission Parts or Components. It lists 9 instances of tampered vehicles/engines with their respective details.

2/20/2019	267	2012	PTRB	388	Cummins	ECM, DPF, SCR, EGR, CAT
11/7/2019	140	2016	Freightliner	M2	Cummins	ECM, DPF, SCR
6/28/2022	175	2019	Freightliner	M2	Cummins	ECM, SCR, CAT
3/2022	6001	2021	Ford	F350	Ford	ECM, DPF, SCR, EGR, CAT
5/2023	6004	2022	Ram	Ram2500	Cummins	ECM, DPF, SCR, EGR, CAT
5/2023	6005	2022	Ram	Ram2500	Cummins	ECM, DPF, SCR, EGR, CAT
12/2012	219	2012	Ford	F250	Ford	ECM, DPF, SCR, EGR, CAT
8/2015	231	2014	Ford	F250	Ford	ECM, DPF, SCR, EGR, CAT
6/15/2023	443	2013	Volvo	L120G	Volvo	ECM, DPF

REQUIRED REMEDIATION

By signing this ESA, Respondents certify and affirm that:

1. They will no longer purchase, lease, or operate tampered vehicles and engines.
2. They have ceased and will refrain from manufacturing, selling, offering to sell, or installing any part or component that bypasses, defeats, or renders inoperative any device or element of design installed on or in a vehicle or engine regulated by EPA (defeat devices);
3. They have ceased and will refrain from removing or rendering inoperative any emissions control device or element of design installed on or in a vehicle or engine regulated by EPA (tampering);
4. They have removed all tampered vehicles and engines owned or operated by Respondents (including, but not limited to, those listed in Table 1, above¹) from service and has either:
 - a. permanently disabled (by cutting a 3-inch hole in the engine block) and scrapped the tampered vehicle; or
 - b. fully returned the tampered vehicle to stock condition (i.e. all OEM emission controls reinstalled, including DPF, SCR, and EGR, and the ECM flashed to factory configurations);
5. They have permanently destroyed or returned to the manufacturer all defeat devices in its inventory and/or possession; and
6. They have removed from their webpages and social media platform(s) all advertisements, photos, videos, and information that relate to performing tampering and/or manufacturing, selling, offering to sell, and/or installing defeat devices except advertisements, photos, videos, or information relating to how to comply with the CAA.

¹ with the exception of Truck #s 219 and 231 which have already been sold and are no longer in Respondents' possession.

SETTLEMENT

In consideration of Respondents' size of business, its full compliance history, its good faith efforts to comply, other factors as justice may require, and upon consideration of the entire record, the parties enter into this ESA in order to resolve any civil penalties for these alleged violations for the total penalty amount of **\$28,458**.

This settlement is subject to the following terms and conditions:

By signing below, Respondents consent to, and is bound by, the terms and conditions of this ESA, including the assessment of the civil penalty and required remediation set forth above. Respondent admits the jurisdictional allegations in the ESA and waives any objections that it may have regarding jurisdiction. Respondents waive their right to contest the specific factual allegations contained herein, and neither admits nor denies these specific factual allegations. Respondents acknowledge that it has the right to request a hearing on any material fact, or on the appropriateness of the penalty, but Respondents waive their rights to such a hearing. Respondents also waive their right to appeal this ESA.

Respondents certify, subject to civil and criminal penalties for making a false submission to the United States Government, that Respondents have corrected the violations set forth in this ESA, and have made payment specified above by either of the two following methods:

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 the ESA Number listed below.

On the same day, after submitting your payment, send an email to cinwd_acctsreceivable@epa.gov and the EPA contact email address noted below. Include in the subject line: "Payment Confirmation for Johns Disposal, Inc. ESA Number EPA-5-24-CAA-ESA-03." Attach a copy of the ESA and your payment receipt to the email.

Payment method 2 (check): Mail, via CERTIFIED MAIL or private carrier, a certified check payable to the United States of America marked with "Johns Disposal Inc.", and the ESA Number listed below, with a copy of the ESA to:

U. S. Environmental Protection Agency
Government Lockbox 979078
3180 Rider Trail S.
Earth City, Missouri 63045
Attn: ESA Number EPA-5-24-CAA-ESA-03

On the same day, notice of payment must be sent by email to:

Ethan Chatfield
Air Enforcement and Compliance Assurance Branch
U.S. Environmental Protection Agency
chatfield.ethan@epa.gov

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

Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 5
r5hearingclerk@epa.gov

Upon Respondents' submission of the signed original ESA, Respondents' liability is resolved only for any federal civil penalties due as a result of the facts and violations alleged in this ESA. This ESA and Respondents' full payment of the civil penalty set forth herein, do not affect the right of EPA to pursue appropriate injunctive, other equitable relief, or criminal sanctions for any violations of law. EPA also does not waive any enforcement authority for any other violation of the CAA or any other statute. The issuance of the ESA does not waive, extinguish, or otherwise affect Respondents' duty to comply with the CAA, the regulations promulgated thereunder, or any other applicable law or requirement.

If the signed original ESA with proof of payment is not returned to the EPA Region 5 office at the above emails in correct form by Respondent within 30 days of the date of Respondents' receipt of this ESA (60 days if an extension is granted), the proposed ESA is withdrawn, without prejudice to EPA's ability to file an enforcement action for the violations identified in this ESA.

This ESA is binding on the Parties signing below.

Each Party to this action shall bear its own costs and fees, if any.

FOR RESPONDENT:

Signature: Brian Jongetjes Date: 12/11/2023

Name (print): Brian Jongetjes

Title (print): President

Tax Identification number: 391731712

Respondent
: Johns Disposal Service, Inc.

FOR COMPLAINANT:

Michael D. Harris, Director
Enforcement and Compliance Assurance Division