



REGION 1
BOSTON, MA 02109

June 12, 2024

FILED

Jun 18, 2024

11:44 am

**U.S. EPA REGION 1
HEARING CLERK**

By email

Ms. LeAnn Jensen
Regional Judicial Officer
U.S. EPA, Region 1 (Mail Code 4-MI)
5 Post Office Square, Suite 100
Boston, MA 02109-3912
Jensen.LeAnn@epa.gov

Re: *In the Matter of Peak Diesel MA, LLC*, Docket Number: CAA-01-2024-0047

Dear Ms. Jensen:

In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2), and simultaneously transmitted with this letter, please find an Expedited Settlement Agreement (“ESA”) and proposed final order settling the above-referenced action. The ESA has been signed by the parties and is now being submitted to you for approval.

If signed by you, the ESA will resolve Respondent’s administrative civil penalty liability for the alleged violations of the aftermarket “defeat device” prohibitions of Section 203(a)(3)(B) of the Clean Air Act, 42 U.S.C. § 7522(a)(3)(B). This provision prohibits any person from manufacturing, selling, offering to sell, or installing parts or components whose principal effect is to bypass, defeat, or render inoperative a motor vehicle emission control device or element of design (i.e., a “defeat device”), where the person knows or should know that the part is being offered for sale or installed for such use.

EPA issued this ESA under the ESA Pilot for Clean Air Act Vehicle and Engine Violations. Under this pilot program, ESAs can be used for first-time violators when there are fewer than 50 violations identified, and the total penalty is under \$50,000, both of which are the case here. The ESA requires compliance with Section 203(a)(3)(B). Additionally, the ESA imposes a penalty of \$12,098, reached by applying the Agency’s Clean Air Act Title II Vehicle & Engine Civil Penalty Policy (2021) to the facts of this case, in conjunction with EPA’s June 21, 2019 pilot ESA policy, entitled *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations—Tampering/Defeat Devices*. Note that this pilot ESA policy expired under its own terms in 2022. The case team confirmed with Headquarters’ Office of Enforcement and Compliance Assurance (“OECA”) that the Regions can still use the policy and have an email to that effect in the case file. OECA also reviewed the ESA.

The parties' consent to the use of digital signatures (as well as Respondent's consent to electronic service of the CAFO, once filed) is included in the CAFO. I will be submitting the Respondent's original signature to Regional Hearing Clerk when EPA receives it in the mail. This settlement does not have any public notice requirements.

Thank you for your attention to this matter.

Sincerely,

Catherine Smith
Senior Enforcement Counsel

Attachments (listed above)

1. Expedited Settlement with Proposed Final Order
2. Penalty Form
3. Letter to Regional Hearing Clerk

cc:

Grace Perry, EPA

Marissa Gola, Peak Diesel MA, LLC, peakdieselma@gmail.com