

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103

In the Matter of: :

:

:

East Coast Diesel, LLC, : **Docket No. - CAA-03-2021-0046**

:

Respondent. : **Proceeding under CAA Section 205(c)(1)**

:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region III (“EPA” or “Complainant”), and East Coast Diesel, LLC (“East Coast” or “Respondent”) (collectively the “Parties”), pursuant to Section 205(c)(1) of the Clean Air Act (the “CAA” or “Act”), 42 U.S.C. § 7524(c)(1), and Sections 22.13 and 22.18 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. Part 22, 40 C.F.R. §§ 22.13 and 22.18. Section 205(c)(1) of the Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated it to the Complainant. This Consent Agreement and the attached Final Order (hereinafter collectively referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondent under Section 205(c)(1) of the Act for the violations alleged herein.
2. Respondent is a limited liability company organized under the laws of the State of Pennsylvania and owned by Mr. Lamar Burkholder. The company’s place of business is 529 Shirksville Road, Jonestown, PA 17038. Respondent operates a commercial website for sales of aftermarket diesel truck performance upgrade products at www.ecddiesel.com.
3. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.
4. The EPA alleges that between January 1, 2016, and October 16, 2018, Respondent sold, and offered for sale, aftermarket parts and components intended for use with, or as part of, motor

vehicles or motor vehicle engines that have a principal effect of bypassing, defeating, or rendering inoperative emission control devices and elements of design installed in or on a motor vehicle or motor vehicle engine in violation of section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).

JURISDICTION

5. EPA has jurisdiction over the above-captioned matter as described in Paragraphs 1 and 2 herein.
6. This Consent Agreement is entered into under Section 205(c)(1) of the Act, 42 U.S.C. § 7524(c)(1), and the Consolidated Rules, 40 C.F.R. Part 22.1(a)(2).

GENERAL PROVISIONS

7. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
8. Except as provided in Paragraph 7, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
9. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
10. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
11. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
12. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.
13. Persons violating Sections 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), are subject to a civil penalty of up to \$4,735 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.

GOVERNING LAW

14. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Governing Law, Definitions, and Alleged Violations of Law set forth immediately below.
15. This proceeding arises under Part A of Title II of the CAA, CAA §§ 202-219, 42 U.S.C. §§ 7521-7554, and the regulations promulgated thereunder. These laws aim to reduce emissions from mobile sources of air pollution, including hydrocarbons ("HC"), particulate matter ("PM") oxides of nitrogen ("NO_x"), and carbon monoxide ("CO"). The Alleged Violations of Law, stated

below, concern Motor Vehicles and Motor Vehicle engines and the Defeat Device prohibitions in section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

16. Under Section 202 of the CAA, 42 U.S.C. § 7521, EPA promulgated emission standards for HC, PM, NO_x, and CO, and other pollutants applicable to Motor Vehicles and Motor Vehicle engines. *See generally* 40 C.F.R. Part 86.
17. Manufacturers of new Motor Vehicles or Motor Vehicle engines must obtain a certificate of conformity (“COC”) from EPA to sell, offer to sell, or introduce or deliver for introduction into commerce any new Motor Vehicle or Motor Vehicle engines in the United States. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1).
18. The EPA issues COCs to vehicle manufacturers (also known as “original equipment manufacturers” or “OEMs”) under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of Motor Vehicles conforms to applicable EPA requirements governing Motor Vehicle emissions.
19. To obtain a COC for a given Motor Vehicle test group or engine family, the OEM must demonstrate that each Motor Vehicle or Motor Vehicle engine will not exceed established emissions standards for NO_x, PM, CO, HC, and other pollutants. *See generally* 40 C.F.R. 86 Subparts A and S.
20. The COC application must describe, among other things, the emissions-related elements of design of the Motor Vehicle or Motor Vehicle engine. *See* 40 C.F.R. §§ 86.004-21, 86.1844-01. For example, manufacturers of diesel engines employ retarded fuel injection timing as a primary emission control device for emissions of NO_x, while manufacturers of gasoline-powered engines employ spark timing as an emission control device. Manufacturers also employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include Exhaust Gas Recirculation (“EGR”), Diesel Particulate Filter (“DPF”), Diesel Oxidation Catalyst (“DOC”), Nitrogen Adsorber Catalyst (“NAC”), and Selective Catalytic Converter (“SCR”) systems.
21. Under section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations requiring manufacturers of Motor Vehicles to install on-board diagnostic (“OBD”) systems on vehicles beginning with the 2007 model year. The regulations require the OBD system to monitor emission control components for any malfunction or deterioration causing exceedance of certain emission thresholds. When the OBD system detects a problem, a check-engine light on the dashboard of the vehicle alerts the driver that a certain repair or repairs is needed. 40 C.F.R. §§ 86.1806-05; 86.1807-17. Thus, OBD is a critical Element of Design of the Motor Vehicle.
22. It is a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(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 or Motor Vehicle engine in compliance with regulations under [Subchapter 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.”

23. It is also a violation for any person to cause any of the acts set forth in CAA Section 203(a), 42 U.S.C. § 7522(a).
24. Under the CAA, the term “Person” includes individuals, corporations, partnerships, associations, states, municipalities, and political subdivisions of a state. 42 U.S.C. § 7602(e).

DEFINITIONS USED IN THIS CONSENT AGREEMENT

25. “Defeat Device” means a 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 a Motor Vehicle emission control device or Element of Design, including such emission control devices or Elements of Design required by regulation under Title II of the CAA, including Defeat Tuning Products and Exhaust Aftermarket Delete Pipes. *See* CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).
26. “Aftermarket Engine Control Module (“ECM”) Programmer” means hardware commonly referred to as “tuners” and software commonly referred to as “tunes” that modifies ECM programming or calibrations and/or onboard diagnostics (“OBD”) operation, whose principal effect is to bypass, defeat, or render inoperative devices or elements of design installed on or in motor vehicles or motor vehicle engines in compliance with Title II of the CAA.
27. “Exhaust Aftertreatment Delete Pipe” or “Delete Pipe” means a component that is designed to physically remove, disable, or bypass an aftertreatment emission control device or other elements of design, such as a DPF, DOC, or SCR, from the exhaust system installed on or in motor vehicles or motor vehicle engines in compliance with Title II of the CAA.
28. “Exhaust Gas Recirculation Delete Part” or “EGR Delete Part” means a part or component that is designed to physically remove, disable, or bypass a component or component of the EGR system installed on or in a motor vehicle or motor vehicle engine in compliance with Title II of the CAA.
29. “Diesel Oxidation Catalyst (“DOC”) are elements of design in motor vehicles consisting of a substrate coated with catalytic material which, when exhaust flows through at high temperatures, promotes oxidation of pollutants. The DOC oxidizes carbon monoxide and hydrocarbons to carbon dioxide and water.
30. “Diesel Particulate Filters” (“DPFs”) are Elements of Design in diesel-powered Motor Vehicles that collect PM pollution contained in engine exhaust gas. Proper operation of the DPF requires periodic regeneration of the filter to prevent accumulated PM from clogging the filter.
31. “Electronic Control Module” or “ECM” means a device that receives inputs from various sensors and outputs signals to control engine, vehicle, or equipment functions. The ECM uses software programming including calculations and tables of information to provide the appropriate outputs. ECMs continuously monitor engine operating parameters to manage the operation of the emission control systems and Elements of Design, such as fuel or spark timing.
32. “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.” 40 C.F.R. § 86.094-2. For example, manufacturers of diesel engines employ retarded fuel injection timing as a primary emission control device for emissions of NO_x, while manufacturers of gasoline-powered engines employ spark timing as an emission control device. Manufacturers also employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include EGR, DPF, DOC, and SCR systems.

33. “Exhaust Gas Recirculation” is an Element of Design in Motor Vehicles that reduces NO_x emissions, which are formed at high temperatures during fuel combustion. By recirculating exhaust gas through the engine, EGR reduces engine temperature and NO_x emissions.
34. “Motor Vehicle” is defined in section 216(2) of the CAA, 42 U.S.C. § 7550(2), as “any self-propelled vehicle designed for transporting persons or property on a street or highway.”
35. “On-Board Diagnostic System” is a system of components and sensors designed to monitor vehicle functions, some of which include detecting, recording, and reporting malfunctions of all monitored emission-related powertrain systems or components. 40 C.F.R. § 86.1806-05(b).
36. “Selective Catalytic Reduction” is an Element of Design that reduces NO_x emissions by chemically converting exhaust gas that contains NO_x into nitrogen and water through the injection of diesel exhaust fluid. Sensors in the SCR system communicate with the OBD to ensure that SCR is properly controlling NO_x emissions.

ALLEGED FACTS

37. Respondent, East Coast Diesel, LLC is a person, as that term is defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
38. Sales records obtained from Respondent indicate that it offered for sale or sold parts or components that have a principal effect of bypassing, defeating, or rendering inoperative emission control systems or elements of design installed on motor vehicles not in compliance with the CAA. Respondent sold, or offered for sale, Aftermarket ECM Programmers (“Tuners”), EGR Delete Parts, and Delete Pipes.
39. Respondent sold Tuners that are designed to disable EGR systems and OBD oxygen sensors. Between January 1, 2016, and October 16, 2018, Respondent sold 245 Tuners. These products are listed in Appendix A.
40. Respondent sold 151 EGR Delete Parts designed for EGR removal and/or bypass between January 1, 2016, and October 16, 2018. These products are listed in Appendix A.
41. Between January 1, 2016, and October 16, 2018, Respondent sold at least 236 Delete Pipes, designed to remove and bypass DOC, DPF, and/or SCR systems. These products are listed in Appendix A.
42. The products identified in Paragraphs 39-41, above, were designed and marketed for use on makes and models of motor vehicles and motor vehicle engines manufactured by various motor vehicle companies, as further identified in Appendix A. These OEMs sought and obtained COC from the EPA. In doing so, the manufacturers have certified that the motor vehicles have demonstrated compliance with applicable federal emission standards, including certified design

configurations using elements of design such as fuel timing, EGRs, DOCs, DPFs, NACs, SCR, and OBD systems.

43. The Tuners sold by East Coast render inoperative the OEM-certified ECM programming and replace it with programming that is designed to disable EGR systems and OBD oxygen sensors. In addition, the Tuners defeat the OEM-certified ECM programming by overriding the OBD functions required by regulation under the CAA. The Delete Pipes sold by East Coast physically replace emission control devices such as DPFs, DOCs, SCR, and EGR systems.

CONCLUSIONS OF LAW

Count I

The Sale or Offering for Sale of Defeat Devices

44. EPA alleges that, between January 1, 2016, and October 16, 2018, Respondent sold, or offered to sell, at least 632 Defeat Devices, including 245 Tuners, 151 EGR Delete Parts, and 236 Delete Pipes, which are parts and components intended for use with, or as part of, motor vehicles or motor vehicle engines, where a principal effect of the parts or components is to bypass, defeat, or render inoperative emissions-related elements of design that are installed on a motor vehicle to meet the CAA's emission standards, and Respondent knew or should have known such parts and components were being offered for sale or installed for such use or put to such use.
45. EPA alleges that, between January 1, 2016, and October 16, 2018, Respondent committed approximately 632 violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling or offering for sale Defeat Devices, including Tuners, EGR Delete Parts, and Delete Pipes.
46. By selling or offering for sale Defeat Devices, including Tuners, EGR Delete Parts, and Delete Pipes in violation of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), Respondent is subject to the assessment of civil penalties under section 203(c) of the CAA, 42 U.S.C. § 7524(c).

CIVIL PENALTY

47. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of Twenty Thousand Dollars (\$20,000), which Respondent shall be liable to pay in accordance with the terms set forth below.
48. The civil penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in CAA Section 205(c)(2), 42 U.S.C. § 7524(c)(2), which include the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with the Act, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's Clean Air Act Mobile Source Civil Penalty Policy – Vehicle and Engine Certification Requirements (Jan. 16, 2009) which reflects the statutory penalty criteria and factors set forth at CAA, Section 205(c)(2), and the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R.

Part 19, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

49. The civil penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent, including the following: Forms 1040 (U.S. Individual Income Tax Returns) of ECD's principal for 2017 through 2019; information supplied by Respondent in response to EPA's "Collection Information Statement for Wage Earners and Self-Employed Individuals ('CIS')"; a 2020 "Financial Statement for Corporations, Businesses or Other Organizations" supplied by Respondent and Respondent's 2020 Profit and Loss Statement and the 2020 Balance Sheet.
50. Based upon this analysis EPA has determined that the Respondent is unable to pay a civil penalty in excess of the dollar amount set forth in Paragraph 47, above, in settlement of the above-captioned action.
51. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier's check, certified check or electronic wire transfer, in the following manner:
- a. All payments by Respondent shall include reference to Respondent's name and address, and the Docket Number of this action, *i.e.*, EPA Docket No. - CAA-03-2021-0046;
 - b. All checks shall be made payable to the "United States Treasury";
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:
U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:
<https://www.epa.gov/financial/makepayment>
 - e. A copy of Respondent's check or other documentation of payment of the penalty using the method selected by Respondent for payment shall be sent simultaneously by email to:
Daniel E. Boehmcke
Senior Assistant Regional Counsel
U.S. EPA, Region III (3RC30)
boehmcke.daniel@epa.gov
- and
- the Regional Hearing Clerk at **R3_Hearing_Clerk@epa.gov**.
54. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly,

Respondent's failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.

55. Payment of the civil penalty is due and payable immediately upon receipt by Respondent of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
56. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date that a copy of the fully executed and filed Consent Agreement and Final Order is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
57. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 3.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives – Case Management*, Chapter 9, EPA will assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
58. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
59. Failure by Respondent to pay the CAA civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondent to a civil action to collect the assessed penalty, plus interest, pursuant to Section 205 of the CAA, 42 U.S.C. § 7524. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.
60. Respondent agrees not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.

GENERAL SETTLEMENT CONDITIONS

61. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
62. 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 Consent Agreement and Final Order, including information about respondent's ability to pay a penalty, 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.

CERTIFICATION OF COMPLIANCE

63. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(b).

OTHER APPLICABLE LAWS

64. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CAA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

65. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION/PARTIES BOUND

66. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

67. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

68. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

FOR RESPONDENT:
EAST COAST DIESEL, LLC

Lamar Burkholder

4/23/2021

Name

Date

Printed Name: Lamar Burkholder

Title: Owner

Address: 529 Shirksville Rd Jonestown, PA 17038

FOR COMPLAINANT:

After reviewing the Consent 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 Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

Date: 6/3/21

By: **KAREN MELVIN** Digitally signed by KAREN MELVIN
Date: 2021.06.03 10:25:06 -04'00'

Karen Melvin
Director, Enforcement and Compliance
Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

Date: _____

By: **DANIEL BOEHMCKE** Digitally signed by DANIEL BOEHMCKE
Date: 2021.05.26 13:08:04 -04'00'

Daniel E. Boehmcke
Senior Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103

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|--------------------------------|---|---|
| In the Matter of: | : | |
| | : | Docket No. - CAA-03-2021-0046 |
| | : | |
| East Coast Diesel, LLC, | : | Proceeding under CAA Section 205(c)(1) |
| Respondent. | : | |

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondent, East Coast Diesel, LLC, Inc., have executed a document entitled “Consent 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, Sections 22.1(a)(2), 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s Clean Air Act Mobile Source Civil Penalty Policy – Vehicle and Engine Certification Requirements (Jan. 16, 2009), and the statutory factors set forth in Section 205 of the Clean Air Act, 42 U.S.C. §7524(c)(2).

NOW, THEREFORE, PURSUANT TO Section 205(c)(1) of the Clean Air Act, 42 U.S.C. Section 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 THOUSAND DOLLARS (\$20,000)**, in accordance with the payment provisions set forth in the Consent Agreement, and comply with the terms and conditions of the Consent Agreement and any appendices thereto.

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 Consent Agreement and does not waive, extinguish or otherwise affect Respondent’s obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 6/7/21

JOSEPH LISA Digitally signed by JOSEPH LISA
Date: 2021.06.07 09:46:12
-04'00'

Joseph J. Lisa
Regional Judicial Officer
U.S. EPA, Region III

Appendix A: Detailed List of Defeat Devices Sold by East Coast Diesel

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|---|---------------------|----------------------|
| Deviant Race Parts | 75125 | 2015-2016 GM Duramax Pickups | EGR Delete Part | 1 |
| PPEI Custom Tuning | Ez Lynk | 2010-2018 Dodge Cummins Pickups 2011-2016 GM Duramax Pickups 2011-2019 Ford Powerstroke Pickups | Tuner | 55 |
| PPEI Custom Tuning | EZ-SUPP-PK | 2010-2018 Dodge Cummins Pickups 2011-2016 GM | Tuner | 59 |
| PPEI Custom Tuning | PPEI10073 | 2001-2010 GM Duramax Pickups | Tuner | 47 |
| PPEI Custom Tuning | PPEI10083 | 2001-2010 GM Duramax Pickups | Tuner | 12 |
| PPEI Custom Tuning | PPEI10036 | 2011-2016 GM Duramax Pickups | Tuner | 3 |
| PPEI Custom Tuning | PPEI10066 | 2006-2009 Dodge Cummins Pickup | Tuner | 7 |
| PPEI Custom Tuning | PPEI10155 | 2010-2012 Dodge Cummins Pickup | Tuner | 9 |
| PPEI Custom Tuning | PPEI10033 | 2010-2012 Dodge Cummins Pickup | Tuner | 4 |
| Flo-Pro Exhaust | 27113NB | 2007-2011 Dodge Cummins Pickup | Delete Pipe | 3 |
| Flo-Pro Exhaust | 18213 | 2011-2016 GM Duramax Pickups | Delete Pipe | 1 |
| Flo-Pro Exhaust | 862 | 2011-2016 GM Duramax Pickups | Delete Pipe | 5 |
| Flo-Pro Exhaust | SS862 | 2011-2016 GM Duramax Pickups | Delete Pipe | 1 |
| Flo-Pro Exhaust | 21122 | 2011-2012 Dodge Cummins Pickup | Delete Pipe | 3 |
| Flo-Pro Exhaust | 21124 | 2011-2012 Dodge Cummins Pickup | Delete Pipe | 4 |
| Flo-Pro Exhaust | 21125 | 2011-2012 Dodge Cummins Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 21126 | 2013-2017 Dodge Cummins Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 27111 | 2007-2011 Dodge Cummins Pickup | Delete Pipe | 2 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|-----------------------------------|---------------------|----------------------|
| Flo-Pro Exhaust | 27123 | 2007-2010 Dodge Cummins Pickup | Delete Pipe | 4 |
| Flo-Pro Exhaust | 835NB | 2007-2012 Dodge Cummins Pickup | Delete Pipe | 4 |
| Flo-Pro Exhaust | 863NB | 2014-2015 Dodge Eco Diesel | Delete Pipe | 2 |
| Flo-Pro Exhaust | 868NB | 2013-2017 Dodge Cummins Pickup | Delete Pipe | 6 |
| Flo-Pro Exhaust | 68113NB | 2008-2010 Ford Powerstroke Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 837NB | 2008-2010 Ford Powerstroke Pickup | Delete Pipe | 4 |
| Flo-Pro Exhaust | SS837NB | 2008-2010 Ford Powerstroke Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 835FNB | 2007-2012 Dodge Cummins Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 835F | 2007-2012 Dodge Cummins Pickup | Delete Pipe | 1 |
| Flo-Pro Exhaust | 601 | 2001-2007 GM Duramax Pickups | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 601NM | 2001-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 801 | 2001-2007 GM Duramax Pickups | EGR Delete Part | 4 |
| Flo-Pro Exhaust | 801NM | 2001-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS601 | 2001-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS601NM | 2001-2007 GM Duramax Pickups | EGR Delete Part | 2 |
| Flo-Pro Exhaust | SS801NM | 2001-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 634 | 2007-2010 GM Duramax Pickups | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 834 | 2007-2010 GM Duramax Pickups | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS634 | 2007-2010 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS834 | 2007-2010 GM Duramax Pickups | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 664 | 2011-2013 GM Duramax Pickups | EGR Delete Part | 3 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|-----------------------------------|---------------------|----------------------|
| Flo-Pro Exhaust | 664NM | 2011-2013 GM Duramax Pickups | EGR Delete Part | 4 |
| Flo-Pro Exhaust | 764 | 2011-2013 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 864 | 2011-2013 GM Duramax Pickups | EGR Delete Part | 8 |
| Flo-Pro Exhaust | SS664NM | 2011-2013 GM Duramax Pickups | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS671 | 2015-2016 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS864 | 2011-2015 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 671NM | 2015-2016 GM Duramax Pickups | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 871 | 2015-2016 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 632NB | 2007-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 832NB | 2007-2010 Ford Powerstroke Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 838NB | 2007-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS632NB | 2007-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 652NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 653NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 7 |
| Flo-Pro Exhaust | 852NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 4 |
| Flo-Pro Exhaust | SS853NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS652NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS653NB | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 7 |
| Flo-Pro Exhaust | SS877 | 2011-2017 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 701 | 2001-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 619NM | 2004-2007 Dodge Cummins Pickup | EGR Delete Part | 4 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|--------------------------------|---------------------|----------------------|
| Flo-Pro Exhaust | 819 | 2004-2007 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 819NM | 2004-2007 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS605 | 2003-2004 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS619 | 2003-2004 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | SS819 | 2003-2004 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | SS819NM | 2003-2004 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 1636 | 2007-2009 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 1639 | 2007-2009 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 1836 | 2007-2009 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 644 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 739NB | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 836 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS1636 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | SS1639 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS644 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 1648 | 2010-2013 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 1649 | 2010-2013 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 1673 | 2010-2013 Dodge Cummins Pickup | EGR Delete Part | 4 |
| Flo-Pro Exhaust | 1848 | 2010-2013 Dodge Cummins Pickup | EGR Delete Part | 6 |
| Flo-Pro Exhaust | 1849 | 2010-2013 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 1874 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 2 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|--------------------------------------|---------------------|----------------------|
| Flo-Pro Exhaust | 654 | 2011-2018 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 655 | 2011-2018 Dodge Cummins Pickup | EGR Delete Part | 5 |
| Flo-Pro Exhaust | 1669 | 2013-2014 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS1669 | 2013-2015 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS1648 | 2010-2012 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS1649 | 2010-2012 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS1673 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 7 |
| Flo-Pro Exhaust | SS1674 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 10 |
| Flo-Pro Exhaust | SS1848 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | SS1849 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | SS1874 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 5 |
| Flo-Pro Exhaust | SS655 | 2013-2018 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 645 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS645 | 2007-2010 Dodge Cummins Pickup | EGR Delete Part | 2 |
| Flo-Pro Exhaust | 524 | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 824 | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS817 | 2003-2007 Ford Powerstroke Excursion | EGR Delete Part | 1 |
| Flo-Pro Exhaust | SS824 | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 843NB | 2008-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | 30800R | 2008-2010 Ford Powerstroke Pickup | Delete Pipe | 3 |
| Flo-Pro Exhaust | 213000 | 2009-2012 Dodge Cummins Pickup | EGR Delete Part | 4 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|---|---------------------|----------------------|
| Flo-Pro Exhaust | 302201 | 2011-2012 Ford Powerstroke Pickup | EGR Delete Part | 3 |
| Flo-Pro Exhaust | 315000 | 2015-2018 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| Flo-Pro Exhaust | EGR60 | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 11 |
| Flo-Pro Exhaust | EGR62 | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 11 |
| Flo-Pro Exhaust | EGR60EX | 2003-2007 Ford Powerstroke Pickup | Delete Pipe | 11 |
| H&S Performance | 301001 | 2007-2008 Dodge Cummins Pickup | EGR Delete Part | 6 |
| H&S Performance | 301004 | 2009-2012 Dodge Cummins Pickup | EGR Delete Part | 3 |
| H&S Performance | 301008 | 2009-2012 Dodge Cummins Pickup | EGR Delete Part | 1 |
| H&S Performance | 109003 | 2010-2018 Dodge Cummins Pickups 2003-2010 Ford Powerstroke Pickups | Tuner | 19 |
| H&S Performance | 109005 | 2010-2018 Dodge Cummins Pickups 2003-2010 Ford Powerstroke Pickups | Tuner | 8 |
| J&J Machine & Tool | CCD1315 | 2013-2016 Dodge Cummins Cab/Chassis | EGR Delete Part | 5 |
| J&J Machine & Tool | RR67DMLBZ | 2006-2008 GM Duramax Pickup | EGR Delete Part | 1 |
| J&J Machine & Tool | D6778 | 2007-2008 Dodge Cummins Pickup | EGR Delete Part | 3 |
| J&J Machine & Tool | D67912 | 2009-2012 Dodge Cummins Pickup | EGR Delete Part | 3 |
| J&J Machine & Tool | DMUPP | 2001-2016 GM Duramax Pickup | EGR Delete Part | 3 |
| J&J Machine & Tool | RR1115DMLML | 2011-2016 GM Duramax Pickup | EGR Delete Part | 2 |
| J&J Machine & Tool | RR45DMLLY | 2004-2005 GM Duramax Pickup | EGR Delete Part | 1 |
| J&J Machine & Tool | RR60B | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 12 |
| J&J Machine & Tool | RR60F | 2003-2007 Ford Powerstroke Pickup | EGR Delete Part | 4 |
| J&J Machine & Tool | RR64 | 2008-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|--|------------------------------------|---------------------|----------------------|
| J&J Machine & Tool | RR64B | 2008-2010 Ford Powerstroke Pickup | EGR Delete Part | 1 |
| J&J Machine & Tool | RR64E | 2008-2010 Ford Powerstroke Pickup | EGR Delete Part | 4 |
| J&J Machine & Tool | RR671315DA | 2013-2015 Dodge Cummins Pickup | EGR Delete Part | 19 |
| J&J Machine & Tool | RR6778DA | 2007-2008 Dodge Cummins Pickup | EGR Delete Part | 6 |
| J&J Machine & Tool | TVDD712 | 2007-2016 Dodge Cummins Pickup | EGR Delete Part | 6 |
| J&J Machine & Tool | RR67912DA | 2009-2012 Dodge Cummins Pickup | EGR Delete Part | 20 |
| J&J Machine & Tool | RR67F | 2011-2018 Ford Powerstroke Pickup | EGR Delete Part | 2 |
| J&J Machine & Tool | RR67PS | 2011-2018 Ford Powerstroke Pickup | EGR Delete Part | 3 |
| MBRP | DS9417 | 2004-2007 Dodge Cummins Pickup | Delete Pipe | 1 |
| MBRP | S6128409 | 2001-2007 GM Duramax Pickup | Delete Pipe | 1 |
| Derive Systems | 7015 | 1994-2018 Ford Powerstroke Pickups | Tuner | 15 |
| Derive Systems | 7015 Race | 1994-2018 Ford Powerstroke Pickups | Tuner | 6 |
| Derive Systems | 7015C64 | 2008-2010 Ford Powerstroke Pickups | Tuner | 1 |
| Sinister Diesel | EGRD-6.0 | 2003-2007 Ford Powerstroke Pickups | EGR Delete Part | 2 |
| Sinister Diesel | EGRD-6.0B | 2003-2007 Ford Powerstroke Pickups | EGR Delete Part | 1 |
| Sinister Diesel | EGRD-LBZ | 2006-2007 GM Duramax Pickups | EGR Delete Part | 1 |
| Sinister Diesel | EGRD-LLY-EI | 2004-2005 GM Duramax Pickups | EGR Delete Part | 2 |
| Sinister Diesel | EGRD-LMM | 2007-2010 GM Duramax Pickups | EGR Delete Part | 1 |
| Sinister Diesel | SD-EGRD-LLY-EI | 2004-2005 GM Duramax Pickups | EGR Delete Part | 1 |
| Sinister Diesel | SD-TVD-6.7C | 2007-2016 Dodge Cummins Pickup | EGR Delete Part | 1 |
| Steed Speed | 4 th Gen Cummins 6.7 T4i | 2007-2016 Dodge Cummins Pickup | EGR Delete Part | 3 |

| Manufacturer | Part # | Vehicle Application | Type of Part | Quantity Sold |
|---------------------|---------------|-----------------------------|---------------------|----------------------|
| Zechman Machine | ECD LLY | 2001-2005 GM Duramax Pickup | EGR Delete Part | 1 |
| Zechman Machine | ECD LMM | 2007-2009 GM Duramax Pickup | EGR Delete Part | 1 |
| aFe Power | 49-02010 | 2007-2012 Dodge 6.7L | Delete Pipe | 1 |