

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2021-0209
This ESA is issued to: Dunks Performance LLC
2600 Main Street, Suite A
Springfield, Oregon 97477

This Expedited Settlement Agreement (ESA) is entered into by the U.S. Environmental Protection Agency Region 10 (EPA), by its duly delegated official, and by Dunks Performance LLC ("Respondent") pursuant to Section 205(c)(1) of the Clean Air Act (CAA), 42 U.S.C. § 7524(c)(1), and 40 C.F.R. § 22.13(b).

ALLEGED VIOLATIONS

EPA issued an Information Request to Respondent dated July 17, 2020, to gather information to determine Respondent's compliance with Sections 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3). Based on that information, EPA has determined that Respondent violated the CAA as noted in the enclosed "Description of Violations" (Attachment I), which is hereby incorporated by reference.

SETTLEMENT

In consideration of the penalty assessment factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2), and upon consideration of the entire record, the parties enter into the ESA in order to settle the violations described in Attachment I for the total penalty amount of **\$25,599**.

This settlement is subject to the following terms and conditions:

1. For purposes of this proceeding, Respondent waives any objections that it may have regarding jurisdiction; neither admits nor denies the specific factual allegations contained herein and in Attachment I; consents to the assessment of the penalty as stated above; and waives its rights to contest the allegations contained herein or in Attachment I, to a hearing afforded by Section 205(c)(1) of the CAA, 42 U.S.C. § 7524(c)(1), and to appeal this ESA. Each party to this action shall bear its own costs and fees, if any.
2. Respondent also certifies that, as of the date of Respondent's signature on this ESA, Respondent is complying fully with Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).
3. This signed ESA must be sent electronically or by certified mail to:

Sara Conley
U.S. Environmental Protection Agency
Region 10 (20-C04)
1200 Sixth Avenue, Suite 155
Seattle, WA 98101
conley.sara@epa.gov

4. Respondent agrees to submit payment in full of the penalty within 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk. Penalty payment instructions are included on the enclosed "Payment Instructions" (Attachment 2), which is hereby incorporated by reference.
5. Failure to pay the penalty when due may subject Respondent to a civil action pursuant to Section 205(c)(6) of the CAA, 42 U.S.C. § 7524(c)(6), to collect the penalty, including accrued interest, attorney's fees, collection costs, and nonpayment penalties.
6. Upon Respondent's submission of the signed original ESA to EPA, signature by EPA, filing with the Regional Hearing Clerk and timely payment of the penalty, EPA will take no further civil penalty action against Respondent for the alleged violations of the CAA referenced in Attachment 1.
7. Nothing in this ESA shall affect the right of EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violations of law. This ESA does not waive, extinguish, or otherwise affect Respondent's obligations to comply with all applicable provisions of the CAA and regulations promulgated or permits issued thereunder.
8. The parties consent to service of this Agreement by electronic delivery at the Respondent's e-mail noted below.
9. This ESA is binding on the parties signing below.
10. This ESA is effective upon filing with the Regional Hearing Clerk.

FOR RESPONDENT:

Signature: Michael Daniels
Name (print): Michael Daniels
Title (print): owner
Email (print): mkDaniels@gmail.com

Date: 9/13/21

FOR COMPLAINANT:

**EDWARD
KOWALSKI**

Digitally signed by EDWARD
KOWALSKI
Date: 2021.09.14 17:27:17 -07'00'

Date: _____

EDWARD J. KOWALSKI, Director
Enforcement and Compliance Assurance Division
EPA Region 10

I hereby ratify the ESA and incorporate it herein by reference. It is so ORDERED.

RICHARD
MEDNICK

Digitally signed by RICHARD
MEDNICK
Date: 2021.09.15 13:09:23
-07'00'

RICHARD MEDNICK

Date: _____

Regional Judicial Officer
EPA Region 10

**ATTACHMENT 1
Description of Violations**

Table 1 - Information Collection	
Date(s) Information Collected: September 1, 2020	Docket Number: CAA-10-2021-0209
Respondent Location: 2600 Main Street, Suite A	
City: Springfield	Inspector(s) Name(s): N/A
State: OR Zip Code: 97477	EPA Approving Official: Moran Jencius, Chief, Air and Land Branch
Respondent: Dunks Performance LLC	EPA Enforcement Contact(s): Sara Conley, Compliance Officer

Table 2 - Description of Violations and Vehicles/Engines				
<p>Dunks Performance LLC ("Respondent") tampered with the vehicles/engines listed below by removing or rendering inoperative emission control systems on EPA-certified motor vehicles. In addition, Respondent sold and/or installed the products listed below ("defeat devices"), which bypass, defeat or render inoperative emission control systems on EPA-certified motor vehicles. It is a violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), to tamper with EPA-certified vehicles and engines and a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), to sell, offer for sale, or install defeat devices intended for use with EPA-certified motor vehicles and engines. Based on information summarized below, EPA finds that Respondent has committed 31 violations of Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).</p>				
Tampered Motor Vehicle/Engine Violations				
Tampering Date	Year	Make	Model	Tampered Emission Parts or Components
2/2/2018	2003	Ford	F350	Exhaust gas recirculation (EGR) removal product
3/12/2018	2009	Ford	F450	Exhaust replacement pipe, EGR removal product
5/1/2018	2005	Ford	F250	Exhaust replacement pipe
5/21/2018	2006	Ford	F350	Exhaust replacement pipe, EGR removal product
10/3/2018	2005	Chevy	Silverado 2500	Exhaust replacement pipe, EGR removal product
11/13/2018	2007	Chevy	Silverado 2500	Exhaust replacement pipe, EGR removal product

Defeat Device Violations			
Defeat Device Description	Effect on Emission Control Devices	Sold, installed, and/or offered for sale?	Date Range
Exhaust Replacement Pipes	Remove and bypass diesel oxidation catalyst (DOC), diesel particulate filter (DPF), and/or selective catalytic reduction (SCR) system	4	2018-2020
Exhaust Gas Recirculation Removal Products	EGR removal and bypass	11	2018-2020
Electronic Software or Programming Products	Override onboard diagnostic codes and/or facilitate removal of DOC, DPF, EGR, and/or SCR system	10	2018-2020

Table 3 - Penalty and Required Actions	
Penalty	\$25,599
Required Actions	In addition to paying the monetary penalty, Respondent will not tamper with emission control systems on EPA-certified motor vehicles and engines. In addition, Respondent will not manufacture, offer for sale, sell, or install any device that defeats, bypasses, or otherwise renders inoperative an emission component of any motor vehicle or engine regulated by the EPA. Respondent certifies that it has reviewed EPA's November 23, 2020 <u>"EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act."</u>

ATTACHMENT 2
Payment Instructions

Respondent may pay the penalty by check (mail or overnight delivery), wire transfer, ACH, or online payment. Additional payment instructions are available at:
<http://www2.epa.gov/financial/makepayment>.

Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

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

If paid by check, the docket number of the ESA must be included on the check. (The docket number is located at the top of this ESA.)

Concurrently with payment, Respondent must send photocopies of the check, or proof of other payment method to the following addresses:

Regional Hearing Clerk
U.S. Environmental Protection Agency
R10_RHC@epa.gov

Sara Conley
U.S. Environmental Protection Agency
conley.sara@epa.gov

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Dunks Performance, LLC Docket No.: CAA-10-2021-0209** was filed with the Regional Hearing Clerk and served on the addressees by electronic mail on the date specified below:

The undersigned certifies that a true and correct copy of the document was delivered to:

Julie Vergeront
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, Washington 98101
Vergeront.julie@epa.gov

Further, the undersigned certifies that a true and correct copy of the aforementioned document was placed in the United States mail certified/return receipt to:

Michael Dunks
Owner and Registered Agent
Dunks Performance LLC
2600 Main Street, Suite A
Springfield, Oregon 97477
mkdunks@gmail.com

DATED this 15 day of September, 2021.

TERESA
YOUNG

Digitally signed by
TERESA YOUNG
Date: 2021.09.15
15:23:36 -07'00'

TERESA YOUNG
Regional Hearing Clerk
EPA Region 10