



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

August 3, 2022

**VIA E-MAIL**  
**DELIVERY RECEIPT REQUESTED**

James MacEachern, Chief Operating Officer  
Lane Automotive Incorporated  
8300 Lane Drive  
Watervliet, Michigan 49098

Email: [WGuerry@KellyDrye.com](mailto:WGuerry@KellyDrye.com)

Dear James MacEachern:

Enclosed is a file-stamped Consent Agreement and Final Order (CAFO) which resolves Lane Automotive Inc., docket no. CAA-05-2022-0020. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on August 3, 2022.

Pursuant to paragraph 31 of the CAFO, Lane Automotive Inc. must pay the civil penalty within 30 days of the filing date. Your electronic funds transfer must display the case name and case docket number.

Please direct any questions regarding this case to John Matson, Associate Regional Counsel (312) 886-2243.

Sincerely,

Frank,  
Nathan

Digitally signed by Frank,  
Nathan  
Date: 2022.07.25  
16:12:43 -05'00'

Nathan Frank, Supervisor  
Air Enforcement and Compliance Assurance Section (IL/IN)

Enclosure

cc: Ann Coyle, Regional Judicial Officer/via electronic mail  
[Coyle.ann@epa.gov](mailto:Coyle.ann@epa.gov)

Regional Hearing Clerk/via electronic mail  
[R5hearingclerk@epa.gov](mailto:R5hearingclerk@epa.gov)

John Matson/via electronic mail  
[matson.john@epa.gov](mailto:matson.john@epa.gov)

Jenine Camilleri/via electronic mail  
Enforcement Unit Supervisor  
Michigan Department of Environment Great Lakes and Energy (EGLE)  
[camillerij@michigan.gov](mailto:camillerij@michigan.gov)

Rex Lane/via electronic mail  
District Supervisor  
Michigan Department of EGLE  
[laner@michigan.gov](mailto:laner@michigan.gov)

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5

In the Matter of:	)	Doc et No. CAA-05-2022-0020
	)	
Lane Automotive Inc.,	)	Proceeding to Assess a Civil Penalty
Watervliet, Michigan	)	Under Section 205(c)(1) of the Clean Air Act,
	)	42 U.S.C. § 7524(c)(1)
Respondent.	)	
_____	)	

Consent Agreement and Final Order

Preliminary statement

1. This is an administrative action commenced and concluded under Section 205(c)(1) of the Clean Air Act (the CAA), 42 U.S.C. § 7524(c)(1), 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. Part 22.

2. Complainant is the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency (EPA), Region 5.

3. Respondent is Lane Automotive, Inc. (Respondent), a corporation doing business in Michigan.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order (CAFO). See 40 C.F.R. § 22.13(b).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondent consents to the assessment of the civil penalty specified in this CAFO and to the terms of this CAFO.

**Jurisdiction and Waiver of Right Hearing**

7. Respondent admits the jurisdictional allegations in this CAFO and neither admits nor denies the factual allegations in this CAFO.

8. Respondent waives its right to request the hearings provided in 40 C.F.R. § 22.15(c), its right to contest the allegations in this CAFO and its right to appeal this CAFO.

**Summary and Regulatory Background**

9. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity (COC).

10. “Motor vehicle” means any self-propelled vehicle designed for transporting persons or property on a street or highway. *See* Section 216(2) of the CAA, 42 U.S.C. § 7550(2); 40 C.F.R. § 85.1703.

11. “Motor vehicle engine” means an engine that is designed to power a motor vehicle. *See* Section 216(3) of the CAA, 42 U.S.C. § 7550(3).

12. EPA issues COCs to motor vehicle and motor vehicle engine manufacturers to certify that a particular group of motor vehicles or motor vehicle engines conforms to applicable EPA requirements governing motor vehicle emissions. *See* Section 206(a) of the CAA, 42 U.S.C. § 7525(a).

13. EPA promulgated emissions standards for particulate matter, nitrogen oxides, hydrocarbons, and other pollutants applicable to motor vehicles and motor vehicle engines, including standards for heavy-duty diesel engines (HDDE). *See* Section 202 of the CAA, 42 U.S.C. § 7521; 40 C.F.R. Part 86.

14. To meet the minimum standard in 40 C.F.R. Part 86 and qualify for a COC, H<sub>2</sub>O DDE motor vehicle manufacturers may utilize the following emissions test procedures: EGR (Exhaust Gas Recirculation), HC (Hydrocarbon), CO (Carbon Monoxide), NO<sub>x</sub> (Nitrogen Oxides), DOC (Diesel Oxidation Catalyst), DPF (Diesel Particulate Filter), and/or I/C (In-Cylinder) emissions test procedures.

15. Modern DDE motor vehicles are equipped with electronic control modules (ECMs). ECMs can be newly monitored and operating parameters and control strategies for the engine, emissions control devices, and other systems, such as EGR/CGI, DOC, DPF, and SCR systems.

16. Under Section 202(m) of HCAA, 42 U.S.C. § 7521(m), EPA promulgates regulations for motor vehicle manufacturers after 2007 that require DDE motor vehicles to have an emissions test, working order, and health problem with the vehicle's emission system or health problem with the engine or malfunctions. See 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05. The emissions test for the engine or other systems is referred to as "onboard diagnosis" or "OBD" systems.

17. It is unlawful for "any person or motor manufacturer to violate any vehicle emission standard or to manufacture or motor vehicle engine in compliance with the regulations under [Title II of HCAA] prior to the date of the implementation of the regulations for any person knowingly or motor manufacturer to violate any vehicle emission standard or to manufacture or motor vehicle engine in compliance with the regulations under [Title II of HCAA] prior to the date of the implementation of the regulations." Section 203(a)(3)(A) of HCAA, 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1). The following are "amplified" H

18. It is well known for “any person to manufacture, or offer to manufacture, or in any way participate in the manufacture of, or part of any motor vehicle or motor vehicle engine, or where the principal effect of the part or component is to bypass, defeat, or render inoperative any device or element of design intended or intended to be used for compliance with any regulation under [Title II of the Act], and where the person knows or has knowledge that such part or component is being offered for sale or in any way for sale to such person.” Section 203(b)(3)(B) of the Act, 42 U.S.C. § 7522(b)(3)(B), 40 C.F.R. § 1068.101(b)(2). The part or component referred to “Defeat Device.”

19. The Administrator of EPA (the Administrator) may collect a civil penalty of up to \$5,179 per motor vehicle, motor vehicle engine, or part or component, with a maximum administrative penalty of \$414,364, for violation that occurred after November 2, 2015, where the penalty is assessed after January 12, 2022, pursuant to Section 205(d)(c) of the Act, 42 U.S.C. § 7524(d)(c), and 40 C.F.R. Part 19.4.

### **Factual Allegations**

20. Repeatedly “person,” that term is defined in Section 302(e) of the Act. 42 U.S.C. § 7602(e).

21. On April 8, 2020, EPA issued a final Request (Request) to Report pursuant to Section 208 of the Act, 42 U.S.C. § 7542. The Request sought information related to the Report’s reach, offer for sale, distribution, and/or inclusion, of certain motor vehicle engine part or component.

22. In July 2020, and in December 2021, February 2021, and July 2021, EPA received Report’s submitted reports to the Request (Report) which included

“List” B ucts u chase an s l by Res Bn ent that may have by asse , e eate , B en e e in Be ative emissi n c nt l c m p nts an / elements esign. B

23. B ase n the in Bmati n Bvi e in Res Bn ent’s Res Bnses, EPA ete mine B that s me the B ucts c ntaine within the List we e De eat Devices s l between Janua y 1, B 2018 an A Bil 9, 2020 inclu ing a subset ce tain ty es EGR bl ck lates, st aight i e B exhausts, an ECM tune s, s l , an / Be e Bsale by Res Bn ent. Many these evices B we e inten e B“m d Bvehicles” an we e esigne Buse with m d Bvehicle m d B B vehicle engines, Bwhich the a ecte manu actu e btaine COCs establishing c m p nce B with CAA emissi ns stan a B. B

24. On A Bil 7, 2021, EPA issue a Fin ing Vi lati n (FOV) t Res Bn ent B alleging Res Bn ent vi late Secti n 203(a)(3)( ) the CAA, 42 U.S.C. § 752B(a)(3)( ), B elate t Res Bn ent’s sale, an / Be Bsale De eat Devices Bm d Bvehicle m d B B vehicle engines. B

25. As the E Bctive Date this CAFO, Res Bn ent c n i ms that it n l nge B sells, Be s Bsale, ist ibutes, manu actu es, sells, an / installs any De eat Devices which B tam p Bwith m d Bvehicles Bn d Bvehicle engines. B

#### **Alleged Violation** B

26. B eginning n a te Janua y 2, 2018, an c ntinuing the ea te , n at least 500 B ccasi ns (as set B h in Table 1 bel w) Res Bn ent s l an Be e t sell a ts B c m p nts, inclu ing EGR DPF, an CAT elete c m p nts, inten e Buse with, as a t B , a m d Bvehicle m d Bvehicle engine, whe e a inci al e ect the a t c m p nce B was t by ass, e eat en e in Be ative evices an elements esign that c nt l B

emissions systems that engine featuring strategy EGR/CGI DOC CAT DPF CR OBD systems installed on or in motor vehicle or motor vehicle engine in compliance with the CAA.

**Table 1:**

Product	Quantity
EGR Delete Kits	452
C/DPF Delete kits	48
Totals	500

27. Respondent knew or sold the known defective support component which being offered for sale or installed for service or part to service as described in the previous paragraph.

28. Respondent violated section 203( )(3)(B) of the CAA 42 U.S.C. § 7522( )(3)(B) by selling or offering for sale the Defective Devices which may be bypassed defective or rendered inoperative emission control components and/or elements of design of or tampered with motor vehicles or motor vehicle engines.

29. The support component described in Paragraph 26 that was sold or offered for sale is separate violation of section 203( )(3)(B) of the CAA 42 U.S.C. § 7522( )(3)(B).

**Civil Penalty**

30. Based on analysis of the factors specified in section 205( ) of the CAA 42 U.S.C. § 7524( ) EPA's Clean Air Act Title II Vehicle & Engine Civil Penalty Policy the following steps that Respondent undertaken agrees to take: Respondent's certifications set forth herein and Respondent's cooperation in resolving this



matter, On payment has determined that an additional civil penalty shall be assessed in the amount of \$291,000.

31. Within 30 days after the effective date of this AFQRes Order, the Respondent must pay the above civil penalty by ACH electronic funds transfer, payable to "Treasurer, United States of America," and sent to:

US Treasury REX/ Cash nk ACH Receiver  
ABA: 051036706  
Account Number: 310006, Environmental Protection Agency  
TXF rmat Transact n File 22-check ng

In the comment area of the electronic funds transfer, state Respondent's name and the check number of this AFQ Res.

32. Respondent must send a notice of payment that states Respondent's name and the check number of this AFQ Res. EPA at the following addresses when it pays the penalty:

Enforcement and Compliance Assurance Branch  
U.S. Environmental Protection Agency, Reg 5  
[r5aenfrcement@epa.gov](mailto:r5aenfrcement@epa.gov)  
John Matson (E-14J)  
Office of Regulatory Counsel  
U.S. Environmental Protection Agency, Reg 5  
[mats.john@epa.gov](mailto:mats.john@epa.gov)  
Reg 5 Hearing Clerk (E-19J)  
U.S. Environmental Protection Agency, Reg 5  
[r5hearingclerk@epa.gov](mailto:r5hearingclerk@epa.gov)

33. This civil penalty shall not be deductible for federal tax purposes.

34. If Respondent does not pay the civil penalty, EPA may request the Attorney General of the United States to bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States enforcement expenses for the

collection under Section 113( ) (5) of the CAA, 42 U.S.C. § 7413( ) (5). The ability, v  
movement appropriate of the civil penalty enforcement collection . v

35. Respondent must pay the following amount over this CAFO. v  
Interest will accrue on any amount from the payment set established v  
by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621( ) (2). Respondent must pay the v  
United States enforcement expenses, including but not limited to attorney's fees v costs v  
incurred by the United States for collection purposes. In addition, Respondent must pay v  
quarterly opportunity penalty charges which the assessed penalty is over. This v  
opportunity penalty will be 10 percent of the aggregate amount of the outstanding penalties v v  
opportunity penalties accrue from the beginning of the quarter. 42 U.S.C. § 7524(c)(6)(B). v

#### **Other Conditions** v

36. By signing this Consent Agreement, Respondent agrees to take the following v  
actions: (i) Respondent will comply with Section 203( ) (3)(A) of the CAA, 42 U.S.C. v  
§ 7522( ) (3)(A), v will not demonstrate any emissions-related v  
element of design or other motor vehicle engine modification of v  
Section 203( ) (3)(A) of the CAA, 42 U.S.C. § 7522( ) (3)(A); (ii) Respondent will not v  
manufacture, sell, offer for sale, or install any part or component in violation of Section v  
203( ) (3)(B) of the CAA, 42 U.S.C. § 7522( ) (3)(B).; v (iii) Respondent acknowledges receipt v  
of EPA's November 23, 2020 "Temping Policy: The EPA Enforcement Policy on Vehicles v v  
Engines Temping Aftermarket Defeat Devices under the Clean Air Act." v

37. By signing this Consent Agreement, Respondent vests with the violator's v  
essence in this CAFO may be considered "History of Non-compliance" for future v

violation ( ( e po de t of Title II of the CAA, 42 U.S.C. § 7522 a) 3) A) a d B), a ( (

addre (ed i the Ja uar 18, 2021, Clea Air Act Title II Vehicle & E gi e Civil Pe alt Polic . ( (

38. Withi 30 da ( after the date of e po de t' ig ature o thi CAFO, ( (

e po de t hall remove all Defeat Device from all vehicle a d e gi e ow (ed or operated ( ( (

e po de t a d retur the ECM of each vehicle a d e gi e to factor etti g . ( (

39. B tñe date of e po de t' ig ature o thi CAFO, e po de t hall ( (

perma e tl remove from commerce or retur to the ma ufacturer all Defeat Device i it ( (

i ve tor a d/or po (e (io . ( (

40. Withi 30 cale dar da ( from the e po de t' ig ature o thi CAFO, ( (

e po de t hall certif with proof that e po de t ha completed the actio ( required i ( (

Paragraph 38 a d 39. ( (

41. Withi 14 cale dar da ( from the e po de t' ig ature o thi CAFO, ( (

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CAFO a d o de ig ated a defeat device ; a d ii) for a period of o le (tha 60 cale dar da ( ( (

from the ce (atio date thereafter, for each of the Defeat Device adverti ed o a ( of ( (

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pecific prohi tive war i g co tai ed i Appe dix A Po ti g o Specific Prohi ited Part ) ( (

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42. Withi 14 cale dar da ( from the e po de t' ig ature o thi CAFO, ( (

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with e po de t a d it u (idiarie . The a (ou ceme t hall remai po ted for at lea t 60 ( (

calendar a week from the date the announcement is posted. Respondent shall use the text contained in Appendix B (Announcement) in at least 12-point font (or substantially similar font size or which such platform(s) allow), 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.

43. Within 30 calendar days from the Effective Date of this CAFO, Respondent shall notify, in writing, all of its business customers who purchase and use devices of Respondent's from April 20, 2018, through the Effective Date of this CAFO receive in this settlement with EPA. Respondent shall use the letter contained in Appendix B (Announcement), or another letter reviewed and approved by EPA to provide such notice. The Letter shall be transmitted by certified U.S. Mail, return receipt requested, or via email provide Respondent has provided EPA reasonable evidence of delivery via website the e with proof of mailing within 30 calendar days from the Effective Date of this CAFO to verify that all letters have been sent.

44. Failure to comply with Paragraph 36-43 of this CAFO may constitute a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), and Respondent could be subject to penalties of up to the statutory civil penalty in 40 C.F.R. § 19.4.

45. Respondent certifies that any information or representation it has supplied or may make to EPA concerning this matter is true, to Respondent's knowledge at the time of submission and is true, accurate, and complete and that there has been no known material change regarding the truthfulness or completeness of such information or representation. EPA shall have the right to institute the action to recover appropriate relief if EPA obtains evidence that any information provided and/or representation made by Respondent to the EPA regarding this matter is relevant to this CAFO agreement, in any material respect, inaccurately. This right shall be in

addition to a lot of issues and causes of action that EPA may have, civil, criminal, and common law. Equitable remedy is available. Submission of false information to the Unit does not constitute a violation of civil and/or criminal liability.

46. 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), the portion of the Order's Conditions Section above (pages 36-45) is a condition, modification, or restriction to compliance with the law.

### General Provisions

47. The parties consent to the Service of this CAFO by e-mail at the following valid e-mail addresses: [matson.john@epa.gov](mailto:matson.john@epa.gov) (for Complainant), and [WGuSy@KSyDy.com](mailto:WGuSy@KSyDy.com) (for Respondent). Respondent understands that the CAFO will be publicly available upon filing.

48. This CAFO does not affect Respondent's liability for federal civil penalties for violations assessed in this CAFO.

49. The effect of the settlement described in paragraph 48, is conditioned upon the accuracy of Respondent's representations to EPA.

50. This CAFO does not affect the issues of EPA or the Unit's duty to pursue appropriate injunctive or equitable relief for criminal sanctions for any violation of law.

51. This CAFO does not affect Respondent's responsibility to comply with CAA and other applicable federal, state and local laws. Except as provided in paragraph 49, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws administered by EPA.

52. Res C e Ccer ifies ha i is fully c mplyCwi h Sec i § 203(a)(3)(A) a C(B) f C  
he AA, 42 U.S. . § 7522(a)(3)(A) a C(B). C

53. This AFO c Cs i u es a “e f rceme Cres C se” as ha erm is use i EPA’s C  
Ja uary 18, 2021, lea Air Ac Ti le II Vehicle & E gi e ivil Pe al y P licy e erm i e C  
Res C e Cs “full c m p i C ce his Cy” u Cer Sec i C205(b) f he AA, 42 U.S. . § 7524(b). C

54. The erms f his AFO bi C Res C e C i s success rs a Cassig s. C

55. Each ers Csig i g his c Cse Cagreeme Ccer ifies ha he r she has he C  
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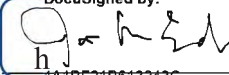
56. Each ar y agrees bear i s w Cc s s a Ca Cr ey’s fees i his ac i C C

57. This AFO c Cs i u es he e C re agreeme C be w C he ar ies. C

Lane Automotive, Inc. Respondent h

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7/20/2022

Date h h h h  
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DocuSigned by:  
  
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h  
h James MacEacern, Chief Operating Officer h  
h Lane Automotive Inc. h

h





Consent Agreement and Final Order  
In the Matter of: Lane Trucking, Inc.  
Docket No. CAA-05-2022-0020

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.

\_\_\_\_\_  
Date  
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ANN COYLE  
Digitally signed by ANN COYLE  
Date: 2022.08.01 13:44:08 -0500  
\_\_\_\_\_  
Ann L. Coyle  
Regional Judicial Officer  
U.S. Environmental Protection Agency  
Region 5  
k

**Appendix A** u

**ing n he Specific r hibi ed ar u u**

Based on the manufacturer's description, this part is an illegal "defeat device" that could cause certain affected vehicles to emit excess amounts of regulated air pollutants. Defeat devices are prohibited for sale or installation by the Clean Air Act. Due to this prohibition, this part can no longer be sold or offered for sale by Lane Automotive, Inc, and should not be offered for sale by any other affected seller. u

Appendix e e

Ann e n e m e n t f EPA Settlement with Lane A et m otive e

On [dat ] Lan Automotiv coop rativ ly nt r d into a s ttl m ent with U.S. Environm ental e Prot ction Ag ncy (EPA) in ord r to r solv all g d Cl an Air Act violations r lat d to th sal e and/or off r to s ll mission control “d f at d vic s” on motor v hicl s and ngin s. As part of e this s ttl m ent, Lan Automotiv has agr ed to pay a civil p nalty of \$291,336, comply with a e cons nt agr em ent and committ d to post on its onlin w bsit (s) an xpr ss warning for ach of e th s aff ct d parts. e

For additional information on EPA’s National Enforc m ent Initiativ on “d f at d vic s”, visit e th following links: [https://www. pa.gov/ nforc m ent/aft rmark t-d f at-d vic s-and- e tamp ring-ar -i'l gal-and-und rmin -v hicl - missions. e](https://www.pa.gov/nforc m ent/aft rmark t-d f at-d vic s-and- e tamp ring-ar -i'l gal-and-und rmin -v hicl - missions. e)

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Consent Agreement and Final Order  
In the Matter of: Line Autoactive Inc.  
Docket Number: **CAA-05-2022-0020**

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**CERTIFICATE OF SERVICE**

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I certify that I have transmitted a true and correct copy of the foregoing **Consent Agreement and Final Order**, docket number **CAA-05-2022-0020**, which was filed on **August 3, 2022**, in the following manner to the following addressees:

E

Copy by E-mail to Respondent: **Deborah Ewing**  
[deborah@lineautoactive.com](mailto:deborah@lineautoactive.com)

E

Copy by E-mail to **John Matson**  
Attorney for Copeland: [tson.john@ep.com](mailto:tson.john@ep.com)

E

Copy by E-mail to **Willie Guey**  
Attorney for Respondent: [WGuey@KellyDye.com](mailto:WGuey@KellyDye.com)

E

Copy by E-mail to **Ann Coyle**  
Regional Judicial Office: [coyle.ann@ep.com](mailto:coyle.ann@ep.com)

E

**JULIANE GRANGE**

Digitally signed by  
JULIANE GRANGE  
Date: 2022.08.03  
12:57:33 -05'00'

Isis Martinez  
Acting Regional Clerk  
U.S. Environmental Protection Agency, Region 5

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