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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

In the Matter of:	)	Docket No. CAA-09-2020-0039
	)	
GReddy Performance Products, Inc.	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
Respondent	)	40 C.F.R. §§ 22.13 and 22.18
	)	

I. CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative penalty assessment proceeding brought under section 205(c)(1) of the Clean Air Act ("CAA" or the "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. In

accordance with 40 C.F.R. §§ 22.13 and 22.18, entry of this Consent Agreement and Final Order ("CAFO") simultaneously initiates and concludes this matter.

2. Complainant is the Assistant Director of the Air, Waste & Analysis Branch of the Enforcement and Compliance Assurance Division, United States Environmental Protection Agency, Region IX (the "EPA"), who has been duly delegated the authority to initiate and settle civil administrative penalty proceedings under section 205(c)(1) of the Act, 42. U.S.C. § 7524(c)(1). EPA Delegation 7-19 (January 18, 2017); EPA, Region 9 Redelegation R9-7-19 (October 5, 2017); Memorandum from John W. Busterud, Regional Administrator, Region 9, to all Region 9 supervisors and employees re: EPA Region 9 Organizational Realignment General Redelegation of Authority (May 5, 2020).

3. Respondent is GReddy Performance Products, Inc., a motor vehicle parts manufacturer and distributor based in Irvine, California.

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. GOVERNING LAW

5. 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 and oxides of nitrogen ("NO_x").

6. Section 203(a)(3)(B) of CAA, 42 U.S.C. § 7522(a)(3)(B), 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, where the person knows or should know that the part is being offered for sale or installed for such use.

7. Violations of CAA section 203(a)(3)(B) are subject to civil penalties of up to $4,819 per defeat device pursuant to section 205 of the CAA, 42 U.S.C. § 7524 and 40 C.F.R. Part 19.

8. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" as "an individual, corporation, partnership, association, State, municipality, political subdivision of a State, and any agency, department, or instrumentality of the United States and any officer, agent or employee thereof."

9. The CAA requires EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or new motor vehicle engines which cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare. CAA § 202(a)(1) and (3)(B), 42 U.S.C. § 7521(a)(1) and (3)(B).

10. Highway motor vehicles are one category of motor vehicles for which the EPA has promulgated emission standards. See 42 U.S.C. § 7521; see generally 40 C.F.R. Part 86.

11. Section 216(2) of the CAA, 42 U.S.C. § 7550(2), defines "motor vehicle" as "any self-propelled vehicle designed for transporting persons or property on a street or highway."

12. As required by the CAA, the highway motor vehicle standards "reflect the greatest degree of emission reduction achievable through the application of [available] technology." Section 202(a)(3)(A)(i) of CAA, 42 U.S.C. § 7521(a)(3)(A)(i). Accordingly, EPA has established increasingly stringent highway motor vehicle emission standards at 40 C.F.R. Part 86.

13. Highway motor vehicle manufacturers employ many devices and elements of design to meet these emission standards. Certain hardware devices serve as emission control systems to manage and treat exhaust from highway motor vehicles, in order to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include catalytic converters.

C. ALLEGED VIOLATIONS OF LAW

14. Respondent manufactures and sells motor vehicle parts to various distributors and individual customers located throughout the United States.

15. On August 6, 2018, EPA sent an information request pursuant to section 208(a) of the CAA, 42 U.S.C. § 7542(a), to Respondent regarding software and hardware Respondent manufactured and sold since 2016.

16. Based on Respondent's October 4, 2018 response to EPA's information request and additional information gathered during EPA's investigation, EPA alleges that Respondent manufactured and sold various exhaust systems for highway motor vehicles (the "Devices") identified in Appendix A of this CAFO.

17. Prior to the installation of the Devices, one or more catalytic converters must be removed from the highway motor vehicles for which they were designed.

18. The Devices were designed and marketed for use on various highway motor vehicles, and intended to bypass, defeat, or render inoperative emission related devices or elements of design that are installed on those motor vehicles to meet the CAA emission standards.

19. Between January 1, 2016 and October 3, 2018, Respondent manufactured and sold 231 Devices to distributors and individual customers located throughout the United States.

20. The manufacture, sale, offering for sale, or installation of a device that bypasses, defeats, or renders inoperative a vehicle's emission control systems is prohibited under section

203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). EPA alleges that Respondent has committed approximately 231 violations of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), by selling or offering for sale the Devices.

D. TERMS OF CONSENT AGREEMENT

21. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO and over Respondent;

b. neither admits nor denies the specific factual allegations contained in Section I.C of this CAFO;

c. consents to the assessment of a civil penalty under this Section, as stated below;

d. consents to the conditions specified in this CAFO;

e. waives any right to contest the allegations set forth in Section I.C of this CAFO; and

f. waives its rights to appeal the proposed Order contained in this CAFO.

Civil Penalty

22. Respondent agrees to:

a. pay the civil penalty of SIXTY THOUSAND DOLLARS ($60,000) ("EPA Penalty") within 90 calendar days of the Effective Date of this CAFO[1]; and

b. pay the EPA Penalty using any method, or combination of methods, provided on the website http://ww2.epa.gov/financial/additional-instructions-making-payments-epa, and identifying the payment with "Docket No. CAA-09-2020-

[1] This deadline for payment is based on Respondent's certification that the COVID-19 public health emergency has negatively impacted Respondent's financial health. Any false statement made in the certified statement may result in voiding the penalty portion of this CAFO.

0039." Within 24 hours of each payment of the EPA Penalty, send proof of payment to Scott Connolly at:

Mail Code (ENF-2-1)
Enforcement and Compliance Assurance Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

and at Connolly.scott@epa.gov ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with "Docket No. CAA-09-2020-0039").

23. If Respondent fails to pay the civil administrative penalty specified in Paragraph 22 of this CAFO within 90 days of filing of this CAFO, then Respondent shall pay to EPA a stipulated penalty in the amount of FIVE HUNDRED DOLLARS ($500.00) for each day the default continues plus the remaining balance of the penalty sum specified in Paragraph 22 upon written demand by EPA.

24. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);

b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;

c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

d. suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

25. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless EPA has provided written approval of the release of said obligations or liabilities.

26. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

27. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to

execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

28. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

29. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

E. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

30. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

31. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

32. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

33. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, 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, or determination of, any issue related to any federal, state, or local permit.

F. EFFECTIVE DATE

34. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement in the Matter of GReddy Performance Products, Inc., Docket No. CAA-09-2020-0039, is hereby stipulated, agreed, and approved for Entry.

FOR RESPONDENT:

Signature _____ Date 6/12/2020

Printed Name: KENJI SUMNO

Title: PRES

Address: 9 VANDERBILT

IRVINE CA 92618

FOR COMPLAINANT:

CLAIRE TROMBADORE Digitally signed by CLAIRE TROMBADORE Date: 2020.07.08 13:15:11 -07'00'

DATE

Claire Trombadore
Assistant Director
Enforcement and Compliance Assurance Division United States Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

II. FINAL ORDER

EPA Region IX and GReddy Performance Products, Inc., having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2020-0039) be entered, and Respondent shall pay a civil administrative penalty in the amount of SIXTY THOUSAND DOLLARS ($60,000) and otherwise comply with the terms set forth in the CAFO.

STEVEN JAWGIEL Digitally signed by STEVEN JAWGIEL
Date: 2020.07.22 08:54:28 -07'00'

DATE

STEVEN JAWGIEL
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX

APPENDIX A

DOCKET NO. CAA-09-2020-0039

Part Name	Description	Quantity
10590701	Delete pipe for Ford Focus ST (2013-2016 model years)	7
10520601	Delete pipe for Nissan GTR (2009 model year and later)	20
10520602	Delete pipe for Nissan GTR (2009 model year and later)	14
10118106	Delete pipe for Scion tC (2011-2015 model years)	61
10118500	Delete pipe for Lexus ISF (2007-2015 model years)	19
10128294	Delete pipe for Nissan GTR (2009 model year and later)	35
11510094	Delete pipe for Scion FRS/Subaru BRZ/Toyota 86 (2013 model year and later)	47
11510407	Delete pipe for Scion FRS/Subaru BRZ/Toyota 86 (2013 model year and later)	12
11518000	Delete pipe for Scion FRS/Subaru BRZ/Toyota 86 (2013 model year and later)	12
11550403	Delete pipe for Honda CRZ (2010-2016 model years)	4
TOTAL		231 delete pipes

APPENDIX B

DOCKET NO. CAA-09-2020-0039

Compliance Plan to Avoid Illegal Tampering and Aftermarket Defeat Devices

This document explains how to help ensure compliance with the Clean Air Act's prohibitions on tampering and aftermarket defeat devices. The document specifies what the law prohibits, and sets forth two principles to follow in order to prevent violations.

The Clean Air Act Prohibitions on Tampering and Aftermarket Defeat Devices

The Act's prohibitions against tampering and aftermarket defeat devices are set forth in section 203(a)(3) of the Act, 42 U.S.C. § 7522(a)(3), (hereafter "§ 203(a)(3)"). The prohibitions apply to all vehicles, engines, and equipment subject to the certification requirements under sections 206 and 213 of the Act. This includes all motor vehicles (e.g., light-duty vehicles, highway motorcycles, heavy-duty trucks), motor vehicle engines (e.g., heavy-duty truck engines), nonroad vehicles (e.g., all-terrain vehicles, off road motorcycles), and nonroad engines (e.g., marine engines, engines used in generators, lawn and garden equipment, agricultural equipment, construction equipment). Certification requirements include those for exhaust or "tailpipe" emissions (e.g., oxides of nitrogen, carbon monoxide, hydrocarbons, particulate matter, greenhouse gases), evaporative emissions (e.g., emissions from the fuel system), and onboard diagnostic systems.

The prohibitions are as follows:

> "The following acts and the causing thereof are prohibited–"
>
> > **Tampering:** CAA § 203(a)(3)(A), 42 U.S.C. § 7522(a)(3)(A), 40 C.F.R. § 1068.101(b)(1): "for any person to remove or render inoperative any device or element of design installed on or in a [vehicle, engine, or piece of equipment] in compliance with regulations under this subchapter prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser;"
> >
> > **Defeat Devices:** CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), 40 C.F.R. § 1068.101(b)(2): "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 [vehicle, engine, or piece of equipment], 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 [vehicle, engine, or piece of equipment] in compliance with regulations under this

subchapter, 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."

Section 203(a)(3)(A) prohibits tampering with emission controls. This includes those controls and sensors that are in the engine (e.g., fuel injection, exhaust gas recirculation), and those that are in the exhaust (e.g., filters, catalysts, oxygen sensors). Section 203(a)(3)(B) prohibits (among other things) aftermarket defeat devices, including hardware (e.g., certain modified exhaust pipes) and software (e.g., certain engine tuners and other software changes).

The EPA's longstanding view is that conduct that may be prohibited by § 203(a)(3) does not warrant enforcement if the person performing that conduct has a documented, reasonable basis for knowing that the conduct does not adversely affect emissions. *See* Mobile Source Enforcement Memorandum 1A (June 25, 1974).

The EPA evaluates each case independently, and the absence of such reasonable basis does not in and of itself constitute a violation. When determining whether tampering occurred, the EPA typically compares the vehicle after the service to the vehicle's original, or "stock" configuration (rather than to the vehicle prior to the service). Where a person is asked to perform service on an element of an emission control system that has already been tampered, the EPA typically does not consider the service to be illegal tampering if the person either declines to perform the service on the tampered system or restores the element to its certified configuration.

Below are two guiding principles to help ensure Respondent commits no violations of the Act's prohibitions on tampering and aftermarket defeat devices.

Principle 1: Respondent Will Not Modify any OBD System

Respondent will neither remove nor render inoperative any element of design of an OBD system.[i] Also, Respondent will not manufacture, sell, offer for sale, or install any part or component that bypasses, defeats, or renders inoperative any element of design of an OBD system.

Principle 2: Respondent Will Ensure There is a *Reasonable Basis* for Conduct Subject to the Prohibitions

For conduct unrelated to OBD systems, Respondent will have a *reasonable basis* demonstrating that its conduct[ii] does not adversely affect emissions. Where the conduct in question is the manufacturing or sale of a part or component, Respondent must have a *reasonable basis* that the installation and use of that part or component does not adversely affect emissions. Respondent will fully document its *reasonable basis*, as specified in the following section, at or before the time the conduct occurs.

Reasonable Bases

This section specifies several ways that Respondent may document that it has a "reasonable basis" as the term is used in the prior section. In any given case, Respondent must consider all the facts including any unique circumstances and ensure that its conduct does not have any adverse effect on emissions.[iii]

A. **Identical to Certified Configuration:** Respondent generally has a reasonable basis if its conduct: is solely for the maintenance, repair, rebuild, or replacement of an emissions-related element of design; and restores that element of design to be identical to the certified configuration (or, if not certified, the original configuration) of the vehicle, engine, or piece of equipment. [iv]

B. **Replacement After-Treatment Systems:** Respondent generally has a reasonable basis if the conduct:

(1) involves a new after-treatment system used to replace the same kind of system on a vehicle, engine or piece of equipment beyond its emissions warranty; and

(2) the manufacturer of that system represents in writing that it is appropriate to install the system on the specific vehicle, engine or piece of equipment at issue.

D. **Emissions Testing:**[v] Respondent generally has a reasonable basis if the conduct:

(1) alters a vehicle, engine, or piece of equipment; and

(2) emissions testing shows that the altered vehicle, engine, or piece of equipment will meet all applicable emissions standards for its full useful life; and

(3) where the conduct includes the manufacture, sale, or offering for sale of a part or component, that part or component is marketed only for those vehicles, engines, or pieces of equipment that are appropriately represented by the emissions testing.

E. **EPA Certification:** Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the EPA under 40 C.F.R. Part 85 Subpart V (or any other applicable EPA certification program).[vi]

F. **CARB Certification:** Respondent generally has a reasonable basis if the emissions-related element of design that is the object of the conduct (or the conduct itself) has been certified by the California Air Resources Board ("CARB").[vii]

[i]. *OBD system* includes any system which monitors emission-related elements of design, or that assists repair technicians in diagnosing and fixing problems with emission-related elements of design. If a problem is detected, an OBD system must record a diagnostic trouble code, illuminate a malfunction indicator light or other warning lamp on the vehicle instrument panel, and provide information to the engine control unit such as information that induces engine derate (as provided by the OEM) due to malfunctioning or missing emission-related systems. Regardless of whether an element of design is commonly considered part of an OBD system, the term "OBD system" as used in this Appendix includes any element of design that monitors, senses, measures, receives, reads, stores, reports, processes or transmits any information about the condition of or the performance of an emission control system or any component thereof.

[ii]. Here, the term *conduct* means: all service performed on, and any change whatsoever to, any emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3); the manufacturing, sale, offering for sale, and installation of any part or component that may alter in any way an emissions-related element of design of a vehicle, engine, or piece of equipment within the scope of § 203(a)(3), and any other act that may be prohibited by § 203(a)(3).

[iii]. General notes concerning the Reasonable Bases: Documentation of the above-described reasonable bases must be provided to EPA upon request, based on the EPA's authority to require information to determine compliance. CAA § 208, 42 U.S.C. § 7542. The EPA issues no case-by-case pre-approvals of reasonable bases, nor exemptions to the Act's prohibitions on tampering and aftermarket defeat devices (except where such an exemption is available by regulation). A reasonable basis consistent with this Appendix does not constitute a certification, accreditation, approval, or any other type of endorsement by EPA (except in cases where an EPA Certification itself constitutes the reasonable basis). No claims of any kind, such as "Approved [or certified] by the Environmental Protection Agency," may be made on the basis of the reasonable bases described in this Policy. This includes written and oral advertisements and other communication. However, if true on the basis of this Appendix, statements such as the following may be made: "Meets the emissions control criteria in the United States Environmental Protection Agency's Tampering Policy (2016) in order to avoid liability for violations of the Clean Air Act." There is no reasonable basis where documentation is fraudulent or materially incorrect, or where emissions testing was performed incorrectly.

[iv]. Notes on Reasonable Basis A: The conduct should be performed according to instructions from the original manufacturer (OEM) of the vehicle, engine, or equipment. The "certified configuration" of a vehicle, engine, or piece of equipment is the design for which the EPA has issued a certificate of conformity (regardless of whether that design is publicly available). Generally, the OEM submits an application for certification that details the designs of each product it proposes to manufacture prior to production. The EPA then "certifies" each acceptable design for use, in the upcoming model year. The "original configuration" means the design of the emissions-related elements of design to which the OEM manufactured the product. The appropriate source for technical information regarding the certified or original configuration of a product is the product's OEM. In the case of a replacement part, the part manufacturer should represent in writing that the replacement part will perform identically with respect to emissions control as the replaced part, and should be able to support the representation with either: (a)

documentation that the replacement part is identical to the replaced part (including engineering drawings or similar showing identical dimensions, materials, and design), or (b) test results from emissions testing of the replacement part. In the case of engine switching, installation of an engine into a different vehicle or piece of equipment by any person would be considered tampering unless the resulting vehicle or piece of equipment is (a) in the same product category (e.g., light-duty vehicle) as the engine originally powered and (b) identical (with regard to all emissions-related elements of design) to a certified configuration of the same or newer model year as the vehicle chassis or equipment. Alternatively, Respondent may show through emissions testing that there is a reasonable basis for an engine switch under Reasonable Basis D. Note that there are some substantial practical limitations to switching engines. Vehicle chassis and engine designs of one vehicle manufacturer are very distinct from those of another, such that it is generally not possible to put an engine into a chassis of a different manufacturer and have it match up to a certified configuration.

[v]. Notes on emissions testing: Where the above-described reasonable bases involve emissions testing, unless otherwise noted, that testing must be consistent with the following. The emissions testing may be performed by someone other than the person performing the conduct (such as an aftermarket parts manufacturer), but to be consistent with this Appendix, the person performing the conduct must have all documentation of the reasonable basis at or before the conduct. The emissions testing and documentation required for this reasonable basis is the same as the testing and documentation required by regulation (e.g., 40 C.F.R. Part 1065) for the purposes of original EPA certification of the vehicle, engine, or equipment at issue. Accelerated aging techniques and in-use testing are acceptable only insofar as they are acceptable for purposes of original EPA certification. The applicable emissions standards are either the emissions standards on the Emission Control Information Label on the product (such as any stated family emission limit, or FEL), or if there is no such label, the fleet standards for the product category and model year. To select test vehicles or test engines where EPA regulations do not otherwise prescribe how to do so for purposes of original EPA certification of the vehicle, engine, or equipment at issue, one must choose the "worst case" product from among all the products for which the part or component is intended. EPA generally considers "worst case" to be that product with the largest engine displacement within the highest test weight class. The vehicle, engine, or equipment, as altered by the conduct, must perform identically both on and off the test(s), and can have no element of design that is not substantially included in the test(s).

[vi]. Notes on Reasonable Basis E: This reasonable basis is subject to the same terms and limitations as EPA issues with any such certification. In the case of an aftermarket part or component, there can be a reasonable basis only if: the part or component is manufactured, sold, offered for sale for, and installed on the vehicle, engine, or equipment for which it is certified; according to manufacturer instructions; and is not altered or customized, and remains identical to the certified part or component.

[vii]. Notes on Reasonable Basis F: This reasonable basis is subject to the same terms and limitations as CARB imposes with any such certification. The conduct must be legal in

California under California law. However, in the case of an aftermarket part or component, the EPA will consider certification from CARB to be relevant even where the certification for that part or component is no longer in effect due solely to passage of time.

CERTIFICATE OF SERVICE

I hereby certify that the foregoing CONSENT AGREEMENT AND FINAL ORDER in the matter of *GReddy Performance Products* (CAA-09-2020-0039), has been filed with the Regional Hearing Clerk, and a copy was served on Counsel for the Respondent, and Counsel for EPA, as indicated below:

FOR RESPONDENT: By Electronic Mail)

Mike Ford, Esq.
Counsel for GReddy Peformance Products
mford@swlaw

FOR COMPLAINANT: By Electronic Mail)

David Kim, Esq.
Counsel for U.S. EPA - Region 9
kim.david@epa.gov

Steven Armsey
Digitally signed by Steven Armsey
Date: 2020.07.22 17:49:22 -07'00'

Date _____ , 2020

Steven Armsey
Regional Hearing Clerk
EPA, Region 9