

(ii) EGR deletion kits or components used for the removal or bypass of EGR systems; and
(iii) DPF or Selective Catalytic Reduction (SCR) delete kits (“straight pipes”) to remove or bypass the DPF or SCR systems. EPA alleges and finds that Respondent’s sale of these defeat devices, identified in Table 1, below, constitutes twenty-six (26) violations of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), and the implementing regulations found at 40 C.F.R. § 1068.101(b)(2).

Table 1: Violation Summary - Sale of Defeat Devices

Invoice No.	Invoice Date	Product Description	Motor Vehicle Application
13750	9/26/2017	SCT 5015 LIVEWIRE ECU Tuner and Monitor	Ford Super Duty 6.4L Powerstroke
13750	9/26/2017	MBRP 6254 PLM 4in. Downpipe Back Exhaust	Ford Super Duty 6.4L Powerstroke
13750	9/26/2017	GOPR-EGRD-08-106.4FORD EGR upgrade kit	Ford Super Duty 6.4L Powerstroke
13750	9/26/2017	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.4L Powerstroke
13819	3/5/2018	SCT 7015 ECU Tuner and Monitor	Ford Super Duty 6.4L Powerstroke
13819	3/5/2018	Big End Performance 6.4 EGR Delete Kit	Ford Super Duty 6.4L Powerstroke
13819	3/5/2018	Diamond Eye DPF Race Intermediate Pipes 6.4 EGR Delete Kit	Ford Super Duty 6.4L Powerstroke
13819	3/5/2018	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.4L Powerstroke
13837	3/23/2018	SCT 40460S ECU Tuner and Monitor	Ford Super Duty 6.4L Powerstroke
13837	3/23/2018	PI C6254SLM 4in. Downpipe Back Exhaust	Ford Super Duty 6.4L Powerstroke
13837	3/23/2018	DEV 94120 EGR Delete Kit	Ford Super Duty 6.4L
13837	3/23/2018	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.4L Powerstroke
13841	3/30/2018	SCT 40460S GTX ECU Tuner and Monitor	Ford Super Duty 6.7L Powerstroke
13841	3/30/2018	DEPK4372S 4in. Downpipe Back Exhaust	Ford Super Duty 6.7L Powerstroke inoperative
13841	3/30/2018	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.7L Powerstroke
13906	7/30/2018	DEV 94120 EGR Delete Kit	Ford Super Duty 6.4L Powerstroke
13906	7/30/2018	SCT 7015 ECU Tuner and Monitor	Ford Super Duty 6.4L Powerstroke
13906	7/30/2018	DEP125109 Race Intermediate Pipes	Ford Super Duty 6.4L Powerstroke
13906	7/30/2018	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.4L Powerstroke
13969	11/24/2018	Innovative Diesel ECU Calibration / Custom Tunes	Ford Super Duty 6.7L Powerstroke

13969	11/24/2018	DEP125113 4in. DPF-Race Inter Pipe 1st Section and 2nd Section	Ford Super Duty 6.7L
13969	11/24/2018	Deviant Race Parts EGR95600 EGR Delete Kit	Ford Super Duty 6.7L Powerstroke
13979	12/17/2018	Flo Pro 863NB 3in. DPF-Race Exhaust	Ram 2500 3.0L Turbo Diesel
13979	12/17/2018	DP0217 EGR Delete Kit	Ram 2500 3.0L Turbo Diesel
13979	12/17/2018	PPEI ECD-Tuning ECU Calibration / Tunes	Ram 2500 3.0L Turbo Diesel
14049	04/20/2019	Innovative Diesel ECU Calibration / Tunes	Ford Super Duty 6.4L Powerstroke

6. Respondent certifies that it has not had the same, or closely-related violation(s), that were the subject of an enforcement action under Title II of the CAA within five (5) years of the date of Respondent's execution of this Agreement.

7. EPA and Respondent agree that settlement of this matter for a penalty in the amount of **TWELVE THOUSAND FIVE HUNDRED TWENTY-NINE DOLLARS (\$12,529.00)**, which Respondent shall be liable to pay in accordance with the terms set forth below, is reasonable and in the public interest and is based upon EPA's consideration of the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. § 7524(c)(2). These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's June 21, 2019 *Recommendation to Approve Expedited Settlement Agreement Pilot for Clean Air Act Vehicle and Engine Violations – Tampering/Defeat Devices* policy, 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. EPA and Respondent further acknowledge and represent that the aforesaid settlement is based, in part, upon EPA's consideration of the Respondent's ability to pay the agreed civil penalty. EPA has reviewed and considered Respondent's certified statement of its current financial condition and its articulation of the reasons in support of Respondent's contention that it is unable to pay the agreed civil penalty amount within 30 days, or absent the incorporated penalty payment provisions, without experiencing undue hardship. EPA acknowledges the impacts that the COVID-19 pandemic may have on regulated entities, and we have considered your specific circumstances in determining an appropriate timeline for payment of the penalty herein.

8. Complainant and Respondent further acknowledge and represent that the payment provisions of this Agreement are based, in part, upon Respondent's representation that the COVID-19 pandemic has negatively impacted Respondent's financial health and ability to pay the agreed civil penalty. EPA has reviewed and considered Respondent's certified statement of its current financial condition and its articulation of the reasons in support of its contention that it is unable to pay the agreed civil penalty amount within 30 days, or absent the incorporated penalty payment provisions, without experiencing undue hardship. Complainant has relied upon the Respondent's representation of its current financial condition and, on the basis of Respondent's certified statement, it is Complainant's conclusion that the Respondent is unable to pay the full amount of the civil penalty identified and set forth in Paragraph 7, above, within thirty (30) days of the effective date of this Agreement and that a payment plan of the nature and duration set forth below is necessary and appropriate. Pursuant to the provisions of this

Agreement, Respondent will remit a total civil penalty (principal) of **TWELVE THOUSAND FIVE HUNDRED TWENTY-NINE DOLLARS (\$12,529.00)** and interest (calculated at the rate of 2% per annum on the outstanding principal balance) in the amount of **TWO HUNDRED AND SIXTY DOLLARS AND FIFTEEN CENTS (\$260.15)**, in accordance with the installment payment schedule set forth in Table II, immediately below:

Table II: Civil Penalty Payment Schedule

Payment No.	Date Payment Due (From Effective Date of Expedited Settlement Agreement & Final Order)	Principal Amount	2% per Annum Interest	Total Payment Amount Due
1	<i>Within 30 Days</i>	\$522.04	\$0.00	\$522.04
2	<i>Within 60 Days</i>	\$522.04	\$40.02	\$562.06
3	<i>Within 90 Days</i>	\$522.04	\$19.14	\$541.18
4	<i>Within 120 Days</i>	\$522.04	\$18.27	\$540.31
5	<i>Within 150 Days</i>	\$522.04	\$17.40	\$539.44
6	<i>Within 180 Days</i>	\$522.04	\$16.53	\$538.57
7	<i>Within 210 Days</i>	\$522.04	\$15.66	\$537.70
8	<i>Within 240 Days</i>	\$522.04	\$14.79	\$536.83
9	<i>Within 270 Days</i>	\$522.04	\$13.92	\$535.96
10	<i>Within 300 Days</i>	\$522.04	\$13.05	\$535.09
11	<i>Within 330 Days</i>	\$522.04	\$12.18	\$534.22
12	<i>Within 360 Days</i>	\$522.04	\$11.31	\$533.35
13	<i>Within 390 Days</i>	\$522.04	\$10.44	\$532.48
14	<i>Within 420 Days</i>	\$522.04	\$9.57	\$531.61
15	<i>Within 450 Days</i>	\$522.04	\$8.70	\$530.74
16	<i>Within 480 Days</i>	\$522.04	\$7.83	\$529.87
17	<i>Within 510 Days</i>	\$522.04	\$6.96	\$529.00
18	<i>Within 540 Days</i>	\$522.04	\$6.09	\$528.13
19	<i>Within 570 Days</i>	\$522.04	\$5.22	\$527.26
20	<i>Within 600 Days</i>	\$522.04	\$4.35	\$526.39
21	<i>Within 630 Days</i>	\$522.04	\$3.48	\$525.52
22	<i>Within 660 Days</i>	\$522.04	\$2.61	\$524.65
23	<i>Within 690 Days</i>	\$522.04	\$1.74	\$523.78
24	<i>Within 720 Days</i>	\$522.04	\$0.87	\$522.91
Total:		\$12,529.00	\$260.15	\$12,789.15

9. If Respondent fails to make timely payment of any one of the required installment payments in accordance with the installment payment schedule set forth in Paragraph 8, Table II, immediately above, the entire unpaid balance of the penalty and all accrued interest shall become due immediately upon such failure, and Respondent shall immediately pay the entire remaining principal balance of the civil penalty along with any interest that has accrued up to the time of such payment. In addition, Respondent shall be liable for, and shall pay, applicable interest, administrative handling charges and late payment penalty charges as described in Paragraphs 12 through 15, below, in the event of any such failure or default.
10. Respondent may, at any time after commencement of payments under the installment payment schedule, elect to pay the entire principal balance, together with accrued interest to the date of such full payment.
11. Each civil penalty payment and any associated interest, administrative fees, and late payment penalties owed, shall be made by one of following four (4) methods, as further specified and directed below: a) electronic funds transfer (“EFT”); b) Automated Clearinghouse; c) Pay.gov; or d) a cashier’s check, or certified check, payable to the “United States Treasury.” A list of the payment methods is also provided on the website <https://www.epa.gov/financial/makepayment>.

a) Payment of the penalty amount **by EFT** to:

Federal Reserve Bank of New York
ABA 021030004
Account 68010727
SWIFT address FRNYUS33
33 Liberty Street
New York, NY 10045
Beneficiary: Environmental Protection Agency

b) Payment of the penalty amount **by Automated Clearinghouse (ACH)** to EPA can be made through the U.S. Treasury using the following information:

U.S. Treasury REX/Cashlink ACH Receiver

ABA: 051036706
Account Number: 310006, Environmental Protection Agency

CTX Format Transaction Code 22- Checking

Physical Location of the U.S. Treasury Facility
5700 Rivertech Court
Riverdale, MD 20737

Remittance Express (REX): 1-866-234-5681

c) Payment of the penalty amount made **through Pay.gov**:

Payers can use their credit or debit cards (Visa, MasterCard, American Express & Discover) as well as checking account information to make payments. Follow these steps to make a payment:

- (1) You DO NOT need a username and password or account.
- (2) Enter SFO 1.1 in the form search box on the top left side of the screen.
- (3) Open the form and follow the on-screen instructions.
- (4) Select your method of payment from the "Type of Payment" drop down menu.
- (5) Based on your selection, the corresponding line will open and no longer be shaded grey.
- (6) Enter the docket number of this Agreement into the field.

d) Payment of the penalty amount **by cashier's check, or by certified check**, payable to the "United States Treasury" *with the case name, address and docket number of this Agreement (CAA-03-2020-0020) referenced on the check*, which shall be sent:

- (1) via certified mail to:

U.S. Environmental Protection Agency
P.O. Box - Cincinnati Finance Center Box 979077
St. Louis, MO 63197-9000

or

- (2) via overnight mail (FedEx or other non-U.S. Postal Service express mail) to:

U.S. Bank
1005 Convention Plaza
Mail Station SL-MO-C2GL
St. Louis, MO 63101

12. Within twenty-four (24) hours of making each payment, Respondent shall also send proof of such payment (*i.e.*, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire transfer or of automated clearinghouse transfer) **by email** to:

Regional Hearing Clerk (3RC00)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103-2029
R3_Hearing_Clerk@epa.gov

and

Paul Arnold (3ED21)
U.S. EPA, Region III
1650 Arch Street
Philadelphia, PA 19103
arnold.paul@epa.gov

13. Payment of the civil penalty, in accordance with the above terms and provisions, is due and payable immediately upon Respondent's receipt of a true and correct copy of the fully executed and filed Agreement. Receipt by Respondent or Respondent's legal representative of such copy of the fully executed Agreement, with a date stamp indicating the date on which the Agreement was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed to EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).
12. 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 or to comply with the conditions in this Agreement shall result in the assessment of late payment charges including interest, penalties, and/or administrative costs of handling delinquent debts.
13. INTEREST: Interest on the civil penalty assessed in this Agreement will begin to accrue on the date that a true and correct copy of this Agreement is mailed or hand-delivered to Respondent. However, EPA will not seek to recover interest on any amount of the civil penalty 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).
14. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period the debt is overdue. 40 C.F.R. § 13.11(b). Pursuant to Appendix 2 of EPA's *Resources Management Directives - Cash 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.

15. LATE PAYMENT PENALTY: A late penalty payment of six percent (6%) per year will be assessed monthly on any portion of the civil penalty which 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).
16. Respondent certifies to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Agreement.
17. In signing this Agreement, the Respondent: a) admits the jurisdictional allegations set forth in this Agreement; b) neither admits nor denies the specific factual allegations set forth in this Agreement, except as provided in the jurisdictional admission above; c) agrees not to contest EPA's jurisdiction with respect to the execution of this Agreement, the issuance of the attached Final Order, or the enforcement of the Agreement; d) expressly waives its right to a hearing on any issue of law or fact set forth in this Agreement and any right to appeal the accompanying Final Order; e) consents to the issuance of the Agreement and agrees to comply with its terms; f) agrees to bear its own costs and attorney's fees; and g) agrees not to deduct for federal tax purposes all or any portion of the civil monetary penalty specified in this Agreement.
18. 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 Agreement 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.
19. This Agreement and attached Final Order constitute a settlement by EPA of its claims for civil penalties for the violations alleged in this Agreement.
20. 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. In addition, this settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Sections 22.18(c) and 22.31(a) of the Consolidated Rules of Practice. Further, EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal laws or regulations for which EPA has jurisdiction, to enforce the provisions of this Agreement, following its filing with the Regional Hearing Clerk.

21. This Agreement is binding on the parties signing below, and in accordance with 40 C.F.R. § 22.31(b), is effective upon filing.
22. The undersigned representative certifies that she/he is fully authorized to execute this Agreement and to legally bind Respondent.

For Respondent: Delaware Speed and Custom, LLC

Name: Mr. Andrew Ockels
Title: Owner

Signature: 

Date: 11/16/20

For Complainant: U.S. Environmental Protection Agency, Region III

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

11/24/20

Date

KAREN MELVIN Digitally signed by KAREN MELVIN
Date: 2020.11.24 13:16:40 -05'00'

Karen Melvin, Director
Enforcement and Compliance Assurance Division

The effective date of the foregoing Expedited Settlement Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

DATE

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