

EXPEDITED SETTLEMENT AGREEMENT

DOCKET NO: CAA-10-2022-0015
This ESA is issued to: Hurricane Diesel Performance LLC
17204 East Sprague Avenue
Spokane Valley, Washington 99016

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 Hurricane Diesel 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 December 7, 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 on the enclosed “Description of Violations” (Attachment 1), 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 this ESA in order to settle the violations described in Attachment 1 for the total penalty amount of **\$29,500**.

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 1; consents to the assessment of the penalty as stated above; and waives its rights to contest the allegations contained herein or in Attachment 1, 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:

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

4. Respondent agrees to submit payment of the penalty of \$29,500 in quarterly installments beginning 30 days of the filing of a fully executed copy of this ESA with the Regional Hearing Clerk (“Effective Date”), according to the following schedule:
 - a. \$7375.00 within 30 days of the Effective Date;
 - b. \$7538.66 within 90 days of the Effective Date;
 - c. \$7484.11 within 180 days of the Effective Date; and
 - d. \$7429.55 within 270 days of the Effective Date.

The installments in paragraphs (b) through (d) include interest at the rate established pursuant to 26 U.S.C. § 6621(a)(2). 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:



12-16-2021

KYLE MORGAN, Owner
Hurricane Diesel Performance

FOR COMPLAINANT:

MORGAN
JENCIUS

Digitally signed by
MORGAN JENCIUS
Date: 2021.12.20
13:50:44 -08'00'

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.

GARTH
WRIGHT

Digitally signed by
GARTH WRIGHT
Date: 2021.12.22
11:49:48 -08'00'

RICHARD MEDNICK
Regional Judicial Officer
EPA Region 10

**ATTACHMENT 1
Description of Violations**

Table 1 - Information Collection	
Date(s) Information Collected:	Docket Number:
March 31, 2021	C A A 1 0 2 0 2 2 0 0 1 5
Respondent Location:	
17204 East Sprague Avenue	
City:	Inspector(s) Name(s):
Spokane Valley	N/A
State: Zip Code:	EPA Approving Official:
WA 99016	Morgan Jencius, Chief, Air and Land Branch
Respondent:	EPA Enforcement Contact(s):
Hurricane Diesel Performance LLC	John Keenan, 206-553-1817

Table 2 - Description of Violations and Vehicles/Engines

Hurricane Diesel Performance LLC (“Respondent”) sold, offered to sell, and/or installed the products listed below (“defeat devices”), which bypass, defeat or render inoperative emission control systems on EPA-certified motor vehicles, where Respondent knew or should have known that the part was being offered for sale or installed for such use. It is a violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), to manufacture, sell, offer to sell, 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 25 violations of Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3).

Defeat Device Violations					
Defeat Device Description	Effect on Emission Control Devices	Sold, offered to sell and/or install	Vehicle Make(s)	Vehicle Model(s)	Model Year(s)
Exhaust Replacement Pipes	Remove and bypass diesel oxidation catalyst (DOC), diesel particulate filter (DPF), and/or selective catalytic reduction (SCR) system	5	RAM	3500 PICKUP	2011
		1	RAM	3500 PICKUP	2010-2018
		2	FORD	F250/350	2011-2016
		3	FORD	F250/350/450/550	2008-2010

Exhaust Gas Recirculation Removal Products	EGR removal and bypass	4	RAM	2500/3500	2009-2018
		1	RAM	3500 PICKUP	2010-2018
		4	FORD	F250/350	2011-2016
		2	FORD	F250/350	2003-2007
		1	CHEVY/ GMC	2500/3500	2006-2010
		2	CHEVY/ GMC	2500/3500	2011-2016

Table 3 - Penalty and Required Actions

Penalty	\$29,500
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, sell, offer to 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 " EPA Tampering Policy - The EPA Enforcement Policy on Vehicle and Engine Tampering and Aftermarket Defeat Devices under the Clean Air Act. "

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

John Keenan, Enforcement Officer
U.S. Environmental Protection Agency
Region 10, Mail Stop 20-C04
1200 Sixth Avenue, Suite 155
Seattle, WA 98101
Keenan.John@EPA.gov

Regional Hearing Clerk
U.S. Environmental Protection Agency
Region 10, Mail Stop 11-C07
1200 Sixth Avenue, Suite 155
Seattle, WA 98101
R10_RHC@epa.gov

Certificate of Service

The undersigned certifies that the original of the attached **EXPEDITED SETTLEMENT AGREEMENT AND FINAL ORDER, In the Matter of: Hurricane Diesel Performance LLC, Docket No.: CAA-10-2022-0015** 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:

Kyle B. Beall
Attorney for
Hurricane Diesel Performance LLC
628 North Boulevard
Baton Rouge, LA 70802
kyle@beall.law

AMY GONZALES

Digitally signed by AMY
GONZALES
Date: 2021.12.22 13:54:42 -06'00'

Regional Hearing Clerk
EPA Region 10