

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103



In the Matter of:

MOSER'S REPAIR & PERFORMANCE, LLC  
261 Frederick St., Suite 49  
Hagerstown, MD 21795

Respondent.

:  
: Docket No. CAA-03-2024-0027  
:  
: Proceeding under CAA Section 205(c)(1),  
: 42 U.S.C. § 7524(c)(1)  
:  
:

**CONSENT AGREEMENT**

**PRELIMINARY STATEMENT**

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency Region 3 ("Complainant") and Moser's Repair and Performance, LLC ("Respondent"), pursuant to Section 205(c)(1) of the Clean Air Act (the "CAA" or "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 of Practice"), 40 C.F.R. Part 22. Section 205(c)(1) of the Act authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the "Consent Agreement and Final Order") resolve Complainant's civil penalty claims against Respondent under Section 205(c)(1) of the Act for the violations alleged herein.
2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

**JURISDICTION**

3. The U.S. Environmental Protection Agency ("EPA") has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

**GENERAL PROVISIONS**

5. For purposes of this proceeding only, Respondent admits the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondent neither admits nor denies the specific factual allegations set forth in this Consent Agreement.
7. Respondent agrees not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondent hereby expressly waives its right to contest the allegations set forth in this Consent Agreement and Final Order and waives its right to appeal the accompanying Final Order.
9. Respondent consents to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondent shall bear its own costs and attorney's fees in connection with this proceeding.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

11. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
12. Respondent Moser's Repair and Performance, LLC is a limited liability company organized under the laws of the state of Maryland, and at all times relevant to the violations alleged herein, was the owner and operator of an automotive service and repair shop located at 261 Frederick St., Suite 49, Hagerstown, MD 21795 (the "Facility").

13. Respondent is a “person” within the meaning of Section 203(a) of the CAA, 42 U.S.C § 7522(a), and as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
14. This proceeding arises under Part A of Subchapter II (“Emission Standards for Moving Sources”) 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 (“HC”), particulate matter (“PM”) oxides of nitrogen (“NOx”), and carbon monoxide (“CO”). The allegations, below, concern Motor Vehicles and Motor Vehicle engines and the Defeat Device prohibitions in section 203(a)(3)(A) and (B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (B).
15. “Motor Vehicle” is defined in section 216(2) of the CAA, 42 U.S.C. § 7550(2), as “any self-propelled vehicle designed for transporting persons or property on a street or highway.”
16. Under Section 202 of the CAA, 42 U.S.C. § 7521, EPA promulgated emission standards for HC, PM, NOx, and CO, and other pollutants applicable to Motor Vehicles and Motor Vehicle engines.
17. Manufacturers of new Motor Vehicles or Motor Vehicle engines must obtain a certificate of conformity (“COC”) from EPA to sell, offer to sell, or introduce or deliver for introduction into commerce any new Motor Vehicle or Motor Vehicle engines in the United States. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1).
18. Each COC application must describe, among other things, the emissions-related elements of design of the Motor Vehicle or Motor Vehicle engine. See 40 C.F.R. §§ 86.004-21, 86.1844-01. For example, manufacturers of diesel engines employ retarded fuel injection timing as a primary emission control device for emissions of NOx, while manufacturers of gasoline-powered engines employ spark timing as an emission control device. Manufacturers also employ certain hardware devices as emission control systems to manage and treat exhaust to reduce levels of regulated pollutants from being created or emitted into the ambient air. Such devices include catalytic converters, Exhaust Gas Recirculation (“EGR”), Diesel Particulate Filter (“DPF”), Diesel Oxidation Catalyst (“DOC”), Nitrogen Adsorber Catalyst (“NAC”), and Selective Catalytic Converter (“SCR”) systems.
19. The EPA issues COCs to vehicle manufacturers (also known as “original equipment manufacturers” or “OEMs”) under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of Motor Vehicles conforms to applicable EPA requirements governing Motor Vehicle emissions. To obtain a COC for a given Motor Vehicle test group or engine family, the OEM must demonstrate that each Motor Vehicle or Motor Vehicle engine will not exceed established emissions standards for

NOx, PM, CO, HC, and other pollutants. *See generally*, 40 C.F.R. 86 Subparts A and S. A Motor Vehicle or Motor Vehicle engine that is part of a test group or engine family that is in compliance with regulations under Subchapter II of the CAA and has been issued a COC by EPA is hereinafter referred to as an "EPA-Certified" Motor Vehicle or Motor Vehicle engine.

20. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), EPA promulgated regulations requiring manufacturers of Motor Vehicles to install on-board diagnostic ("OBD") systems on vehicles beginning with the 2007 model year to monitor emission control components for any malfunction or deterioration causing exceedance of certain emission thresholds. The OBD system is a critical Element of Design of the Motor Vehicle.
21. Pursuant to Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), it is a prohibited act "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 [M]otor [V]ehicle or [M]otor [V]ehicle engine, 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 Motor Vehicle or Motor Vehicle engine in compliance with regulations under [Subchapter II of the CAA], 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."
22. It is also a violation for any person to cause any of the acts set forth in CAA Section 203(a), 42 U.S.C. § 7522(a).
23. On January 14, 2021, EPA sent an Information Request Letter to Respondent, pursuant to Section 208(a) of the CAA, 42 U.S.C. § 7542(a), requiring Respondent to provide information to determine whether it had acted and was acting in compliance with Section 203(a) of the CAA, 42 U.S.C. § 7522(a) ("RFI letter").
24. Respondent provided responses to EPA's RFI letter and follow up questions (collectively, "RFI Response") by email on dates including April 7, 2021, May 31, 2021, and July 12, 2021, May 19, 2022 and August 2, 2022.
25. Based on Respondent's RFI Response and other available information gathered during EPA's investigation, EPA determined that Respondent sold, offered for sale, or installed at least at least thirty-five (35) parts or components which render inoperative emission control systems on EPA-Certified Motor Vehicles or Motor Vehicle engines ("Defeat Devices"), between approximately October 2019 and January 2021. These 35 Defeat Devices and their corresponding EPA-Certified Motor Vehicle applications are identified and listed in the Violations Summary table in Appendix A hereto.

26. The Defeat Devices referenced in paragraph 25 above and listed in Appendix A hereto include: (i) EGR deletion kits or components used for the removal or bypass of EGR systems; and (ii) DPF or Selective Catalytic Reduction (SCR) delete kits ("straight pipes") to remove or bypass the DPF or SCR systems.

**Count I**

**Sale, Offer for Sale, or Installation of Defeat Devices**

27. The information and allegations in each of the preceding paragraphs are incorporated by reference herein as though fully set forth at length.
28. Between approximately October 2019 and January 2021, Respondent sold, offered for sale, or installed at least 35 Defeat Devices, as described in paragraphs 25-26, above, and as identified and listed in the Violations Summary table in Appendix A hereto.
29. The OEMs of each of the Motor Vehicles identified and listed in the "EPA-Certified Motor Vehicle Applications" column of the Violations Summary table in Appendix A, obtained COCs from EPA for each of these Motor Vehicles. In so doing, each of these OEMs certified that these Motor Vehicles and Motor Vehicle engines demonstrated compliance with applicable federal emission standards, including certified design configurations, using elements of design such as fuel timing, catalytic converters, EGRs, DOCs, DPFs, NACs, SCRs, and OBD systems, and that each of these Motor Vehicles was an "EPA-Certified" Motor Vehicle containing an "EPA-Certified" Motor Vehicle engine.
30. Each of the 35 Defeat Devices described in paragraph 25, above, and identified and listed in in Appendix A are automotive parts and/or components intended for use with, or as part of, Motor Vehicles or Motor Vehicle engines and have a principal effect of bypassing, defeating, or rendering inoperative emissions-related elements of design that are installed on an EPA-Certified Motor Vehicles or Motor Vehicle engines.
31. Respondent knew or should have known that each of the 35 Defeat Devices referenced in paragraph 25, above, and identified and listed in Appendix A, were being sold, offered for sale, or installed for such use or put to such use.
32. By selling, offering for sale, or installing the 35 Defeat Devices referenced in paragraph 25, above, and identified and listed in Appendix A, Respondent committed 35 violations of CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).
33. Pursuant to Section 205(a) of the CAA, 42 U.S.U.S.C. § 7524(a), any violation with respect to CAA Section 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B), constitutes a separate offense with respect to each part or component for which Respondent is subject to the assessment of civil penalties under section 205(c) of the Act, 42 U.S.C. § 7524(c).

**CIVIL PENALTY**

34. In settlement of EPA's claims for civil penalties for the violations alleged in this Consent Agreement, Respondent consents to the assessment of a civil penalty in the amount of SIX THOUSAND DOLLARS (\$6,000.00) ("Assessed Penalty"), which Respondent shall be liable to pay in accordance with the terms set forth below.
35. The Assessed Penalty is based upon EPA's consideration of a number of factors, including the penalty criteria ("statutory factors") set forth in CAA, Section 205(c)(2), 42 U.S.C. § 7524(c)(2), which include the gravity of the violation, the economic benefit or savings (if any) resulting from the violation, the size of the violator's business, the violator's history of compliance with this subchapter, action taken to remedy the violation, the effect of the penalty on the violator's ability to continue in business, and such other matters as justice may require. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA's *Clean Air Act Title II Vehicle & Engine Civil Penalty Policy – Vehicle and Engine Certification Requirements* (Jan. 18, 2021) which reflects the statutory penalty criteria and factors set forth at CAA Section 205(c)(2), and 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.
36. The Assessed Penalty is also based upon an analysis of Respondent's ability to pay a civil penalty. This analysis was based upon information submitted to EPA by Respondent between June and August 2023, including the following:
  - Email from Evan Moser to Stewart Stafford, EPA, dated June 6, 2023;
  - Respondent's financial statements and information as of December 31, 2020, 2021 and 2022, and through June 2023.
37. Based upon Respondent's documented inability to pay claim, and in accordance with applicable laws, EPA conducted an analysis of Respondent's financial information and determined that the Assessed Penalty is an appropriate amount to settle this action.
38. Respondent agrees to pay the Assessed Penalty amount of \$6,000.00 within thirty (30) days of the Effective Date of this Consent Agreement and Final Order.
39. Respondent shall pay the Assessed Penalty and any interest, fees, and other charges due using any method, or combination of appropriate methods, as provided on the EPA website: <https://www.epa.gov/financial/makepayment>. For additional instructions see: <https://www.epa.gov/financial/additional-instructions-making-payments-epa>.

40. When making a payment, Respondent shall:
- a. Identify every payment with Respondent's name and the docket number of this Consent Agreement, **EPA Docket No. CAA-03-2024-0027**, and
  - b. Concurrently with any payment or within 24 hours of any payment, Respondent shall serve Proof of Payment simultaneously **by email** to the following:
    - (1) Humane Zia  
Sr. Assistant Regional Counsel  
[Zia.Humane@epa.gov](mailto:Zia.Humane@epa.gov)
    - (2) U.S. Environmental Protection Agency  
Cincinnati Finance Center  
[CINWD\\_AcctsReceivable@epa.gov](mailto:CINWD_AcctsReceivable@epa.gov)and
    - (3) U.S. EPA Region 3 Regional Hearing Clerk  
[R3\\_Hearing\\_Clerk@epa.gov](mailto:R3_Hearing_Clerk@epa.gov).

“Proof of Payment” means, as applicable, a copy of the check, confirmation of credit card or debit card payment, or confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to EPA requirements, in the amount due, and identified with the appropriate docket number and Respondent's name.

41. Interest, Charges, and Penalties on Late Payments. Pursuant to 42 U.S.C. § 7524(c)(6), 31 U.S.C. § 3717, 31 C.F.R. § 901.9, and 40 C.F.R. § 13.11, if Respondent fails to timely pay any portion of the Assessed Penalty per this Consent Agreement, the entire unpaid balance of the Assessed Penalty and all accrued interest shall become immediately due and owing, and EPA is authorized to recover the following amounts:
- a. Interest. Interest begins to accrue from the Effective Date of this Consent Agreement. If the Assessed Penalty is paid in full within thirty (30) days, interest accrued is waived. If the Assessed Penalty is not paid in full within thirty (30) days, interest will continue to accrue until any unpaid portion of the Assessed Penalty as well as any interest, penalties, and other charges are paid Per 42 U.S.C. § 7524(c)(6), interest will be assessed pursuant to 26 U.S.C. § 6621(a)(2), that is the IRS standard underpayment rate, equal to the Federal short-term rate plus 3 percentage points.

- b. Handling Charges. The United States' enforcement expenses including, but not limited to, attorneys' fees and costs of collection proceedings.
  - c. Late Payment Penalty. A ten percent (10%) quarterly non-payment penalty.
- 42. Late Penalty Actions. In addition to the amounts described in the prior Paragraph, if Respondent fails to timely pay any portion of the Assessed Penalty, interest, or other charges and penalties per this Consent Agreement, EPA may take additional actions. Such actions EPA may take include, but are not limited to, the following:
  - a. Refer the debt to a credit reporting agency or a collection agency, per 40 C.F.R. §§ 13.13 and 13.14.
  - b. Collect the debt by administrative offset (i.e., the withholding of money payable by the United States government to, or held by the United States government for, a person to satisfy the debt the person owes the United States government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, per 40 C.F.R. Part 13, Subparts C and H.
  - c. Suspend or revoke Respondent's licenses or other privileges, or suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, per 40 C.F.R. § 13.17.
  - d. Request that the Attorney General bring a civil action in the appropriate district court to recover the full remaining balance of the Assessed Penalty, in addition to interest and the amounts described above, per 42 U.S.C. § 7524(c)(6). In any such action, the validity, amount, and appropriateness of the Assessed Penalty shall not be subject to review.
- 43. Allocation of Payments. Pursuant to 31 C.F.R. § 901.9(f) and 40 C.F.R. § 13.11(d), a partial payment of debt will be applied first to outstanding handling charges, second to late penalty charges, third to accrued interest, and last to the principal that is the outstanding Assessed Penalty amount.
- 44. Tax Treatment of Penalties. Penalties, interest, and other charges paid pursuant to this Consent Agreement shall not be deductible for purposes of federal taxes.
- 45. 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 Consent Agreement and Final Order. Receipt by Respondent or Respondent's legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written

initial notice that a debt is owed EPA by Respondent in accordance with 40 C.F.R. § 13.9(a).

46. The parties consent to service of the Final Order by e-mail at the following valid email addresses: [zia.humane@epa.gov](mailto:zia.humane@epa.gov) (for Complainant), and [mosersrepair@gmail.com](mailto:mosersrepair@gmail.com) (for Respondent).

#### **GENERAL SETTLEMENT CONDITIONS**

47. By signing this Consent Agreement, Respondent acknowledges that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondent's knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondent.
48. 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 Consent Agreement and Final Order, including information about Respondent's ability to pay a penalty, 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.

#### **CERTIFICATION OF COMPLIANCE**

49. 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 Consent Agreement.

#### **OTHER APPLICABLE LAWS**

50. Nothing in this Consent Agreement and Final Order shall relieve Respondent of its obligation to comply with all applicable federal, state, and local laws and regulations, 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 the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver,

suspension or modification of the requirements of the Clean Air Act, or any regulations promulgated thereunder.

**RESERVATION OF RIGHTS**

51. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondent in this Consent Agreement and Final Order. 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. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the Clean Air Act, the regulations promulgated thereunder and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

**EXECUTION /PARTIES BOUND**

52. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondent and the officers, directors, employees, contractors, successors, agents and assigns of Respondent. By his or her signature below, the person who signs this Consent Agreement on behalf of Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

**EFFECTIVE DATE**

53. The effective date of this Consent Agreement and Final Order ("Effective Date") is the date on which the Final Order, signed by the Regional Administrator of EPA, Region 3, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

**ENTIRE AGREEMENT**

54. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

For Respondent: MOSER'S REPAIR & PERFORMANCE, LLC

Date: 4/8/2024

By: *Eden Moser - owner*  
[SIGNATORY NAME]  
[SIGNATORY TITLE]

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region 3, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: **KAREN MELVIN** Digitally signed by KAREN MELVIN  
Date: 2024.04.23 07:48:31 -04'00'  
\_\_\_\_\_  
*[Digital Signature and Date]*  
Karen Melvin, Director  
Enforcement & Compliance Assurance Division  
U.S. EPA – Region 3  
Complainant

Attorney for Complainant:

By: **HUMANE ZIA** Digitally signed by HUMANE ZIA  
Date: 2024.04.23 08:09:07 -04'00'  
\_\_\_\_\_  
*[Digital Signature and Date]*  
Humane Zia  
Senior Assistant Regional Counsel  
U.S. EPA – Region 3

**APPENDIX A - Violations Summary**

**Defeat Devices Sold, Offered for Sale, and/or Installed by Respondent  
Based on Respondent's Responses to EPA's Information Request Letter**

	Invoice #	Part #	Part Description	Motor Vehicle Application	Earliest Date Sold <sup>1</sup>
1.	H636294	GOPGDP421023	EGR KIT	11-15 CHEVY	10/13/2020
2.	H429615	GOPGDP420016	EGR KIT	04-05 CHEVY	10/05/2020
3.	H210397	GOPGDP420016	EGR KIT	04-05 CHEVY	07/02/2020
4.	H210397	MBPC6116PLM	EXHAUST	07-09 DODGE	07/02/2020
5.	Y500311	MBPC6142P	EXHAUST	10-12 DODGE	06/16/2020
6.	H109528	GOPGDP420018	EGR KIT	06-07 CHEVY	05/20/2020
7.	H171685	GOPGDP620003	EGR KIT	13-19 RAM	06/15/2020
8.	H171983	GOPGDP420018	EGR KIT	06-07 CHEVY	06/16/2020
9.	H171983	GOPGDP420020	EGR KIT	07-10 LMM	06/16/2020
10.	H218487	GOPGDP221010	EGR KIT	11-15 FORD	07/03/2020
11.	H394233	GOPGDP420022	EGR KIT	11-15 CHEVY	09/19/2020
12.	H250897	GOPGDP221013	EGR KIT	17 FORD	07/18/2020
13.	H273231	GOPGDP420020	EGR KIT	07-10 CHEVY	07/28/2020
14.	H229347	GOPGDP420022	EGR KIT	11-15 CHEVY	07/11/2020
15.	I108061	GOPGDP421023	EGR KIT	11-15 CHEVY	01/12/2021
16.	H632120	GOPGDP220007	EGR KIT	03-07 FORD	10/12/2020
17.	H665809	GOPGD221010	EGR KIT	11-15 FORD	10/28/2020

<sup>1</sup> Based upon the earliest date EPA identified on records submitted by Respondent for each part, documenting Respondent's purchase of the part from a supplier for subsequent sale, offer for sale, or installation, as indicated in Respondent's Response to EPA's 208 Information Request.

18.	H670327	GOPGD421019	EGR KIT	06-07 CHEVY	10/31/2020
19.	I082513	GOPGD421019	EGR KIT	06-07 CHEVY	12/29/2020
20.	I108196	MBPCGMAL431	EXHAUST	15-16 CHEVY	01/13/2021
21.	Y500212	MBPC6004PLM	EXHAUST	07-10 CHEVY	06/15/2020
22.	H092985	MBPC6151PLM	EXHAUST	19-20 DODGE	05/13/2020
23.	35481	582	PIPING	11-16 DMAX	10/27/2020
24.	31152	005 HSP	PIPING	06-10 DMAX	04/27/2020
25.	31587	583-2HSP	PIPING	13-16 DMAX	06/16/2020
26.	32340	005 HSP	PIPING	04.5-05 DMAX	06/17/2020
27.	32047	004 HSP	PIPING	06-10 DMAX	06/22/2020
28.	31738	005 HSP	PIPING	06-10 DMAX	05/20/2020
29.	28963	048 HSP	BLOCKER PLATE	04.5-05 DMAX	01/15/2020
30.	27244	005 HSP	PIPING	06-10 DMAX	10/03/2019
31.	27504	005 HSP	PIPING	06-10 DMAX	10/15/2019
32.	28194	005 HSP	PIPING	06-10 DMAX	11/27/2019
33.	31046	005 HSP	PIPING	06-10 DMAX	04/22/2020
34.	31074	004 HSP	PIPING	06-10 DMAX	05/15/2020
35.	27504	348 HSP	BLOCKER PLATE	06-07 DMAZ	10/15/2019

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
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MOSER'S REPAIR & PERFORMANCE, LLC : U.S. EPA Docket No. CAA-03-2024-0027  
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261 Frederick St., Suite 49 : Proceeding under CAA Section 205(c)(1)  
Hagerstown, MD 21795 : 42 U.S.C. § 7524(c)(1)  
: :  
Respondent. :  
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**FINAL ORDER**

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region 3, and Respondent, Moser's Repair and Performance, LLC, have executed a document entitled "Consent Agreement," which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules of Practice"), 40 C.F.R. Part 22 (with specific reference to Sections 22.18(b)(2) and (3)). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, the statutory factors set forth in Section 205(c)(2) of the CAA, 42 U.S.C. 7524(c)(2), EPA's January 18, 2021 Clean Air Act Title II Vehicle & Engine Civil Penalty Policy, and the applicable EPA memoranda addressing EPA's civil penalty policies to account for inflation.

**NOW, THEREFORE, PURSUANT TO** Section 205(c)(1) of the Clean Air Act, 42 U.S.C. 7524(c)(1) and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondent pay a civil penalty in the amount of **SIX THOUSAND DOLLARS (\$6,000.00)**, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate

injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondent's obligation to comply with all applicable provisions of the Clean Air Act and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: 4/23/24

By: **JOSEPH LISA**  
Joseph J. Lisa  
Regional Judicial and Presiding Officer  
U.S. EPA Region 3

Digitally signed by JOSEPH LISA  
Date: 2024.04.23 10:13:39 -04'00'

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 3  
Philadelphia, Pennsylvania 19103-2029

In the Matter of:	:	
	:	
MOSER'S REPAIR & PERFORMANCE, LLC	:	U.S. EPA Docket No. CAA-03-2024-0027
	:	
261 Frederick St., Suite 49	:	Proceeding under CAA Section 205(c)(1),
Hagerstown, MD 21795	:	42 U.S.C. § 7524(c)(1)
	:	
Respondent.	:	
	:	
	:	

**CERTIFICATE OF SERVICE**

I certify that the foregoing ***Consent Agreement and Final Order*** was filed with the EPA Region 3 Regional Hearing Clerk on the date that has been electronically stamped on the ***Consent Agreement and Final Order***. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Mr. Evan Moser  
Mosers Repair & Performance LLC  
261 Frederick St., Suite 49  
Hagerstown, MD 21795  
[mosersrepair@gmail.com](mailto:mosersrepair@gmail.com)

Humane Zia  
Senior Assistant Regional Counsel  
U.S. EPA, Region 3  
[zia.humane@epa.gov](mailto:zia.humane@epa.gov)

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[Digital Signature and Date]  
Regional Hearing Clerk  
U.S. Environmental Protection Agency, Region 3