



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4

ATLANTA FEDERAL CENTER
61 FORSYTH STREET SW
ATLANTA, GEORGIA 30303-8960

SENT VIA ELECTRONIC MAIL

Joseph Virgilio
Owner
Virgilio's Diesel Performance LLC
1020 Brooks Industrial Road
Shelbyville, Kentucky 40065
jvirgilio43@hotmail.com

Re: Virgilio's Diesel Performance LLC – Shelbyville, Kentucky
Notice of Potential Violations and Opportunity to Confer Clean Air Act Title II

Dear Mr. Virgilio:

Information currently available to the U.S. Environmental Protection Agency suggests that Virgilio's Diesel Performance LLC (VDP) may have committed violations of Section 203(a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3). By this letter, the EPA is extending to you an opportunity to advise the Agency via a conference call, or in writing, of any further information the EPA should consider with respect to the potential violations.

Specifically, on March 8, 2021, an authorized representative of the EPA sent a Request for Information (RFI) to the VDP facility located at 1020 Brooks Industrial Road in Shelbyville, Kentucky (the facility) to determine compliance with Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3). Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits any person from knowingly removing or rendering inoperative (i.e., "tampering") 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 CAA¹ after sale and delivery to the ultimate purchaser. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits any person from manufacturing, selling, offering to sell, or installing parts or components intended for use with, or as part of, a motor vehicle or motor vehicle engine, where a principal effect of the part or component is to bypass, defeat, or render inoperative an EPA certified motor vehicle's emission control device or element of design (i.e., a "defeat device"), where the person knows or should know that the part or component is being offered for sale or installed for such use or put to such use.

Based on information available to the EPA, including information submitted by VDP under cover letter dated April 8, 2021, in response to the EPA's March 8, 2021 RFI, issued under section 208(a) of the CAA, 42 U.S.C. § 7542(a), the EPA believes that VDP may have 1) tampered with EPA certified motor vehicles, in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A); and 2) sold and/or offered to sell defeat devices, in violation of section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). EPA believes VDP knew or should have known that these products were installed, sold and/or offered for sale to bypass, defeat, or render inoperative devices or elements of design that control emissions of regulated air pollutants. A detailed summary of the EPA's areas of concern are provided in Enclosure 1.

¹ Motor vehicles or motor vehicle engines in compliance with regulations under subchapter II of the CAA are referred to as "EPA certified."

The EPA has authority under Section 205 of the CAA, 42 U.S.C. § 7524, to seek penalties for violations of the prohibitions against tampering and/or the sale of defeat devices set forth in Section 203(a)(3) of the CAA, 42 U.S.C. § 7522(a)(3). To discuss the areas of concern identified in the enclosure, the EPA requests that a representative of the facility contact Mr. Tony Spann of my staff at (404) 562-8971, or via email at spann.tony@epa.gov, within **seven (7) calendar days** of receipt of this letter to make arrangements to discuss the areas of concern and the EPA's possible enforcement action. Please note that the EPA may have legal representation during these discussions. Please inform Mr. Spann if you intend to have legal representation present as well.

VDP may voluntarily submit any documentation or information that you would like the EPA to review in advance of any teleconference on the matter to substantiate why you believe the EPA should not take an enforcement action with respect to the above-mentioned areas of concern. If you decide to submit such documentation or information, the EPA respectfully requests that you do so two weeks in advance of the teleconference. If you have questions regarding the type of information that should be submitted to the EPA or any other questions regarding this matter, please contact Mr. Spann at the contact information identified above.

Sincerely,

JASON
DRESSLER

Digitally signed by JASON
DRESSLER
Date: 2022.11.10
10:14:56 -05'00'

Jason Dressler
Chief
North Air Enforcement Section

Enclosure