



**UNITED STATES ENVIRONMENTAL PROTECTION
AGENCY**

WASHINGTON, D.C., 20460

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Marvin B. Freedman
Chief Operating Officer, Director
MF Trucking LLC
d/b/a Tune My Trucks
15019 Cozy Hollow Lane
Houston, TX 77044

Marcus Muldoon
Organizer
Tune My Trucks LLC
1285 N. Telegraph Road
Unit 188
Monroe, MI 48162

Re: Notice of Violation of the Clean Air Act

Dear Messrs. Freedman and Muldoon:

The United States Environmental Protection Agency (EPA) has investigated and continues to investigate MF Trucking LLC and Tune My Trucks LLC, DBA Tune My Trucks (collectively “TMT” or “You”) for noncompliance with the Clean Air Act (“CAA” or “the Act”), 42 U.S.C. §§ 7401-7671q, and its implementing regulations. As summarized in this Notice of Violation, EPA has determined that TMT has offered for sale, or caused the offer for sale of, parts or components for motor vehicle engines that bypass, defeat, or render inoperative devices or elements of design installed on motor vehicles and motor vehicle engines to meet emission standards promulgated under the CAA, and knew or should have known that these parts or components were offered for sale or installed for such use or put to such use. Therefore, You have violated Section 203(a)(3)(B) of the Act, 42 U.S.C. § 7522(a)(3)(B). EPA continues to investigate these violations and other potential violations under the Act and its implementing regulations.

Law Governing Alleged Violations

This Notice of Violation arises under Part A of Title II of the Act, 42 U.S.C. §§ 7521–7554, and the regulations promulgated thereunder. These laws were enacted to reduce air pollution from mobile sources of air pollution. In creating the Act, Congress found, in part, that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare.”¹ Congress’s

¹ CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2).

purpose in creating the Act, in part, was “to protect and enhance the quality of the Nation’s air resources so as to promote the public health and welfare and the productive capacity of its population,” and “to initiate and accelerate a national research and development program to achieve the prevention and control of air pollution.”²

EPA’s allegations concern parts or components for motor vehicles and engines subject to emission standards.³ The Act requires EPA to prescribe and revise, by regulation, standards applicable to the emission of any air pollutant from new motor vehicles or engines that cause or contribute to air pollution, which may reasonably be anticipated to endanger public health or welfare.⁴ As required by the Act, the emission standards “reflect the greatest degree of emission reduction achievable through the application of [available] technology.”⁵ Motor vehicles and engines are subject to specific emission standards for each pollutant, based on a vehicle’s or engine’s class and model year.⁶

Vehicle and engine manufacturers employ many devices and elements of design to meet emission standards. *Element of design* means “any control system (*i.e.*, computer software, electronic control system, emission control system, computer logic), and/or control system calibrations, and/or the results of systems interaction, and/or hardware items on a motor vehicle or motor vehicle engine.”⁷ For example, manufacturers often employ retarded fuel injection timing systems as a primary emission-related element of design to achieve reduction of emissions of oxides of nitrogen (NOx) and particulate matter (PM). Manufacturers also employ certain hardware devices as emission control systems and elements of design to reduce emissions of regulated pollutants into the ambient air. Examples of such devices include sensors, filtration systems such as diesel particulate filters (DPF) systems, also referred to as periodic trap oxidizers, exhaust gas recirculation (EGR) systems, and catalyst devices such as diesel oxidation catalysts (“DOC,” also referred to as “CAT”), NOx adsorption catalysts, and selective catalytic reduction⁸ (SCR) systems. SCR systems apply an aqueous urea, known as diesel emission fluid (DEF), onto a special catalyst, causing a chemical reaction and thereby reducing NOx emissions. Modern vehicles and engines are equipped with devices known as electronic control modules (ECMs), also commonly referred to as electronic control units (ECUs). ECMs or ECUs continuously monitor engine and other operating parameters and control the emission control devices, such as the fueling strategy.

Manufacturers further employ onboard diagnostics, or “OBD,” which comprise of systems that monitor components that can affect the emission performance of a motor vehicle, detect problems with the vehicle’s emission-related systems that could cause the vehicle to fail to comply with the CAA’s emission standards, alert drivers to these problems, and store electronically-generated malfunction

² CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2).

³ See generally 40 C.F.R. Part 86, Subpart A (setting emission standards for these categories).

⁴ CAA § 202(a)(1) and (3)(B), 42 U.S.C. § 7521(a)(1) and (3)(B).

⁵ CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).

⁶ See, e.g., heavy-duty diesel engine emission standards at 40 C.F.R. §§ 86.004-11, 86.007-11, 86.099-11.

⁷ 40 C.F.R. § 86.094-2.

⁸ SCR systems include catalyst injection and tank storage components.

information.⁹ If a problem is detected, the OBD system illuminates a warning indicator on the vehicle instrument panel to alert the driver, called a malfunction indicator light or check engine light. The OBD system also records diagnostic trouble codes to provide ease of identification of the emission control problem for mechanics to repair. OBDs may cause an engine power reduction (known as “limp mode”) to prompt repair of a missing or malfunctioning emission- related device or element of design. Given these functions, the OBD is a key part of a motor vehicle’s emission control system.

To ensure that every new motor vehicle or motor vehicle engine sold, offered for sale, imported, delivered for introduction into commerce, or introduced into commerce in the United States (collectively, “introduced into commerce”) satisfies applicable emission standards, EPA runs a certification program for manufacturers. Under this program, EPA issues certificates of conformity (COCs), thereby qualifying motor vehicles and engines for introduction into commerce.¹⁰ To obtain a COC, an original equipment manufacturer (OEM) must submit a COC application to EPA for each engine family (also referred to as test group) and each model year in which it intends to manufacture or import motor vehicles or engines for introduction into commerce. The COC application must include, among other things, identification of the covered engine family, a description of the motor vehicle or engine and its emission control systems, all auxiliary emission control devices (AECDs)¹¹ and the engine parameters they sense, as well as test results from a test vehicle or engine showing that it satisfies the applicable emission standards.¹² The motor vehicles or motor vehicle engines must then be manufactured exactly as described in the approved COC application, in part to ensure that the emission control systems function as described.

In addition, the Act makes it a violation “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 motor vehicle or motor vehicle 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 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.”¹³ It is also a violation to cause any of the foregoing acts.¹⁴

The Alleged Violations

EPA has determined that TMT has offered for sale, or caused the offer for sale of, multiple products (commonly referred to as “Defeat Devices”) that have a principal effect of bypassing, defeating, or rendering inoperative emission control devices or elements of design certified to control emissions on

⁹ See CAA § 202(m), 42 U.S.C. § 7521(m), requiring EPA to promulgate regulations requiring OBD systems for motor vehicles after 2007; see also 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05, and 86.1806-17.

¹⁰ 40 C.F.R. § 86.007-30.

¹¹ An AECD is “any element of design which senses temperature, vehicle speed, engine RPM, transmission gear, manifold vacuum, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of any part of the emission control system.” 40 C.F.R. § 86.082-2.

¹² 40 C.F.R. §§ 86.004-21, 86.007-21, 86.094-21, 86.096-21; see also EPA, Advisory Circular Number 24-3: Implementation of Requirements Prohibiting Defeat Devices for On-Highway Heavy-Duty Engines (Jan. 19, 2001).

¹³ CAA § 203(a)(3)(B), 42 U.S.C. § 7522(a)(3)(B).

¹⁴ CAA § 203(a), 42 U.S.C. § 7522(a).

motor vehicles or motor vehicle engines. TMT operates the website www.tunemytrucks.com as a platform to sell or offer to sell Defeat Devices. The TMT website advertises for sale Defeat Devices which are intended for use with a variety of motor vehicles and motor vehicle engines including, but not limited to, medium-duty diesel trucks and heavy-duty trucks manufactured by entities such as International Truck and Engine Company (Navistar); Caterpillar (CAT); Cummins; Detroit Diesel; Freightways, and Paccar Powertrain.

“Defeat Device” products sold by TMT fall under a category of aftermarket software ECM programs (commonly referred to as a “tune” or “calibration”). These programs are either distributed in a console (commonly referred to as a “tuner” or “programmer”) or transmitted electronically via weblink or email that are designed to modify the vehicle’s original ECM programming or calibrations and/or OBD operation, where a principal effect of the program is to bypass, defeat, or render inoperative devices or elements of design, including EGR, DOC, DPF, SCR, or OBD systems, or fuel injection timing calibrations, installed on or in motor vehicle engines (“Defeat Tuning Products”).

Between April and September 2023, the EPA conducted several reviews of TuneMyTrucks.com website for advertisements of Defeat Devices. During this period, TMT advertised for sale 18 different products that all included the term “delete” in its product title, such as, “Egr/dpf/def *delete*.” (emphasis added). The titles of the products “offered to sell” (*i.e.* marketed) these “defeat devices” products are listed below:

1. *Caterpillar CAT - Dpf Egr Delete ECM Tuning*
2. *Cummins ISX13 ISX15 dpf egr scr Delete Tuning cm870 cm871 cm2250 cm2350*
3. *Detriot Diesel DD15 DD13 EGR DPF SCR DEF DD15 Delete DD-15 DD16*
4. *Freightliner Cascadia, Coronado, 122SD Remote Tuning Service EGR DPF SCR Delete with Cummins Engines*
5. *International Maxxforce 11 13 15 ECM Tune Delete DPF EGR DEF 2002 - 2018*
6. *International Maxxforce 9 & Maxxforce 10 ECU ECM Tune Delete DPF EGR 1995-2018*
7. *International SID908 REgr Dpf Delete Maxxforce DT, Maxxforce 7 EGR DPF Delete SID-908 Delete*
8. *N13 International Prostar ECM Tune Delete DPF EGR SCR DEF 2014->2018*
9. *NEW Remote Detriot Diesel EGR DPF SCR DEF Delete DD13 DD15*
10. *New Remote Hino Delete Tuning All 2010-2016 Delete DPF, DEF, EGR, EGT and SCR*
11. *New Remote Service All Mack MP7, MP8, MP10 Delete SCR-DPF-EGR Tuning*
12. *New REMOTE Tuning Maxxforce DT466HT & Maxxforce 7 Tuning DPF EGR Delete & Performance Add Power & Fuel Economy*
13. *Peterbilt 379 & 387 CAT C15 & C13 & MX13 Tune DPF EGR DEF Delete*
14. *Remote Cummins Delete Isx13 Isx15 Isl9 Dpf Egr Scr Delete Tuning cm870 cm871 cm2250 cm2350*
15. *Remote Delete International Maxxforce 13 ECM Tune Delete DPF EGR DEF 2002 - 2018*
16. *Remote Paccar engine ECM delete tuning MX13*
17. *Vactor Trucks Ecu Ecm Egr Dpf Def Delete Perkins Industrial Engines; and*
18. *Volvo Tuning D13 D12 Egr/dpf/def delete done Remotely all Volvo engines delete dpf egr scr def any engine D13 D12 No more fault codes.*

In the descriptions for some the products listed above, TMT stated that the purpose of product was to alter the ECM programming. For example, the product description of “Remote Cummins Delete” (Product “#14” above) marketed “DPF, EGR, SCR, delete - eliminate, ECM programming for all truck engines: [as listed on webpage],” appearing to define “delete” as eliminate the ECM programming. Also, the product description of “Remote Paccar engine” (Product “#16” above) claimed that the advertised software “will bypass after-treatment systems.”

TMT’s advertising on its website www.tunemytrucks.com claimed that many of its custom tuning products facilitate modification of a diesel truck’s exhaust system. For example, the product “N13 International Prostar” (Product “#8.”) provides the following statement:

We Do not Sell the Standard “Delete Kits” you have likely heard about. Our Method Is [sic] more sophisticated, We did away with most of the old labor-intensive needs with better programming. The Emission system Is [sic] converted from an active to a Passive system, This allows the emissions system to still Operate with the motor but without any of the costly downtimes of de-rates and maintenance shutdowns with active systems.

We have re-engineered everything completely top bottom.

Our Tunes are complete, not just permanent service-code deletes. Majority of our Work is Completed without ever opening the ECM, safest possible Method.

The N13 is the Maxxforce 13 engine redone with after-treatment for 2014, 2015, 2016 which they just added SCR treatment to the emissions to make an attempt to hide the failure of the Maxxforce 13 debacle. Let us turn your truck into all it can be by performing a delete on it.

The product described above is an exhaust system built to bypass exhaust aftertreatment emission control devices and are designed to replace exhaust systems containing, DOCs, DPFs, and SCRs. For example, the advertisement promoted the product as “more sophisticated,” as compared to the “Standard ‘Delete Kits.’” Additionally, the advertisement represented that the Defeat Device will “convert” the emission system “from an active to a passive system.”

Moreover, on the homepage of the TMT’s website, TMT states:

The ECM flash will allow for the removal of your DPF & EGR system, while safely increasing horsepower, fuel economy, and reduce service costs! This tuning is backed by 4+ years of OEM tuning experience.

The ECM flash will not require your module to be opened. What does this mean for you? The ECM will maintain a factory seal and will be able to be turned back the Factory settings if necessary at any time to maintain its manufacturer's warranty.

No need for any engine modifications. We do the whole process with a state-of-the-art computer. The tune file is designed by our proprietary software running on our mega-server, designed to ensure that it is compiled for your driving habits.

TMT's website has a webpage entitled "How it Works," which enumerates an eight-step process for preparing and shipping the ECU in order for TMT to install defeat device software. The website markets the intended purpose of the advertised products is to "tune your truck."

- Step 1: A customer will "purchase package from website."
- Step 2: The customer contacts TMT by text message.
- Step 3: The customer completes a "questionnaire about truck." The webpage explains that the "questionnaire" includes "a few basic questions such as make, model, year, automatic or standard and other questions that we need to know before we can tune your truck. Also, about any other modifications you'd like to have made."
- Step 4-6: The customer "[does] a forced regen on truck" (Step 4), "[c]lear[s] all codes from truck" (Step 5), and "[r]emove[s] ECU from Truck" (Step 6).
- Step 7: After removing the ECU, the customer ships the ECU to TMT's mailing address.
- Step 8: TMT ships and returns the purchaser's "ECU [o]vernigh back . . . within 24-92 hours after receiving.

TMT knew or should have known that these products were offered for sale, sold, or installed by bypass, defeat, or render inoperative elements of design that control emissions of regulated air pollutants, based upon TMT's status as a custom tune designer and installer, and TMT's representations for its services. Furthermore, TMT knew or should have known that these defeat device products were offered for sale or installed on "motor vehicles" or "motor vehicle engines." Many defeat device products sold or offer for sale by MFT were designed and marketed for use on specific makes and models of as Navistar, CAT, Cummins, Detroit Diesel, Freightways, and Paccar Powertrain vehicles or engines. Navistar, CAT, Cummins, Detroit Diesel, Freightways, and Paccar Powertrain sought and obtained COCs from the EPA for these motor vehicles or engines. This certification unequivocally demonstrates that these vehicles and engines are "motor vehicles" and "motor vehicle engines" under the Act.

For all of these reasons, TMT knew or should have known that they sold, offered for sale, or installed parts or components for motor vehicles or motor vehicle engines with a principal effect of bypassing, defeating, or rendering inoperative devices or elements of design that control emissions of regulated air pollutants.

Enforcement

EPA may bring an enforcement action for these violations, and other violations it identifies, under its administrative authority or by referring this matter to the United States Department of Justice with a recommendation that a civil complaint be filed in federal district court.¹⁵ Persons violating Section 203(a)(3)(B) of the Act, 42 U.S.C. § 7522(a)(3)(B), are subject to an injunction under Section 204 of the Act, 42 U.S.C. § 7523, and a civil penalty of up to \$5,179 for each violation.¹⁶ Each part or component manufactured, sold, offered for sale, or installed in violation of Section 203(a)(3)(B) is a separate violation. 42 U.S.C. § 7524(a).

Note that the EPA has not completed its investigation to identify and catalogue every Defeat Device sold or offered for sale by TMT or affiliated persons or entities associated with TMT's tuning operation. The Agency retains the authority to investigate other possible violations and our investigation of TMT's compliance with the CAA continues. Simultaneously with this Notice of Violation, the Agency is issuing a request for information to TMT pursuant to Sections 114(a)(1) and 208(a) of the CAA, 42 U.S.C. § 7414(a)(1) and 7542(a), to obtain sales and other information regarding the tunes identified in this Notice of Violation as well as information regarding additional products TMT has sold or offered for sale.

The EPA requests that you immediately cease sale of the 18 tunes identified above, as well as any other parts, tunes, or components capable of defeating, bypassing, or rendering inoperative any emission control systems or elements of design of motor vehicles. Thereafter, please provide the following statement, signed by an authorized company official:

I hereby certify that, as of [DATE], all employees of MF Trucking, LLC, and Tune My Trucks, LLC were instructed not to sell any parts, tunes, or components capable of defeating, bypassing, or rendering inoperative any emission control systems or elements of design on motor vehicles, including but not limited to International Truck and Engine Company, CAT, Cummins, Detroit Diesel, Freightways, or Paccar Powertrain vehicles, and, to the best of my knowledge and belief, MF Trucking, LLC, and Tune My Trucks, LLC has not manufactured or sold, or offered to sell, or installed any such parts since [DATE].

¹⁵CAA §§ 204 and 205, 42 U.S.C. §§ 7523, 7524.

¹⁶ CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.


Please provide the requested certification, via courier service or overnight delivery, to:

Ian Altendorfer
Attorney-Adviser
Office of Enforcement and Compliance Assurance
United States Environmental Protection Agency
1200 Pennsylvania Avenue, NW
William Jefferson Clinton Federal Building, Room 1142-C
Washington, D.C. 20460

EPA is available to discuss this matter with you in further detail upon your request. Please contact Ian Altendorfer, the EPA staff attorney assigned to this matter, within 14 days of receipt of this Notice of Violation. Mr. Altendorfer can be reached at (202) 564-6032 or altendorfer.ian@epa.gov.

Sincerely,

Greene,
Mary E

 Digitally signed by
Greene, Mary E
Date: 2023.10.06
10:16:16 -04'00'

Mary E. Greene, Director
Air Enforcement Division

CERTIFICATE OF MAILING

I, Nathan Dancher, certify that on this day I sent this Notice of Violation of the Clean Air Act, by certified mail, return receipt requested to:

Marvin B. Freedman
Chief Operating Officer, Director
MF Trucking LLC
d/b/a Tune My Trucks
15019 Cozy Hollow Lane
Houston, TX 77044

And

Marcus Muldoon
Organizer
Tune My Trucks LLC
1285 N. Telegraph Road
Unit 188
Monroe, MI 48162

NATHAN DANCHER  Digitally signed by
NATHAN DANCHER
Date: 2023.10.10
12:36:20 -04'00'

Nathan Dancher
Environmental Engineer
Air Enforcement Division
United States Environmental Protection Agency
Dancher.nathan@epa.gov