



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

MAR 12 2019

REPLY TO THE ATTENTION OF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Joshua L. Davis, President
River City Diesel, LLC and RCD Performance, LLC
1360 Spring Bay Road, Suite A
East Peoria, Illinois 61611

Re: Finding of Violation for Clean Air Act Violations

Dear Mr. Davis:

The U.S. Environmental Protection Agency is issuing the enclosed Finding of Violation (FOV) to you and River City Diesel, LLC (RCD) for violating Section 203(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522 (a)(3)(B). As summarized in the attached FOV, EPA has determined that you and RCD have manufactured, sold or offered to sell parts or components for motor vehicles and motor vehicle engines that bypass, defeat, or render inoperative elements of design of those vehicles and engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards.

In addition, as discussed in the FOV, EPA has identified certain advertisements from RCD Performance LLC's (RCDP) website that EPA is concerned may be an offer for sale of parts or components for motor vehicles and motor vehicle engines that bypass, defeat, or render inoperative elements of design of those vehicles and engines installed in order to comply with CAA emissions standards.

We are offering you an opportunity to confer with us about the violations alleged in the FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply and the steps you will take to prevent future violations. In addition, in order to make the conference more productive, we encourage you to submit to us any information responsive to the FOV prior to the conference date.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The EPA contact in this matter is Sarah Clark. You may call her at (312) 886-9733 to request a conference. You should make the request within 10 calendar days following receipt of this letter. We should hold any conference within 30 calendar days following receipt of this letter.

Sincerely,



Edward Nam
Director
Air and Radiation Division

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Joshua L. Davis,
River City Diesel LLC, and
RCD Performance, LLC
East Peoria, Illinois

Proceedings Pursuant to
The Clean Air Act,
42 U.S.C. §§ 7401–7671q

FINDING OF VIOLATION

EPA-5-19-MOB-04

FINDING OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Finding of Violation to Joshua L. Davis, River City Diesel, LLC, and RCD Performance, LLC (Mr. Davis, RCD, RCDP, or “you”) for violating Section 203(a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(B).

Statutory and Regulatory Background

1. Title II of the CAA was enacted to reduce air pollution from mobile sources. In enacting the CAA, Congress found, in part, that “the increasing use of motor vehicles...has resulted in mounting dangers to the public health and welfare.” CAA § 101(a)(2), 42 U.S.C. § 7401(a)(2). Congress’s purpose in enacting the CAA included “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.” CAA § 101(b)(1)–(2), 42 U.S.C. § 7401(b)(1)–(2).
2. Section 216(2) of the CAA defines “motor vehicle” as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” *see also* 40 C.F.R. § 85.1703 (further defining “motor vehicle”). These definitions are based on vehicle attributes (e.g., ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use (e.g., claim that a vehicle is used solely for competition).
3. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO_x), and other pollutants applicable to motor vehicles and motor vehicle engines, including diesel engine (“diesel engine”) vehicles, under Section 202 of the CAA, 42 U.S.C. § 7521. *See generally* 40 C.F.R. Part 86. Diesel engine emission standards “reflect the greatest degree of emission reduction achievable through the application of [available] technology.” CAA § 202(a)(3)(A)(i), 42 U.S.C. § 7521(a)(3)(A)(i).

4. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a manufacturer of motor vehicles or motor vehicle engines from selling a new motor vehicle or motor vehicle engine in the United States unless the motor vehicle or motor vehicle engine is covered by a certificate of conformity (COC). EPA issues COCs to motor vehicle and motor vehicle engine manufacturers under Section 206(a) of the CAA, 42 U.S.C. § 7525(a), to certify that a particular group of motor vehicles and motor vehicle engines conform to applicable EPA requirements governing motor vehicle emissions. The COC will include, among other things, a description of the diesel engines, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.
5. Diesel 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.” See 40 C.F.R. §§ 86.094-2 and 86.1803-01.
6. To meet the emission standards in 40 C.F.R. Part 86 and qualify for a COC, diesel engine manufacturers may utilize control devices or elements of design such as Exhaust Gas Recirculation (EGR), Diesel Oxidation Catalyst (DOC), Diesel Particulate Filter (DPF), and/or Selective Catalytic Reduction (SCR) systems.
7. Diesel engine vehicle manufacturers may also employ engine fueling strategies, such as retarded fuel injection timing, as a primary element of design to limit emissions of NO_x. See 59 Fed. Reg. 23,264 at 23,418 (May 5, 1994) (“[I]njection timing has a very significant impact on NO_x emission rates, with advanced timing settings being associated with higher NO_x...”).
8. Modern diesel engine vehicles, are equipped with electronic control modules (“ECMs”). ECMs continuously monitor engine and other operating parameters and control the emission control devices and elements of design, such as the EGR, DOC, DPF, and SCR systems and the engine fueling strategy.
9. Under Section 202(m) of the CAA, 42 U.S.C. § 7521(m), the EPA promulgated regulations for motor vehicles manufactured after 2007 that require diesel engine motor vehicles to have numerous devices or elements of design that, working together, can detect problems with the vehicle’s emission-related systems, alert drivers to these problems, and store electronically-generated malfunction information. 40 C.F.R. §§ 86.005-17, 86.007-17, 86.1806-05. These devices or elements of design are referred to as “onboard diagnostic systems” or “OBD” systems.
10. Section 203(a)(3)(B) of the CAA prohibits “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 [Title 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.”

Background

11. RCD and RCDP are diesel engine motor vehicle aftermarket parts sellers with a location at 1360 Spring Bay Road, East Peoria, Illinois. Mr. Davis, who has a background as a machine operator, mechanic and welder, is the LLC Manager for both RCD and RCDP, according to their respective corporate registrations filed on February 19, 2009, with the Illinois Secretary of State, and on November 2, 2018 with the Florida Department of State.
12. Mr. Davis, RCD and RCDP are each a “person,” as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).
13. On January 11, 2018, EPA conducted a Clean Air Act inspection of RCD’s East Peoria, Illinois location. During the inspection, EPA inspectors interviewed Mr. Davis who identified himself as the owner of RCD. He said that RCD began manufacturing parts in 2009 and that RCD makes replacement parts for engines, such as connecting rods, pistons, and cylinder heads that are used in racing applications such as tractor- and truck-pull competitions. Mr. Davis explained that he was aware of EPA’s efforts regarding tampering and had recently spoken with an EPA representative at a trade show. Mr. Davis admitted that RCD sold tuners and delete parts back in the 2000’s, but that was “before the EPA pinch” around 2008-2010, and that RCD no longer sells any parts for deleting emission controls. Mr. Davis said that RCD uses a disclaimer for parts that are intended for ‘off-road use only,’ due to a letter that RCD received from the California Air Resource Board many years prior. Mr. Davis said that RCD currently only sells “emissions compliant parts” and that RCD has not maintained its website since 2012/2013.
14. After the interview, Mr. Davis escorted EPA to RCD’s warehouse. Here, EPA observed numerous tuners (including performance-enhancing tuners, tuner accessories) and delete kits for EGRs and aftertreatment delete hardware products (e.g., DPF-delete exhaust pipes). Products observed included, but were not limited to, parts or components manufactured by AFE, BD, Bully Dog, Flo-Pro, RaceMe, SCT (Derive Systems), Spartan, Street Diesel Performance, and RCD.
15. On February 15, 2018, EPA issued to RCD a request for information under Section 208 of the CAA, 42 U.S.C. § 7542, requesting information related to RCD’s purchase, production, sale, distribution, installation, and advertisement of diesel engine motor vehicle and diesel engine parts or components between January 1, 2015 and February 15, 2018.
16. On May 30, 2018, EPA received RCD’s initial response, to EPA’s February 15, 2018 information request. The response included two spreadsheets (Sales Spreadsheet and

Product Application Spreadsheet) and copies of product advertisements, user manuals, and liability waivers as follows:

- a. Sales data: RCD stated that due to a Quickbooks data loss incident (Data Loss Incident), RCD was unable to provide information for the period from January 1, 2015 to approximately January 2017. Consequently, RCD provided a Sales Spreadsheet that included details and sales information for select diesel engine parts and components that RCD manufactured, purchased, and/or sold from January 2017 and the first quarter of 2018;
 - b. Product information: In the Product Application Spreadsheet, RCD listed each product that was identified in the Sales Spreadsheet as being compatible with Dodge, Ford, and/or GM motor vehicles with diesel engines; all vehicles/engines currently covered by a COC;
 - c. Product advertisements: RCD provided copies of product advertisements from RCD's website (www.rivercitydiesel.com), which included "Race Only" descriptors," such as: "This is a "Race Only" product used solely for competition. Its use is limited to closed-course racing that is formally sanctioned by a recognized racing organization. Any other use, including recreational off-road use, could be in violation of local, state and federal laws. This system also requires an aftermarket electronic module to work properly with the vehicle;"
 - d. Product manuals: RCD provided copies of manuals that contained detailed installation instructions for several products sold by RCD, including, for example, "River City Diesel 6.4L Ford EGR Delete System" and similar kits that bypass, defeat, or render inoperative the EGR on Ford 6.0, 6.4, and 6.7L Power Stroke Engines, and "DPF Delete" or "DPF OFF" tunes by Spartan Diesel Technologies that facilitate the removal of the DPF and/or DOC and the DPF, DOC, and SCR from Ford 6.4 and 6.7 L Power Stroke engines, respectively; and
 - e. Waivers: RCD provided a copy of RCD's Terms and Conditions that stated, "All items are for Off Road Use Only," and a copy of a Spartan Diesel Technologies "RACE USE DISCLAIMER AND LIABILITY WAIVER" that states that this product is designed for competition racing use only. Use on State and Federal Highways is a violation of the EPA Clean Air Act."
17. RCD objected to Requests No. 4 (for copies of receipts or invoices of products identified in RCD's response) and No. 5 (for names of distributors/dealers of RCD products) of EPA's February 15, 2018 information request. Additionally, several products that EPA observed during the January 11, 2018 Clean Air Act inspection (Observed Products) were absent from RCD's response.
 18. On October 29, 2018, EPA issued to RCD a second request for information under Section 208 of the CAA, 42 U.S.C. § 7542, requesting; further information related RCD's sales and Quickbooks files, complete responses to Requests No. 4 and No. 5 of EPA's

February 15, 2018 information request, and supplemental information about the Observed Products.

19. On November 28, 2018, EPA received RCD's response to EPA's October 29, 2018 information request. RCD provided a partial response to EPA's questions regarding the Data Loss Incident and provided information about the Observed Products. RCD continued to object however, to Requests No. 4 and No. 5 of EPA's February 15, 2018 information request and failed to provide information responsive to these requests.
20. On December 10, 2018, EPA emailed RCD to clarify RCD's explanation about the Data Loss Incident, address RCD's objections, and request RCD's intent whether to respond in full to EPA's October 29, 2018 information request.
21. On December 12, 2018, RCD's counsel notified EPA that RCD would now be responding fully to EPA's October 29, 2018 Information Request.
22. On January 4, 2019, EPA received RCD's supplemental response to EPA's requests for information. RCD provided amended Sales Spreadsheets and Product Application Spreadsheet with data recovered from the Data Loss Incident and additional information about the Observed Products. RCD provided Quickbooks files pursuant to Requests No. 4 and No. 5 of EPA's February 15, 2018 information request.
23. On January 4, 2019, RCD also provided EPA with a copy of a Statement of Termination that Mr. Davis filed with the Illinois Secretary of State on November 30, 2018.
24. EPA confirmed that on January 2, 2019, RCD's Illinois Secretary of State corporate registration expired, according to the Department of Business Services database on the Office of the Illinois Secretary of State website (www.ilsos.gov/corporatellc).
25. On January 29, 2019, EPA became aware of an Ebay seller named River City Diesel or "rcd_performance," that has been active since April 15, 2010. The images advertising many of the products listed on the rcd_performance Ebay store page were watermarked with the same RCD logo that was used on the 'www.rivercitydiesel.com' website to promote RCD-brand products. The purchase history of several products indicated that sales occurred post January 2, 2019.
26. As of February 4, 2019, EPA accessed a website operated by a "RCD Performance," (www.rcdperformance.com) which, according to the 'About Us' page, is located in 1360 Spring Bay Road, East Peoria, Illinois and is operated by Mr. Davis, "President of RCD Performance."
27. EPA confirmed, through the Florida Department of State, Division of Corporations database (search.sunbiz.org), that RCDP's current business registration, which was filed on November 2, 2018, lists Mr. Davis as the Registered Agent.
28. In a Facebook post to the page "Josh Davis for Woodford County Board," dated February 28, 2018, found the following written statement: "My name is Josh Davis in 2006, I decided to start manufacturing performance parts for diesel engines... In the spring of

2009, I officially incorporated my business, started marketing, and hired two employees to help with the operation... Currently, we generate close to ten million dollars annually in revenue...”

29. On at least September 9, 2018, Mr. Davis offered on Facebook to sell three H&S Mini Maxx tuners. One of the photographs associated with this post shows the product description which states that the Mini Maxx tuner “Allows DPF/EGR removal.”
30. The information RCD submitted in response to the EPA’s Information Requests indicates that between January 1, 2015 and November 30, 2018, RCD sold at least thousands of tuners manufactured by at least Derive Systems, RaceMe, PPEI, and Spartan Diesel Tech. These products (“Defeat Tuners”) consist of software and/or devices that render inoperative the original programming of a diesel engine vehicle’s ECM. These Defeat Tuners may alter fuel timing maps within an ECM’s electronic calibrations, modify an ECM’s calibrations governing emission control devices, and/or disable or allow for the removal of emission controls (i.e., EGR, DOC, DPF, and/or SCR system(s)) without illuminating a malfunction indicator lamp in the vehicle’s OBD system, prompting any diagnostic trouble code in the OBD system, or causing any engine derating or malfunctioning due to deactivation or removal of an emission control device.
31. The information RCD submitted in response to EPA’s Information Requests also indicates that, between January 1, 2015 and November 30, 2018, RCD manufactured and/or sold at least thousands of other parts or components that disable, remove, bypass, defeat, or render inoperative the EGR, DOC, DPF, and/or SCR systems on diesel engine vehicles (“Delete Parts or Components”) that were manufactured by AFE, Flo~Pro Performance Exhaust, RCD, and Street Diesel Performance.
32. The information EPA collected from the RCD and RCDP webpages also indicates that RCD and RCDP offered to sell additional parts or components that were not included in RCD’s responses to EPA’s Information Requests, where a principal effect of the part or component was to bypass, defeat or render inoperative elements of design that control emissions. These parts and components include at least the following RCD/RCDP-brand products for use with Ford Power Stroke engines: ‘Crankcase Vent CCV Re-Route Kits’ that appear to reroute crankcase gases to the atmosphere instead of back to the intake; ‘304 Stainless Steel Intake Manifold Elbow’ which appear to eliminate the EGR and states in the product description that this part “Requires EGR Delete;” and a “T4 Single Turbo Kit” and various related “Intake Wye Assy. 304 SS” parts that are intended to replace stock parts on 6.7 L Power Stroke engines but which do not include EGR ports, thus functioning as EGR delete parts. Notably, advertisements for the turbo kit and related products share a photo of an engine in which an EGR cooler delete plate is installed.
33. The information EPA collected from the January 11, 2018 inspection, RCD’s responses to EPA’s February 15, 2018 and October 29, 2018 Information Requests, and social media pages (i.e., Facebook) indicates that Mr. Davis has personally participated in the manufacture, sale and/or offering to sell the products identified in Paragraphs 30 through 32. Additionally, Mr. Davis has been the LLC Manager of RCD since the company’s

inception. Mr. Davis has demonstrated an understanding of the CAA tampering prohibition.

34. The parts and/or components manufactured, sold, and/or offered for sale by Mr. Davis and RCD are intended for “motor vehicles” as defined by Section 216(2) of the CAA, 42 U.S.C. § 7550(2). Specifically, the parts and/or components are designed for use on makes and models of diesel-engine motor vehicles for which their respective manufacturers have obtained COCs establishing compliance with CAA emissions standards. Further, Mr. Davis and RCD knew or should have known that these parts and/or components were being used by its customers to bypass, defeat, or render inoperative the emission controls on motor vehicles and/or motor vehicle engines certified under the CAA.
35. As a legal matter, there is no “off-road use only” or “competition only” exemption under the CAA for motor vehicles or motor vehicle engines. “Motor vehicle” is defined as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” CAA § 216(2); 42 U.S.C. § 7550(2); *See also* 40 C.F.R. § 85.1703 (further defining “motor vehicle”). These definitions make no exemption for motor vehicles or motor vehicle engines used for competition.¹ More generally, these definitions are based on vehicle attributes (*e.g.*, ability to travel over 25 miles per hour, lack of features that render street use unsafe) and make no exemption for vehicles based on their use.

Violations

36. Mr. Davis and RCD manufactured, sold, and/or offered to sell at least thousands of 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 was to bypass, defeat or render inoperative elements of design that control emissions, such as the engine fueling strategy, EGR, DOC, DPF, SCR, OBD systems and/or other elements of design on motor vehicles and motor vehicle engines, and Mr. Davis and RCD knew or should have known that such part or component was being offered for sale or installed for such use or put to such use, in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).
37. EPA further has concerns, based upon review of RCDP’s website, that RCDP may be selling parts and/or components that have a principal effect to bypass, defeat or render inoperative elements of design that control emission on motor vehicles and motor vehicle engines.

Environmental Impact of Violations

38. These violations may result in excess emissions of PM, NO_x, hydrocarbons, and other air pollutants and contribute to increased ground level ozone concentrations. PM, especially

¹ In contrast, the CAA exempts from the definition of “nonroad vehicle” and “nonroad engine” those vehicles and engines used solely for competition. CAA § 216(10)-(11); 42 U.S.C. § 7550(10)-(11). EPA has implemented regulations describing how to exempt from CAA requirements nonroad vehicles and engines used solely for competition. 40 C.F.R. § 1068.235. These regulations explicitly do not apply to motor vehicles and motor vehicle engines. 40 C.F.R. § 85.1701(a)(1).

fine particulates containing microscopic solids or liquid droplets, can get deep into the lungs and cause serious health problems, including decreased lung function; chronic bronchitis; and aggravated asthma. Additionally, current scientific evidence links short-term NO_x exposures, ranging from 30 minutes to 24 hours, with adverse respiratory effects including airway inflammation in healthy people and increased respiratory symptoms in people with asthma. Exposure to ground-level ozone can also reduce lung function and inflame lung tissue; repeated exposure may permanently scar lung tissue.

Enforcement Authority

39. EPA may bring an enforcement action for these violations 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. CAA §§ 204 and 205, 42 U.S.C. §§ 7523 and 7524. Any person who violates Section 203(a)(3) of CAA, 42 U.S.C. § 7522(a)(3), is subject to an injunction under Section 204 of CAA, 42 U.S.C. § 7523, and a civil penalty of up to \$4,735 for each violation. CAA § 205(a), 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.

Date

3/12/19


Edward Nam

Director

Air and Radiation Division

U.S. EPA Small Business Resources Information Sheet

The United States Environmental Protection Agency provides an array of resources to help small businesses understand and comply with federal and state environmental laws. In addition to helping small businesses understand their environmental obligations and improve compliance, these resources will also help such businesses find cost-effective ways to comply through pollution prevention techniques and innovative technologies.

Office of Small and Disadvantaged Business Utilization (OSDBU)

www.epa.gov/aboutepa/about-office-small-and-disadvantaged-business-utilization-osdbu

EPA's OSDBU advocates and advances business, regulatory, and environmental compliance concerns of small and socio-economically disadvantaged businesses.

EPA's Asbestos Small Business Ombudsman (ASBO)

www.epa.gov/resources-small-businesses/asbestos-small-business-ombudsman or 1-800-368-5888

The EPA ASBO serves as a conduit for small businesses to access EPA and facilitates communications between the small business community and the Agency.

Small Business Environmental Assistance Program

<https://nationalsbeap.org>

This program provides a "one-stop shop" for small businesses and assistance providers seeking information on a wide range of environmental topics and state-specific environmental compliance assistance resources.

EPA's Compliance Assistance Homepage

www.epa.gov/compliance

This page is a gateway to industry and statute-specific environmental resources, from extensive web-based information to hotlines and compliance assistance specialists.

Compliance Assistance Centers www.complianceassistance.net

EPA sponsored Compliance Assistance Centers provide information targeted to industries with many small businesses. They were developed in partnership with industry, universities and other federal and state agencies.

Agriculture

www.epa.gov/agriculture

Automotive Recycling

www.ecarcenter.org

Automotive Service and Repair

www.ccar-greenlink.org or 1-888-GRN-LINK

Chemical Manufacturing

www.chemalliance.org

Construction

www.cicacenter.org

Education

www.campuserc.org

Food Processing

www.fpeac.org

Healthcare

www.hercenter.org

Local Government

www.lgean.org

Surface Finishing

<http://www.sterc.org>

Paints and Coatings

www.paintcenter.org

Printing

www.pneac.org

Ports

www.portcompliance.org

Transportation

www.tercenter.org

U.S. Border Compliance and Import/Export Issues

www.bordercenter.org

EPA Hotlines and Clearinghouses

www.epa.gov/home/epa-hotlines

EPA sponsors many free hotlines and clearinghouses that provide convenient assistance regarding environmental requirements. Examples include:

Clean Air Technology Center (CATC) Info-line

www.epa.gov/catc or 1-919-541-0800

Superfund, TRI, EPCRA, RMP, and Oil Information Center

1-800-424-9346

EPA Imported Vehicles and Engines Public Helpline

www.epa.gov/otaq/imports or 1-734-214-4100

National Pesticide Information Center

www.npic.orst.edu or 1-800-858-7378

National Response Center Hotline to report oil and hazardous substance spills -

<http://nrc.uscg.mil> or 1-800-424-8802

Pollution Prevention Information Clearinghouse (PPIC) -

www.epa.gov/p2/pollution-prevention-resources#ppic or 1-202-566-0799

Safe Drinking Water Hotline -

www.epa.gov/ground-water-and-drinking-water/safe-drinking-water-hotline or 1-800-426-4791

Toxic Substances Control Act (TSCA) Hotline

tsc hotline@epa.gov or 1-202-554-1404

Small Entity Compliance Guides

<https://www.epa.gov/reg-flex/small-entity-compliance-guides>

EPA publishes a Small Entity Compliance Guide (SECG) for every rule for which the Agency has prepared a final regulatory flexibility analysis, in accordance with Section 604 of the Regulatory Flexibility Act (RFA).

Regional Small Business Liaisons

www.epa.gov/resources-small-businesses/epa-regional-office-small-business-liaisons

The U.S. Environmental Protection Agency (EPA) Regional Small Business Liaison (RSBL) is the primary regional contact and often the expert on small business assistance, advocacy, and outreach. The RSBL is the regional voice for the EPA Asbestos and Small Business Ombudsman (ASBO).

State Resource Locators

www.envcap.org/statetools

The Locators provide state-specific contacts, regulations and resources covering the major environmental laws.

State Small Business Environmental Assistance Programs (SBEAPs)

<https://nationalsbeap.org/states/list>

State SBEAPs help small businesses and assistance providers understand environmental requirements and sustainable business practices through workshops, trainings and site visits.

EPA's Tribal Portal

www.epa.gov/tribalportal

The Portal helps users locate tribal-related information within EPA and other federal agencies.

EPA Compliance Incentives

EPA provides incentives for environmental compliance. By participating in compliance assistance programs or voluntarily disclosing and promptly correcting violations before an enforcement action has been initiated, businesses may be eligible for penalty waivers or reductions. EPA has two such policies that may apply to small businesses:

EPA's Small Business Compliance Policy

www.epa.gov/enforcement/small-businesses-and-enforcement

EPA's Audit Policy

www.epa.gov/compliance/epas-audit-policy

Commenting on Federal Enforcement Actions and Compliance Activities

The Small Business Regulatory Enforcement Fairness Act (SBREFA) established a SBREFA Ombudsman and 10 Regional Fairness Boards to receive comments from small businesses about federal agency enforcement actions. If you believe that you fall within the Small Business Administration's definition of a small business (based on your North American Industry Classification System designation, number of employees or annual receipts, as defined at 13 C.F.R. 121.201; in most cases, this means a business with 500 or fewer employees), and wish to comment on federal enforcement and compliance activities, call the SBREFA Ombudsman's toll-free number at 1-888-REG-FAIR (1-888-734-3247).

Every small business that is the subject of an enforcement or compliance action is entitled to comment on the Agency's actions without fear of retaliation. EPA employees are prohibited from using enforcement or any other means of retaliation against any member of the regulated community in response to comments made under SBREFA.

Your Duty to Comply

If you receive compliance assistance or submit a comment to the SBREFA Ombudsman or Regional Fairness Boards, you still have the duty to comply with the law, including providing timely responses to EPA information requests, administrative or civil complaints, other enforcement actions or communications. The assistance information and comment processes do not give you any new rights or defenses in any enforcement action. These processes also do not affect EPA's obligation to protect public health or the environment under any of the environmental statutes it enforces, including the right to take emergency remedial or emergency response actions when appropriate. Those decisions will be based on the facts in each situation. The SBREFA Ombudsman and Fairness Boards do not participate in resolving EPA's enforcement actions. Also, remember that to preserve your rights, you need to comply with all rules governing the enforcement process.

EPA is disseminating this information to you without making a determination that your business or organization is a small business as defined by Section 222 of the Small Business Regulatory Enforcement Fairness Act or related provisions.

CERTIFICATE OF MAILING

I certify that I sent a Finding of Violation, No. EPA-5-19-MOB-04, by Certified Mail, Return Receipt Requested, to:

Josh Davis, President
River City Diesel, LLC (RCD Performance, LLC)
1360 Spring Bay Road, Suite A
East Peoria, Illinois 61611

I also certify that I sent a Finding of Violation, by e-mail to:

Adam Kushner, Hogan Lovells, LLP
adam.kushner@hoganlovells.com

Julie Armitage, Chief
Bureau of Air
Illinois Environmental Protection Agency
Julie.Armitage@Illinois.gov

On the 13th day of March 2019.



Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7017 0530 0000 6289 2280