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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

_____)	
UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Case No. _____
v.)	
)	
XTREME DIESEL PERFORMANCE, LLC,)	COMPLAINT
)	
Defendant.)	
_____)	

The United States of America (“United States”), by authority of the Attorney General of the United States and at the request of the Administrator of the United States Environmental Protection Agency (“EPA”), files this Complaint and alleges as follows:

I. NATURE OF THE ACTION

1. This is a civil action brought under Sections 203 and 205 of the Clean Air Act (“CAA”), 42 U.S.C. §§ 7522 & 7524, seeking assessment of civil penalties against Xtreme Diesel Performance, LLC (“Defendant”), with its principal place of business at 1758 State Route 34, Wall Township, New Jersey 07727, for violations of the CAA related to Defendant’s manufacture and sale of aftermarket products that bypass, defeat, or render inoperative emission controls installed on motor vehicles or motor vehicle engines, in violation of the CAA.

II. JURISDICTION

2. This Court has jurisdiction over the subject matter of and the parties to this action pursuant to Section 205 of the CAA, 42 U.S.C. § 7524, and 28 U.S.C. §§ 1331 (Federal Question), 1345 (United States as Plaintiff), and 1355 (Fine, Penalty, or Forfeiture).

3. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. §§ 1391(b)(2), 1391(c)(2), and 1395(a), as well as Section 205 of the CAA, 42 U.S.C. § 7524, because it is a judicial district in which Defendant is located, is

doing business, or in which a substantial part of the alleged violations in the Complaint occurred.

III. DEFENDANT

4. Defendant is a limited liability corporation with its registered office at 1758 State Route 34, Wall Township, New Jersey 07727.

5. Defendant manufactures, sells, and offers for sale aftermarket products that are designed to enhance the power, performance, or fuel economy of diesel-powered motor vehicles.

6. Defendant has a sales and distribution center at 5550 Cameron Street, Suite J-K, Las Vegas, Nevada 89118.

IV. BACKGROUND

7. This action arises under Title II of the CAA, as amended, 42 U.S.C. §§ 7521-7590, and the regulations promulgated thereunder relating to the control of emissions of air pollution from motor vehicles and motor vehicle engines.

A. Statutory and Regulatory Objectives

8. In creating the CAA, Congress found that “the increasing use of motor vehicles . . . has resulted in mounting dangers to the public health and welfare” 42 U.S.C. § 7401(a)(2). Congress’s purposes in creating the CAA were “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.” 42 U.S.C.

§ 7401(b)(1)–(2).

9. “Motor vehicle” is defined in the CAA as “any self-propelled vehicle designed for transporting persons or property on a street or highway.” 42 U.S.C.

§ 7550(2); 40 C.F.R. § 85.1703.

10. Title II of the CAA and the regulations promulgated thereunder establish standards for the emissions of air pollutants from motor vehicles and motor vehicle engines that “cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare.” 42 U.S.C.

§ 7521(a)(1). These pollutants include nitrogen oxides (“NO_x”), particulate matter (“PM”), non-methane hydrocarbons (“NMHCs”), and carbon monoxide (“CO”).

42 U.S.C. § 7521(a)(3)(A).

11. EPA has also established National Ambient Air Quality Standards for certain pollutants, including ozone, NO_x, PM, and CO. See 40 C.F.R. §§ 50.1–50.19.

12. Ozone is a highly reactive gas that is formed in the atmosphere from other pollutants, including pollutants emitted from motor vehicles.

13. PM is a form of air pollution composed of microscopic solids and liquids suspended in air. PM is emitted directly from motor vehicles and is also

formed in the atmosphere from other pollutants, including pollutants emitted from motor vehicles.

14. NO_x and NMHCs are reactive gases that contribute to the formation of PM and ozone.

15. Exposure to ozone and PM is linked to respiratory and cardiovascular health problems as well as premature death. Children, older adults, people who are active outdoors (including outdoor workers), and people with heart or lung disease are particularly at risk for health effects related to ozone or PM exposure.

16. CO is a highly toxic gas that forms when the carbon in fuel does not burn completely. CO is harmful to human health because it reduces oxygen delivery to the body's organs and tissues. CO can cause headaches, dizziness, vomiting, nausea, loss of consciousness, and death. Long-term exposure to CO has been associated with an increased risk of heart disease.

B. Acts Prohibited by Section 203(a)(3)(B) of the Clean Air Act

17. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), prohibits

any person to manufacture or sell, or offer to sell, or install, any part or component intended for use with, or as a 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

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