UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

JUN 22 2017

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Thomas A. Sparhawk
Owner
Sparhawk Truck and Trailer, Inc.
421 25th Avenue N
Wisconsin Rapids, Wisconsin 54495

Re: Notice of Violation for Clean Air Act Violations

Dear Mr. Sparhawk:

The U.S. Environmental Protection Agency is issuing the enclosed Notice of Violation (NOV) to Sparhawk Truck and Trailer, Inc. (Sparhawk or you) for violating Sections 203(a)(3)(A) and (B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(A) and (B). As summarized in the attached NOV, EPA determined that Sparhawk removed and/or rendered inoperative devices or elements of design installed on or in motor vehicles or motor vehicle engines, and has installed parts or components for motor vehicle engines that bypass, defeat, or render inoperative elements of design of those engines that were installed by the original equipment manufacturer in order to comply with CAA emission standards.

We are offering you an opportunity to confer with us about the violations alleged in the NOV. 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 NOV prior to the conference date. We have also enclosed an information sheet titled: "*U.S. EPA Small Business Resources*" which may be helpful if you qualify as a small business.

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.

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The EPA contact in this matter is Cody Yarbrough. You may call him at (312) 886-9137 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:	)	
	)	
Sparhawk Truck and Trailer, Inc.	)	**NOTICE OF VIOLATION**
Wisconsin Rapids, Wisconsin	)	
	)	**EPA-5-17-WI-02**
Proceedings Pursuant to	)	
the Clean Air Act	)	
42 U.S.C. §§ 7521 - 7554	)	
	)	

NOTICE OF VIOLATION

The U.S. Environmental Protection Agency (EPA) is issuing this Notice of Violation to Sparhawk Truck and Trailer, Inc. (Sparhawk) for violating Sections 203(a)(3)(A) and (a)(3)(B) of the Clean Air Act (CAA), 42 U.S.C. §§ 7522(a)(3)(A) and (a)(3)(B).

Statutory and Regulatory Background

1. Title II of the CAA, 42 U.S.C. §§ 7521–7554, 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).

2. EPA promulgated emission standards for particulate matter (PM), nitrogen oxides (NO_x), and other pollutants emitted by motor vehicles and motor vehicle engines, including Heavy Duty Diesel Engine (HDDE) trucks, under Section 202 of the CAA, 42 U.S.C. § 7521. *See generally* 40 C.F.R. Part 86. HDDE 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).

3. Section 203(a)(1) of the CAA, 42 U.S.C. § 7522(a)(1), prohibits a vehicle manufacturer from selling a new motor vehicle in the United States unless the vehicle is covered by a certificate of conformity. EPA issues certificates of conformity to vehicle 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 certificate of conformity will include, among other things, a description of the HDDEs, their emission control systems, all auxiliary emission control devices and the engine parameters monitored.

4. To meet the emission standards in 40 C.F.R. Part 86, HDDE manufacturers employ many devices and elements of design. "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." 40 C.F.R. § 86.094-2.

5. One element of design that HDDE manufacturers employ is retarded fuel injection timing as a primary emission control device for emissions of oxides of nitrogen (NO_x). Common emission control devices used by HDDE manufacturers include diesel particulate filter (DPF), exhaust gas recirculation (EGR) systems, selective catalytic reduction (SCR) systems, and/or diesel oxidation catalyst (DOC). Additionally, modern HDDEs are equipped with electronic control modules (ECMs), which continuously monitor engine and other operating parameters and control the emission control devices.

6. EPA promulgated regulations for motor vehicles manufactured after 2007 that require HDDE trucks to have onboard diagnostic systems to detect various emission control device parameters and vehicle operations. *See* Section 202(m) of the CAA, 42 U.S.C. § 7521(m) and 40 C.F.R. § 86.010-18.

7. 40 C.F.R. § 86.004-16(a) states that "No new heavy-duty vehicle or heavy-duty engine shall be equipped with a defeat device." 40 C.F.R. § 86.094-2 states that, among other things, a "defeat device" is an auxiliary emission control device (AECD) that "reduces the effectiveness of the emission control system under conditions which may reasonably be expected to be encountered in normal vehicle operation and use, unless: (1) Such conditions are substantially included in the Federal emission test procedure; (2) The need for the AECD is justified in terms of protecting the vehicle against damage or accident; or (3) The AECD does not go beyond the requirements of engine starting."

8. Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), prohibits "any person to remove 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] prior to its sale and delivery to the ultimate purchaser, or for any person knowingly to remove or render inoperative any such device or element of design after such sale and delivery to the ultimate purchaser."

9. 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 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

10. Sparhawk owns and operates a HDDE repair facility located in Wisconsin Rapids, Wisconsin ("Facility") and performs, among other things, truck and trailer repairs and maintenance and service. Sparhawk is a "person," as defined in Section 302(e) of the CAA, 42 U.S.C. § 7602(e).

11. On January 26, 2016, EPA representatives inspected Sparhawk's Facility and Sparhawk Trucking, Inc.'s facility, which are located at the same address.

12. On July 5, 2016, EPA issued a request for information under Section 208 of the CAA, 42 U.S.C. § 7542, to Sparhawk Trucking, Inc. requesting documents related to invoices of work performed and sales of tuners for HDDEs.

13. On September 15, 2016, Sparhawk Trucking, Inc. provided invoices related to work that impacted emission control devices and elements of design on HDDEs used on public roads, and indicated that Sparhawk performed maintenance on HDDEs owned by Sparhawk Trucking, Inc. and other customers.

14. On October 11, 2016, EPA issued a request for information under Section 208 of the CAA, 42 U.S.C. § 7542, to Sparhawk requesting documents related to invoices of work performed and sales of tuners for HDDEs.

15. On November 30, 2016, Sparhawk provided invoices and documents related to its purchases, sales, and work that impacted emission control devices and elements of design on HDDEs used on public roads.

Violations

16. Based on the information described above, Sparhawk knowingly modified, removed and/or rendered inoperative devices or elements of design installed in or on HDDEs that were installed by the original equipment manufacturer in order to comply with CAA emissions standards. Specifically, Sparhawk modified, removed and/or rendered inoperative DOCs, DPFs, EGRs, and/or SCRs installed on HDDEs used on public roads. Therefore, Sparhawk is in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A). Attachment A to this NOV specifically identifies the alleged violations.

17. Based on the information described above, Sparhawk sold, offered for sale, and/or installed software and hardware used on HDDEs driven on public roads. A principal effect of these products was to bypass, defeat, or render inoperative elements of the HDDEs design that control emissions of regulated air pollutants. Specifically, in order for the HDDEs to operate without a DPF, EGR, and/or SCR, Sparhawk installed or modified software and hardware on the HDDE's ECM to bypass the removed or modified device. Sparhawk knew or should have known that the work performed on these HDDEs and parts or components were offered for sale or installed for such use or put to such use. Therefore, Sparhawk is in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). Attachment A to this NOV specifically identifies the alleged violations.

Environmental Impact of Violations

18. These violations may result in excess emissions of PM, NO_x, hydrocarbons, and other air pollutants. PM, especially 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.

Enforcement Authority

19. 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)(A) and (a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(A) and (a)(3)(B), is subject to an injunction under Section 204 of the CAA, 42 U.S.C. § 7523, and a civil penalty of up to $4,527 for each violation under Section 205(a) of the CAA, 42 U.S.C. § 7524(a), and 40 C.F.R. § 19.4.

6/22/17
Date

Edward Nam
Director
Air and Radiation Division

Attachment A

Work Order Number	Date	Make	Model	Engine	Year	Standard Emission Control Device (ECD)	Part/Work Description	Effect on ECD	ECD
STT-00013128	2/24/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00014902	5/21/2014	Kenworth	660	Cummins ISX-15	2013	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00015269	6/5/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00016865	8/20/2014	Navistar			2006	EGR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Tuner	Bypass ECD	EGR, DOC, DPF
								Alter fuel injection	
STT-00016875	8/21/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	

STT-00016876	8/21/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00017757	10/10/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00017759	10/10/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00017773	10/13/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00017955	10/16/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	

STT-00017970	10/16/2014	Kenworth	660	Cummins ISX-15	2013	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00018065	10/20/2014	Kenworth	660	Cummins ISX-15	2013	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00018069	10/20/2014	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
							Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Tuner	Bypass ECDs	EGR, SCR, DOC, DPF
								Alter fuel injection	
STT-00018966	12/3/2014	Kenworth	W900	Cummins ISX CM2250	2012	EGR, SCR, DOC, DPF	Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
STT-000023448	7/27/2015	FRGHT	Cascadia	Cummins ISXCM871	2010	EGR, SCR, DOC, DPF	Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Turbo/Exhaust manifold replacement	Removes ECD	EGR
STT-00025631	12/11/2015	Kenworth	660	Cummins ISX-15	2010	EGR, SCR, DOC, DPF	Turbo/Exhaust manifold replacement	Removes ECD	EGR
STT-00025716	12/15/2015	Kenworth	680	Cummins ISX CM2250	2013	EGR, SCR, DOC, DPF	Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
STT-00025717	12/15/2015	Kenworth	KEN	Cummins ISX CM2250	2012	EGR, SCR, DOC, DPF	Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF
							Turbo/Exhaust manifold replacement	Removes ECD	EGR
STT-00025718	12/15/2015	Kenworth	680	Cummins ISX CM2250	2013	EGR, SCR, DOC, DPF	Exhaust Delete Kit	Removes ECDs	SCR, DOC, DPF

CERTIFICATE OF MAILING

I certify that I sent a Notice of Violation, No. EPA-5-17-WI-02, by Certified Mail, Return Receipt Requested, to:

Thomas A. Sparhawk, Owner
Sparhawk Truck and Trailer, Inc.
421 25th Ave. N
Wisconsin Rapids, Wisconsin 54495

On the 23rd day of June 2017.

for Kathy Jones
Program Technician
AECAB, PAS

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7647 0278

United States Environmental Protection Agency

Office of Enforcement and Compliance Assurance
EPA-300-B-17-001 June 2017

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 OSBBU 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
tsca-hotline@epa.gov or 1-202-554-1404

U.S. Small Business Resources

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.