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UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 HAWTHORNE STREET
SAN FRANCISCO, CALIFORNIA 94105

In the Matter of:	)	Docket No. CAA-09-2015-0002
	)	
	)	
Estes Express Lines	)	CONSENT AGREEMENT AND
	)	FINAL ORDER PURSUANT TO
Respondent	)	40 C.F.R. §§ 22.13 and 22.18
	)	

I. CONSENT AGREEMENT

A. PRELIMINARY STATEMENT

1. This is a civil administrative penalty assessment proceeding brought under section 113(d) of the Clean Air Act (the "Act"), 42 U.S.C. § 7413(d), and sections 22.13 and 22.18 of the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits ("Consolidated Rules"), as codified at 40 C.F.R. Part 22. In accordance with 40 C.F.R. §§ 22.13 and

22.18, entry of this Consent Agreement and Final Order ("CAFO") simultaneously initiates and concludes this matter.

2. Complainant is the Director of the Enforcement Division, United States Environmental Protection Agency, Region IX (the "EPA"), who has been duly delegated the authority to initiate and settle civil administrative penalty proceedings under section 113(d) of the Act.

3. Respondent is Estes Express Lines, a private, for-hire trucking firm based in Virginia that owns and/or operates diesel-fueled vehicles registered to be driven on public highways in all 50 states, including California.

4. Complainant and Respondent, having agreed that settlement of this action is in the public interest, consent to the entry of this CAFO without adjudication of any issues of law or fact herein, and Respondent agrees to comply with the terms of this CAFO.

B. JURISDICTION

5. Pursuant to section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), EPA and the United States Department of Justice jointly determined that this matter, which involves alleged violations that occurred more than one year before the initiation of this proceeding, is appropriate for an administrative penalty assessment.

6. In satisfaction of the notice requirements of section 113(a) of the Act, 42 U.S.C. § 7413(a), on February 5, 2015, EPA issued to Respondent a notice of violation ("NOV") and provided a copy of the NOV to the California Air Resources Board, providing notice to both that EPA found that Respondent committed the alleged violations described in Section D of this CAFO and providing Respondent an opportunity to confer with the

EPA. On March 18, 2015, representatives of Respondent and EPA discussed the NOV.

C. GOVERNING LAW

Clean Air Act

7. Pursuant to section 107(d) of the Act, 42 U.S.C. § 7407(d), the Administrator promulgated lists of attainment status designations for each air quality control region ("AQCR") in every state. These lists identify the attainment status of each AQCR for each of the criteria pollutants. The attainment status designations for California AQCRs are listed at 40 C.F.R. § 81.305.

8. There are seven AQCRs designated as nonattainment for fine particulate matter (i.e., $PM_{2.5}$) in California, including all of the San Joaquin Valley and the Los Angeles-South Coast Air Basin. *See* 40 C.F.R. § 81.305.

9. Section 110(a) of the Act requires that all states adopt SIPs that provide for the implementation, maintenance and enforcement of primary and secondary air quality standards. 42 U.S.C. § 7410(a).

10. A person's failure to comply with any approved regulatory provision of a SIP renders the person in violation of an applicable implementation plan and subject to enforcement under section 113(a)(1) of the Act. 42 U.S.C. § 7413(a)(1).

Title 13, Section 2025 of California Code of Regulations: On-Road Heavy-Duty Diesel Vehicles

11. On December 14, 2011, California Air Resources Board ("ARB") amended its "Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants From In-Use Heavy-Duty Diesel-Fueled Vehicles," codified at title 13, section 2025 of the California Code of Regulations (the "Truck and Bus Regulation").

12. The Truck and Bus Regulation was incorporated into the federal SIP on May 4, 2012. *See* 77 Fed. Reg. 20308 (April 4, 2012).

13. Under section 2025(d)(17) of the Truck and Bus Regulation, "Diesel Particulate Filter" means "an emission control technology that reduces diesel particulate matter emissions by directing the exhaust through a filter that physically captures particulates but permits gases to flow through. . . ."

14. Under section 2025(d)(18) of the Truck and Bus Regulation, "Diesel Particulate Matter (PM)" means "the particles found in the exhaust of diesel fueled compression ignition engines. . . ."

15. Under section 2025(d)(28) of the Truck and Bus Regulation, "Fleet" means "one or more vehicles, owned by a person, business, or government agency, traveling in California and subject to this regulation."

16. Under section 2025(d)(29) of the Truck and Bus Regulation, "Fleet Owner" means, with certain exceptions, "either the person registered as the owner or lessee of a vehicle by the California Department of Motor Vehicles (DMV), or its equivalent in another state, province, or country, as evidenced on the vehicle registration document carried in the vehicle."

17. Under section 2025(d)(47) of the Truck and Bus Regulation, "Person" means "an individual, corporation, business trust, estate, trust, partnership, Limited Liability Company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity."

18. Under section 2025(d)(48) of the Truck and Bus Regulation, "PM BACT" means "the technology employed on the highest level VDECS for PM or an engine that is equipped with an original equipment manufacturer (OEM) diesel particulate filter and certified to meet 0.01 g/bhp-hr [british horsepower per hour] certification standard."

19. Under section 2025(d)(60) of the Truck and Bus Regulation, "Verified Diesel Emission Control Strategy (VDECS)" means "an emissions control strategy, designed primarily for the reduction of diesel PM emissions, which has been verified pursuant to the Verification Procedures. VDECS can be verified to achieve Level 1 diesel PM reductions (25 percent), Level 2 diesel PM reductions (50 percent), or Level 3 diesel PM reductions (85 percent). VDECS may also be verified to achieve NOx reductions. . . ."

20. The Truck and Bus Regulation applies to diesel-fueled trucks and buses that are privately or federally owned, and to publicly and privately owned school buses, that have a manufacturer's gross vehicle weight rating ("GVWR") greater than 14,000 pounds. The ARB Rule requires, in part, Fleet Owners to upgrade their vehicles to meet specific performance standards for oxides of nitrogen ("NOx") and particulate matter ("PM").

21. Under section 2025(d)(3) of the Truck and Bus Regulation, "2010 Model Year Emissions Equivalent Engine" means "emissions from: (A) An engine certified to the 2004 through 2006 model year heavy-duty diesel engine emissions standard that is equipped with the highest VDECS and reduces NOx emissions by at least 85 percent; or (B) An engine that was built to the 2004 engine emission standard and was not used in any manufacturer's averaging, banking, or trading program that is equipped with the highest VDECS and reduces NOx exhaust emissions by at least 85 percent; or (C) An engine certified to the

2007 model year heavy-duty diesel engine emissions standard that meets PM BACT and reduces NOx exhaust emissions by more than 70 percent; or (D) An engine certified to the 2010 model year or newer heavy-duty diesel engine emissions standard that meets PM BACT; or (E) A heavy-duty engine certified to 0.2 g/bhp-hr or less NOx emissions level and 0.01 g/bhp-hr or less PM emissions level, or (D) An off-road engine certified to the Tier 4 Final engine emissions standard."

22. Section 2025(g) of the Truck and Bus Regulation requires subject vehicles with GVWR of over 26,000 pounds to meet the PM BACT requirements and upgrade to a 2010 Model Year Emissions Equivalent Engine starting January 1, 2012 according to the compliance schedule set forth in Table 2:

    a. By January 1, 2012, all subject vehicles with an engine model year of 1996 through 1999 must install a PM Filter.

    b. By January 1, 2013, all subject vehicles with an engine model year of 2000 through 2004 must install a PM Filter.

    c. By January 1, 2014, all subject vehicles with an engine model year of 2005 through 2006 must install a PM Filter.

    d. Between January 1, 2015 through January 1, 2023, all subject vehicles must upgrade to a 2010 Model Year Emissions Equivalent Engine depending on their engine model year.

23. Section 2025(x)(1) of the Truck and Bus Regulation provides that "[t]he vehicle owner shall comply with all applicable requirements and compliance schedules set forth in this regulation."

24. Section 2025(x)(2) of the Truck and Bus Regulation provides that "[a]ny in-state or out-of-state motor carrier, California broker, or any California resident who operates or directs the operation of any vehicle subject to this regulation shall verify that each hired

or dispatched vehicle is in compliance with the regulation and comply with the record keeping requirements of Section 2025(s)(4)."

25. Under section 2025(s)(4) of the Truck and Bus Regulation, motor carriers or brokers must maintain bills of lading and other documentation identifying the motor carrier or broker who hired or dispatched the vehicle and the vehicle dispatched.

D. ALLEGED VIOLATIONS OF LAW

26. Respondent is a "Person" as that term is defined under section 302(e) of the Act, 42 U.S.C. § 7602(e), and section 2025(d)(47) of the Truck and Bus Regulation.

27. Respondent has a "Fleet" of vehicles as that term is defined under section 2025(d)(28) of the Truck and Bus Regulation, and is a "Fleet Owner" as that term is defined under section 2025(d)(29) of the Truck and Bus Regulation.

28. Respondent operated 34 diesel-fueled vehicles with an engine model year of 1996-1999 and a GVWR greater than 26,000 pounds that lacked PM filters in California from or about May 4, 2012 through December 31, 2012.

29. Respondent violated section 2025(g) of the Truck and Bus Regulation by failing to timely install PM filters on at least 34 diesel-fueled vehicles that it owned and operated in California from or about May 4, 2012 through December 31, 2012.

30. Respondent operated 17 diesel-fueled vehicles with an engine model year of 2000-2004 and a GVWR greater than 26,000 pounds that lacked PM filters in California during 2013.

31. Respondent violated section 2025(g) of the Truck and Bus Regulation by failing to timely install PM filters on at least 17 diesel-fueled vehicles that it owned and operated in California during 2013.

32. Respondent operated 22 diesel-fueled vehicles with an engine model year of 2005-2006 and a GVWR greater than 26,000 pounds that lacked PM filters in California during 2014.

33. Respondent violated section 2025(g) of the Truck and Bus Regulation by failing to timely install PM filters on at least 22 diesel-fueled vehicles that it owned and operated in California during 2014.

34. Respondent hired eight (8) motor carriers between May 4, 2012 and June 16, 2014 but failed to verify the compliance of these companies with the Truck and Bus Regulation.

35. Respondent violated section 2025(x)(2) of the Truck and Bus Regulation by failing to verify that each of the eight motor carriers it hired between May 4, 2012 and June 16, 2014 was in compliance with the Truck and Bus Regulation.

36. Respondent violated section 2025(x)(1) of the Truck and Bus Regulation by failing to comply with all applicable requirements and compliance schedules set forth in the Truck and Bus Regulation.

E. TERMS OF CONSENT AGREEMENT

37. For the purpose of this proceeding, as required by 40 C.F.R. § 22.18(b)(2), Respondent:

a. admits that EPA has jurisdiction over the subject matter alleged in this CAFO and over Respondent;

b. neither admits nor denies the specific factual allegations contained in Section I.D of this CAFO;

c. consents to the assessment of a civil penalty under this Section, as stated below;

d. consents to the conditions specified in this CAFO, including performance of Supplemental Environmental Projects set forth in Section I.E of this CAFO;

e. waives any right to contest the allegations set forth in Section I.D of this CAFO; and

f. waives its rights to appeal the proposed Order contained in this CAFO.

Civil Penalty

38. Respondent agrees to:

a. pay the civil penalty of ONE HUNDRED THOUSAND DOLLARS ($100,000) ("EPA Penalty") within 30 calendar days of the Effective Date of this CAFO; and

b. pay the EPA Penalty using any method, or combination of methods, provided on the website http://www2.epa.gov/financial/additional-instructions-making-payments-epa, and identifying each and every payment with "Docket No. CAA-09-2015-0002." Within 24 hours of payment of the EPA Penalty, send proof of payment to Charles Aldred at:

Mail Code (ENF-2-1)
Enforcement Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

and at aldred.charles@epa.gov ("proof of payment" means, as applicable, a copy of the check, confirmation of credit card or debit card payment, confirmation of wire or automated clearinghouse transfer, and any other information required to demonstrate that payment has been made according to the EPA requirements, in the amount due, and identified with "Docket No. CAA-09-2015-0002").

39. If Respondent fails to pay the civil administrative penalty specified in Paragraph 38(a) of this CAFO within 30 days after the effective date of this CAFO, then Respondent shall pay to EPA a stipulated penalty in the amount of ONE THOUSAND DOLLARS ($1,000.00) for each day the default continues, upon written demand by EPA.

40. If Respondent fails to timely pay any portion of the penalty assessed under this CAFO, EPA may:

a. request the Attorney General to bring a civil action in an appropriate district court to recover: the amount assessed; interest at rates established pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses; and a 10 percent quarterly nonpayment penalty, 42 U.S.C. § 7413(d)(5);

b. refer the debt to a credit reporting agency or a collection agency, 42 U.S.C. § 7413(d)(5), 40 C.F.R. §§ 13.13, 13.14, and 13.33;

c. collect the debt by administrative offset (i.e., the withholding of money payable by the United States to, or held by the United States for, a person to satisfy the debt the person owes the Government), which includes, but is not limited to, referral to the Internal Revenue Service for offset against income tax refunds, 40 C.F.R. Part 13, Subparts C and H; and

d. suspend or revoke Respondent's licenses or other privileges, or (ii) suspend or disqualify Respondent from doing business with EPA or engaging in programs EPA sponsors or funds, 40 C.F.R. § 13.17.

Supplemental Environmental Projects

41. As a condition of settlement, Respondent agrees to perform the following Supplemental Environmental Projects ("SEPs"):

a. Compliance Promotion

i. Respondent has selected the University of California Davis Extension ("UCDE") to implement the SEP described in this Paragraph 41(a) of the CAFO. Respondent shall provide THIRTY-FIVE THOUSAND DOLLARS ($35,000) to UCDE within sixty (60) days of the effective date of this CAFO to implement a CARB-approved training program for out-of-state interstate trucking firms in achieving compliance with the Truck and Bus Regulation. This SEP shall be completed when the full amount of the funds, $35,000, is expended by UCDE to wholly implement the training program that is provided at no fewer than three (3) conferences or meetings for members of the out-of-state trucking industry not later than one year after the effective date of this CAFO.

ii. Within 60 days after completion of this SEP, Respondent shall submit a Compliance Promotion SEP Completion Report (the "Compliance Promotion Report") to EPA at the address specified in Paragraph 38(b) of this CAFO. Respondent shall include the following information in the Compliance Promotion Report: (a) copies of training materials and audiovisual presentations developed in connection with the SEP; (b) names and dates for industry conferences and meetings during which such training materials and audiovisual presentations were disseminated; and

(c) written certification of project completion. For purposes of the Compliance Promotion Report, Respondent may place reasonable reliance on the accuracy of reports or other information provided to it by UCDE.

iii. If EPA concludes based on the Compliance Promotion Report that the SEP has been performed and completed in accordance with the CAFO, EPA will approve completion of the SEP for purposes of the CAFO.

iv. Respondent acknowledges that the SEP is completed only if Respondent demonstrates that the funds have actually been spent by UCDE, and that the expenditure of funds met all requirements of this CAFO. Respondent may place reasonable reliance on the accuracy of reports or other information provided by UCDE to satisfy this obligation.

b. Wood Stove Replacement

i. Respondent has selected San Joaquin Valley Air Pollution Control District (the "District" or "SJVAPCD") to implement the SEP described in this Paragraph 41(b) of the CAFO and in Appendix A. Respondent shall provide TWO HUNDRED FIFTY-FIVE THOUSAND AND FOUR HUNDRED DOLLARS ($255,400) to the District within sixty (60) days of the effective date of this CAFO, to be utilized in the District's existing Burn Cleaner Incentive Program. The Burn Cleaner Incentive Program provides incentives to residents within the jurisdictional boundaries of the SJVAPCD to replace their old wood or pellet-burning devices with new cleaner hearth options through rebates, vouchers, discounts, and for

income-qualified residential homeowners or tenants, full replacement costs. The SEP shall be implemented as set forth in this Section of the CAFO and Appendix A in compliance with the schedule and the other terms of this CAFO.

ii. The SEP shall be for the purpose of mitigating environmental harm allegedly caused by Respondent, as set forth in Section I.D of this CAFO. The funding shall be utilized by the District to provide incentives to residents within the jurisdictional boundaries of the SJVAPCD to replace their old wood or pellet-burning devices with new cleaner options to reduce particulate matter, which contributes to air pollution.

iii. The SEP shall provide incentives for replacement of a minimum of eighty (80) wood-burning appliances through the District's Burn Cleaner Incentive Program.

iv. Respondent acknowledges that the SEP is completed only if Respondent demonstrates that the funds have actually been spent by the District, and that the expenditure of funds met all requirements of this CAFO and Appendix A. Respondent may place reasonable reliance on the accuracy of reports or other information provided by the District to satisfy this obligation.

42. Respondent shall maintain, and present to EPA upon request, all documents to substantiate the funds expended and work completed to implement the SEPs described in Paragraph 41 and Appendix A, and shall provide these documents to EPA within thirty (30) Days of any

request for the documents. Respondent may place reasonable reliance on the accuracy of reports or other information provided by the District and/or UCDE to satisfy this obligation.

43. Respondent certifies the truth and accuracy of each of the following:

a. That, as of the date of executing this CAFO, Respondent is not required to perform or develop the SEPs by any federal, state, or local law or regulation and is not required to perform or develop the SEPs by agreement, grant, or as injunctive relief awarded in any other action in any forum;

b. That the SEPs are not projects that Respondent was planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CAFO;

c. That Respondent had not received and will not receive credit for the SEPs in any other enforcement action;

d. That Respondent will not receive reimbursement for any portion of the SEPs from another person or entity;

e. That for federal income tax purposes, Respondent agrees that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEPs;

f. That it is not a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEPs described in this CAFO; and

g. That it has inquired of SJVAPCD and UCD whether they are parties to an open federal financial assistance transaction that is funding or could fund the same

activity as the SEPs and has been informed by SJVAPCD and UCD that they are not parties to such a transaction

44. In the event that Respondent fails to comply with one or more requirements of SEPs set forth in Paragraph 41 of this CAFO, the following provisions for stipulated penalties shall apply:

a. Respondent agrees to pay Complainant a stipulated penalty in the following amounts for each day the default continues, up to but not to exceed FOUR HUNDRED AND FIFTY THOUSAND DOLLARS ($450,000):

VIOLATION	STIPULATED PENALTY
a. Failure to pay $35,000 to UCD or $255,400 to SJVAPCD within 60 calendar days from the effective date of this CAFO	$1,000 per calendar day after 60 days from the effective date for this CAFO
b. Failure to timely submit a complete and adequate report, such as the SEP Completion Report	$250 per day for the first thirty (30) calendar days that report is late, then $500 per day thereafter

b. All penalties shall begin to accrue on the date that performance is due or a violation of this CAFO occurs and shall continue to accrue through the final day of correction of the noncompliance. Nothing herein shall prevent the simultaneous accrual of separate penalties for separate violations.

c. All penalties owed to EPA under this Section shall be due within thirty (30) calendar days of Respondent's receipt of a notification of noncompliance and request for payment from EPA. Such notification shall describe the noncompliance and shall indicate the amount of penalties due. Interest at the current rate published by the United States Treasury, as described at 40 C.F.R.

§ 13.11, shall begin to accrue on the unpaid balance at the end of the thirty-day period.

d. Payment of stipulated penalties shall be made in accordance with the procedure set forth for payment of the penalty in Section E of this CAFO.

e. All payments shall indicate Respondent's name and address, and the EPA docket number assigned to this action.

f. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this CAFO.

g. The payment of stipulated penalties specified in this Section shall not be deducted by Respondent or any other person or entity for federal, state or local taxation purposes.

45. The provisions of this CAFO shall apply to and be binding upon Respondent and its officers, directors, employees, agents, trustees, servants, authorized representatives, successors, and assigns. Respondent must give written notice and a copy of this CAFO to any successors in interest prior to any transfer of ownership or control of any portion of or interest in Respondent. Simultaneously with such notice, Respondent shall provide written notice of such transfer, assignment, or delegation to EPA. In the event of any such transfer, assignment, or delegation, Respondent shall not be released from the obligations or liabilities of this CAFO unless EPA has provided written approval of the release of said obligations or liabilities.

46. By signing this CAFO, Respondent acknowledges that this CAFO will be available to the public and agrees that this CAFO does not contain any confidential business information or personally identifiable information.

47. By signing this CAFO, the undersigned representative of Complainant and the undersigned representative of Respondent each certify that he or she is fully authorized to execute and enter into the terms and conditions of this CAFO and has the legal capacity to bind the party he or she represents to this CAFO.

48. By signing this CAFO, Respondent certifies that the information it has supplied concerning this matter was at the time of submission true, accurate, and complete for each such submission, response, and statement. Respondent acknowledges that there are significant penalties for submitting false or misleading information, including the possibility of fines and imprisonment for knowing submission of such information, under 18 U.S.C. § 1001.

49. Each party shall bear its own attorney's fees, costs, and disbursements incurred in this proceeding.

F. EFFECT OF CONSENT AGREEMENT AND ATTACHED FINAL ORDER

50. In accordance with 40 C.F.R. § 22.18(c), completion of the terms of this CAFO resolves only Respondent's liability for federal civil penalties for the violations and facts specifically alleged above.

51. Penalties paid pursuant to this CAFO shall not be deductible for purposes of federal taxes.

52. This CAFO constitutes the entire agreement and understanding of the parties and supersedes any prior agreements or understandings, whether written or oral, among the parties with respect to the subject matter hereof.

53. Any violation of this Order may result in a civil judicial action for an injunction or civil penalties of up to $37,500 per day per violation, or both, as provided in section 113(b)(2) of the Act, 42 U.S.C. § 7413(b)(2), as well as criminal sanctions as provided in section 113(c) of the Act, 42 U.S.C. § 7413(c). EPA may use any information submitted under this Order in an administrative, civil judicial, or criminal action.

54. Nothing in this CAFO shall relieve Respondent of the duty to comply with all applicable provisions of the Act and other federal, state, or local laws or statutes, nor shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on, or determination of, any issue related to any federal, state, or local permit.

55. Nothing herein shall be construed to limit the power of EPA to undertake any action against Respondent or any person in response to conditions that may present an imminent and substantial endangerment to the public health, welfare, or the environment.

56. EPA reserves the right to revoke this CAFO and settlement penalty if and to the extent that EPA finds, after signing this CAFO, that any information provided by Respondent was materially false or inaccurate at the time such information was provided to EPA, and EPA reserves the right to assess and collect any and all civil penalties for any violation described herein. EPA shall give Respondent notice of its intent to revoke, which shall not be effective until received by Respondent in writing.

G. EFFECTIVE DATE

57. Respondent and Complainant agree to issuance of the attached Final Order. Upon filing, EPA will transmit a copy of the filed CAFO to the Respondent. This CAFO shall become effective after execution of the Final Order by the Regional Judicial Officer on the date of filing with the Regional Hearing Clerk.

The foregoing Consent Agreement In the Matter of Estes Express Lines, Docket No. CAA-09-2015 0002, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR RESPONDENT:

Signature: Barry D Oakes

Date: 9-8-2015

Printed Name: GARY D OKES

Title: CFO/TREASURER

Address: P.O. BOX 25612, RICHMOND, VA 23260

Respondent's Federal Tax Identification Number: 54-0492941

The foregoing Consent Agreement In the Matter of Estes Express Lines, Docket No. CAA-09-2015 0002, is Hereby Stipulated, Agreed, and Approved for Entry.

FOR COMPLAINANT:

September 25, 2015

DATE

Kathleen H. Johnson
Director, Enforcement Division
United States Environmental
Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

II. FINAL ORDER

EPA Region IX and Estes Express Lines, having entered into the foregoing Consent Agreement,

IT IS HEREBY ORDERED that this CAFO (Docket No. CAA-09-2015-0002) be entered, and Respondent shall pay a civil administrative penalty in the amount of ONE HUNDRED THOUSAND DOLLARS ($100,000) and otherwise comply with the terms set forth in the CAFO.

09/29/15

DATE

STEVEN JAWGIEL
Regional Judicial Officer
United States Environmental
Protection Agency, Region IX

APPENDIX A
WOOD STOVE REPLACEMENT SEP

Respondent shall provide TWO HUNDRED FIFTY-FIVE THOUSAND AND FOUR HUNDRED DOLLARS ($255,400) to San Joaquin Valley Air Pollution Control District (the "District") to be utilized in the District's existing Burn Cleaner Incentive Program (the "SEP").

A. SEP Purpose

The SEP shall be for the purpose of mitigating environmental harm allegedly caused by Respondent's violations of the Truck and Bus Regulations, as set forth in Section I.D of this CAFO.

B. Requirements

1. The SEP shall provide incentives for the wood-burning appliance replacements through the District's Burn Cleaner Program, which provides incentives to residents within the jurisdictional boundaries of the SJVAPCD to replace their old wood or pellet-burning devices with new cleaner hearth options through rebates, vouchers, discounts, and for income-qualified residential homeowners or tenants, full replacement costs.

2. To qualify for the SEP, all requirements of the District's existing Burn Cleaner Incentive Program must be met. Program Guidelines are attached as Appendix B.

3. The SEP shall be implemented within the jurisdictional boundaries of the District. In selecting from the specific applicants to implement this project within the aforementioned geographic area, the District shall give priority to qualified low income households.

4. Each participant in the District's Burn Cleaner Program shall receive information related to proper operation of their new appliance and the benefits of proper operation (e.g., lower emissions, better efficiency), including, if applicable, the importance of burning dry seasoned wood.

5. All of the funds provided by Respondent for the SEP shall be directed by the District to residential vouchers with the exception of administrative costs of 5% of the total funding contribution.

C. Environmental Benefit

The SEP shall provide incentives to San Joaquin Valley, California residents to replace their old wood or pellet-burning devices with new cleaner options to reduce particulate matter, which contributes to air pollution.

D. Schedule

Respondent shall contribute the funds for the SEP within 60 days of the effective date of the CAFO to:

San Joaquin Valley Unified Air Pollution Control District
Attn: Todd DeYoung, Program Manager
1990 E. Gettysburg
Fresno, CA 93726

The SEP shall be completed when the full amount of the funds, $255,400, is provided in incentives to project participants, and all wood burning appliances are installed, but not later than two years after the effective date. Respondent shall submit a Wood Stove Replacement SEP Completion Report within 60 days after completion of the SEP to:

Charles Aldred
Mail Code (ENF-2-1)
Enforcement Division
U.S. Environmental Protection Agency, Region IX
75 Hawthorne Street
San Francisco, CA 94105

E. SEP Completion

1. Within 60 days after completion of the SEP, Respondent shall submit a Wood Stove Replacement SEP Completion Report (the "Wood Stove Replacement Report") to EPA at the address specified in Paragraph D. Respondent shall include the following information in the Wood Stove Replacement Report: (a) the total number and type of appliances made available through the SEP, (b) the cost per unit, (c) the value of the rebate or incentive per unit; and (d) written certification of project completion. For purposes of the Wood Stove Replacement Report, Respondent may place reasonable reliance on the accuracy of reports or other information provided to it by the District.

2. If EPA concludes based on the Wood Stove Replacement Report that the SEP has been performed and completed in accordance with the CAFO, EPA will approve completion of the SEP for purposes of the CAFO.

APPENDIX B

GUIDELINES FOR THE BURN CLEANER INCENTIVE PROGRAM OF SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

BurnCleaner
Fireplace and Woodstove Change-out

VOUCHER GUIDELINES

Eligible funding amount may include the total purchase and installation costs of the new device.

Application Type	Eligible Funding
Standard for any eligible device below	Up to $1,000
Low-income for any eligible device below	Up to $2,500
Additional incentive towards gas device (for both Standard and Low-income)	Up to $500*

Applies **only to eligible installation costs beyond the funding amount.*

	REPLACEMENT OPTIONS		
Old Device Type	New Freestanding Gas Stove, Gas Insert or Gas Fireplace[2]	New Certified Freestanding Pellet Stove or Certified Pellet Insert[1]	New Certified Wood Stove or Certified Wood Insert[1]
Open-hearth fireplace or wood-burning firebox	✓	✓	✓
Non-certified wood insert or stove	✓	✓	✓
Certified wood insert or stove	✓	✓	✗
Pellet stove or insert	✓	✗	✗

1. New certified wood or pellet devices must be identified on the list of EPA Certified Wood Heaters to be eligible for Burn Cleaner.

2. To be eligible, the gas fireplace must be certified as heater-rated, which are tested using the American National Standard ANSI Z21.88/CSA 2.33 (Vented Gas Fireplace Heaters). Gas fireplaces that are designed exclusively for aesthetic and decorative use are not eligible.

REQUIREMENTS & ELIGIBILITY

- **Do not** make any non-refundable payments or install your new device until you receive a District Voucher.
- Gas stoves, gas inserts, gas fireplaces, or devices with a gas log are **not eligible** for replacement through this program.
- The applicant is limited to one voucher per device address.
- The applicant of the real property must not be subject to any related District, state or federal rules or regulations that require a replacement or permanent destruction of the old device, such as District Rule 4901 – Wood Burning Fireplaces and Wood Burning Heaters (i.e., you can not be purchasing the new device in preparation for the sale of a house).
- The real property, where the device is to be installed, must be located within the San Joaquin Valley (SJV) air basin, which includes the following counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Kings, Tulare and the SJV portion of Kern County.
- Installation of a new device must be conducted by the contracted Retailer; a third-party contractor under the approval and supervision of the Retailer; or by a certified technician. Self-installation or installation by non-licensed contractor is not eligible under this program.
- New device must be purchased from a contracted retailer, for a list of retailers visit www.valleyair.org/burncleaner.
- Priority will be given to low-income applicants, those purchasing natural-gas devices and those that reside in an area without piped natural-gas service. Low-income Eligibility Form available at www.valleyair.org/burncleaner.
- The new device must be installed at the device address for a minimum of three years.
- **Before and After photos are required**, see photo guidelines below:
  1. Two pre-installation photos of the old device are required during Phase 1.
     - First photo should clearly show device and background, second photo should be a close up with any screen doors open.
     - Photos must:
       a. Show device in its original location and have all original parts intact (i.e. panels, screens, etc.). For freestanding stoves, the Applicant must provide a photo with pipe and ventilation system intact.
       b. Be taken before any installation of parts for new device (i.e. new electrical outlets, etc).
  2. One post-installation photo is required during Phase 3.
     a. Please provide an explanation if the background is different *(i.e. major reconstruction)*.

San Joaquin Valley
AIR POLLUTION CONTROL DISTRICT

BurnCleaner
Fireplace and Woodstove Change-out

VOUCHER GUIDELINES *(Continued)*

ADDITIONAL DOCUMENTATION REQUIRED for Tenants and Low-Income Applicants

Applicant Status	Required Documentation to be submitted with Voucher Application
Standard Tenants applying for new device	☐ Rental Property Owner/Tenant Approval Form. ☐ Current proof of residence for tenant at the device address *(i.e. most recent utility bill)*. ☐ Copy of the signed lease agreement with a minimum of six (6) months remaining from the date of the application submittal. **If you cannot provide this documentation, please contact Program staff.**
LOW-INCOME APPLICANTS MUST FALL WITHIN ONE OF THE CATEGORIES BELOW:	
Homes owned by local Public Housing Authorities and multi-unit residential complexes with more than two units are **ineligible.**	
Low-income Homeowner applying for new device	☐ Low-Income Eligibility form and required verification documents.
Property Owner with Low-Income Tenant applying for new device on their behalf	☐ Rental Property Owner/Tenant Approval Form. ☐ Low-Income Eligibility form and required verification documents *(to be completed* by tenant). ☐ Current proof of residence for tenant at the device address *(i.e. most recent utility bill)*. ☐ Copy of the signed lease agreement between the property owner and occupied tenant with a minimum of six (6) months remaining from the date of the application submittal. **If you cannot provide this documentation, please contact Program staff.** ☐ If the lease agreement is part of the Housing Choice Vouchers Program *(formerly Section 8)*, provide a copy of the housing assistance payments (HAP) contract or other documents, as approved by the District.
Low-Income Tenant applying for new device	☐ Rental Property Owner/Tenant Approval Form. ☐ Low-Income Eligibility form and required verification documents. ☐ Current proof of residence at the device address *(i.e. most recent utility bill)*. ☐ Copy of the signed lease agreement between the property owner and occupied tenant with a minimum of six (6) months remaining from date of application submittal. **If you cannot provide this documentation, please contact Program staff.** ☐ If the lease agreement is part of the Housing Choice Vouchers Program *(formerly Section 8)*, the **property owner** must provide a copy of the housing assistance payments (HAP) contract or other documents, as approved by the District.

PAYMENT PROCESS

Payment Options	Steps
Instant Reduction *Only available to qualified low-income applicants who purchase from a retailer offering the Instant Reduction option. See Burn Cleaner Retailers List for retailers who provide this payment option.*	• After receipt of an approved voucher, applicant purchases an eligible new device from a retailer participating in the Instant Reduction Option and only pays for the cost of the new device and installation that exceeds the voucher amount. Voucher amount is applied directly at point of purchase through the retailer to reduce the out-of-pocket cost. • Applicant signs the voucher and gives the claim for payment packet to the retailer, who will submit it directly to the District for reimbursement of the reduced amount. For installations completed by a subcontractor (not retailer), applicant will need to submit a separate claim directly to the District for reimbursement of any remaining voucher amount.
Reimbursement *Available to all qualified applicants. See Burn Cleaner Retailers list for all contracted retailers.*	• After receipt of an approved voucher, applicant purchases an eligible new device from participating program retailer and pays for the entire cost of the new device, including installation. • After making full payment, applicant submits a completed claim for payment packet to the District for reimbursement to the applicant.

CERTIFICATE OF SERVICE

I certify that the original fully executed Consent Agreement and Final Order ("CAFO"), Docket Number CAA-09-2015-0002 was filed this day with the Regional Hearing Clerk, U.S. EPA, Region IX, 75 Hawthorne Street, San Francisco, California 94105, and that a true and correct copy of the CAFO was sent to Respondent at the following address:

Robey Estes, President and CEO
Estes Express Line
3901 W. Broad St.
Richmond, VA 23230

Certified Mail No: 7014 1820 0000 4720 9973

Steven Armsey
Steven Armsey
Regional Hearing Clerk
Region IX, EPA
Office of Regional Counsel

Sept. 30, 2015
Date