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Mobile Sources (Title II)/Air Enforcement: U.S. Environmental Protection Agency and Curtiss, Wisconsin Refrigeration Transport Company Enter into Consent Agreement

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The United States Environmental Protection Agency (“EPA”) and Abbyland Trucking, Inc. (“ATI”) entered into a December 21, 2017, Consent Agreement and Final Order (“CAFO”) addressing alleged violations of Section 203(a)(3)(A) and (B) of Title II of the Clean Air Act.

The CAFO provides that ATI operates a full service truck repair center and refrigeration transport company in Curtiss, Wisconsin. It further provides that between the years 2011 and 2014 ATI:

. . . sold and installed Defeat Devices in the form of ECM Tuning products manufactured by Performance Diesel Inc. (PDI) that had the principal effect of bypassing, defeating, or rendering inoperative Elements of Design including EGRs, DPFs, and other emission control devices on the affected HDD trucks.

It is further alleged that based on documents (invoices of ECM Tuning installations and copies of available “PDI liability” waivers) provided by ATI, EPA identified evidence of three instances in which the company sold and installed Defeat Devices.

EPA conducted an inspection on June 3, 2015, of ATI’s Curtiss, Wisconsin facility and obtained from ATI documents responsive to an agency Request for Information.

As of April 10, 2016, ATI is stated to no longer sell or install any Defeat Devices.

The CAFO alleges that:

- . . . in violation of Section 203(a)(3)(A) of the CAA, 42 U.S.C. § 7522(a)(3)(A), Respondent knowingly removed or rendered inoperative devices or Element of Design that were installed on or in over 202 motor vehicles or motor vehicle engines to comply with the emission standards promulgated under Title II of the CAA.
- . . . in violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), Respondent sold, offered to sell, or installed 202 Defeat Devices, including ECM Tuning programs, which effectively bypassed, defeated, or rendered inoperative emission control devices or Elements of Design that were installed

on motor vehicles or motor vehicle engines to comply with the emission standards promulgated under Title II of the CAA.

ATI neither admits nor denies the CAFO's alleged violations of law.

ATI submitted a request for a mitigated penalty based on an inability to pay, providing certain information to EPA. A civil penalty of \$75,000 is assessed.

Besides the penalty assessment, the CAFO also requires that ATI conduct a Recall of all vehicles in which the company installed ECM Tuning or other Defeat Device. The Recall period begins on the effective date of the CAFO and ends after 13 months. The components and requirements of this Recall are described in attachments to the CAFO.

[A copy of the CAFO can be downloaded here.](#)