

1 TODD BLANCHE
Acting Attorney General
2 DEREK T. TAYLOR
Assistant United States Attorney
3 Eastern District of Washington
Post Office Box 1494
4 Spokane, WA 99210-1494
Telephone: (509) 353-2767

5 *Attorneys for the United States of America*

6
7 UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WASHINGTON
8

9 UNITED STATES OF AMERICA,

10 Plaintiff,

11 vs.

12 KX WHEELS; 658736 B.C. LTD; PHILIP
SWEENEY; and STUART MCKEOWN

13 Defendants.
14

Case No.

COMPLAINT

15 The United States of America (United States), by authority of the Attorney
16 General of the United States and at the request of the Administrator of the United
17 States Environmental Protection Agency (EPA), through its undersigned counsel, files
18 this Complaint and alleges as follows:

19 **I. NATURE OF THE CASE**

20 1. This is a civil action seeking injunctive relief and penalties for violations
21 of Section 203(a)(3) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a)(3), by KX

1 Wheels, 658736 B.C. LTD, Philip Sweeney, and Stuart McKeown (Defendants)
2 arising from Defendants' sale and offers to sell devices that bypass, defeat, or render
3 inoperative emission controls installed on motor vehicles or motor vehicle engines in
4 violation of the CAA, 42 U.S.C. § 7522(a).

5 **II. JURISDICTION AND VENUE**

6 2. This Court has subject matter jurisdiction over CAA claims pursuant to
7 42 U.S.C. §§ 7523 and 7524, and 28 U.S.C. §§ 1331 (Federal Question), 1345 (United
8 States as Plaintiff), and 1355 (Fine, Penalty, or Forfeiture).

9 3. This court has personal jurisdiction over the parties pursuant to Federal
10 Rule of Civil Procedure 4(k)(1) because Defendants are subject to the personal
11 jurisdiction of the State of Washington in accordance with Revised Code of
12 Washington 4.28.185. Alternatively, this Court has personal jurisdiction over the
13 parties pursuant to Federal Rule of Civil Procedure 4(k)(2) because the action arises
14 under federal law, the defendants are not subject to the jurisdiction of any state's
15 courts of general jurisdiction, and the Court's exercise of jurisdiction comports with
16 due process.

17 4. Venue is proper in the Eastern District of Washington pursuant to
18 28 U.S.C. §§ 1391(b)(2), 1391(c)(3), and 1395(a), as well as 42 U.S.C. §§ 7523 and
19 7524, because it is a judicial district where a substantial part of the alleged violations
20 in the Complaint occurred. Alternatively, venue is proper in the Eastern District of
21 Washington pursuant to 28 U.S.C. §§ 1391(b)(3), 1391(c)(3), and 1395(a), as well as

1 42 U.S.C. §§ 7523 and 7524, because Defendants are subject to the Court’s personal
2 jurisdiction.

3 **III. DEFENDANTS**

4 5. KX Wheels is a sole proprietorship organized under the laws of the
5 Province of British Columbia, Canada with its principal office at 1244 Boundary
6 Road, Burnaby, British Columbia, Canada. KX Wheels is wholly owned by Defendant
7 658736 B.C. LTD.

8 6. 658736 B.C. LTD is a corporation organized under the laws of the
9 Province of British Columbia, Canada with its principal office at 105-5525 272 Street,
10 Langley, British Columbia, Canada.

11 7. Philip Sweeney is an individual. Philip Sweeney is the sole director and
12 officer of Defendant 658736 B.C. LTD.

13 8. Stuart McKeown is an individual.

14 9. Defendants meet the definition of “person” in Section 302(e) of the CAA,
15 42 U.S.C. § 7602(e).

16 **IV. BACKGROUND**

17 10. This action arises under Title II of the CAA, as amended, 42 U.S.C. §§
18 7521-7590, and the regulations promulgated thereunder relating to the control of
19 emissions of air pollution from motor vehicles and motor vehicle engines.

20 ///

A. Statutory and Regulatory Overview

11. In creating the CAA, Congress found that “the growth in the amount and complexity of air pollution brought about by urbanization, industrial development, and the increasing use of motor vehicles, has resulted in mounting dangers to the public health and welfare. . .” 42 U.S.C. § 7401(a)(2). Among other things, the CAA was enacted “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.” 42 U.S.C. § 7401(b)(1)-(2).

12. The CAA defines “Motor vehicle” 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.

13. 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). 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).

14. 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.

1 15. PM is a form of air pollution composed of microscopic solids and liquids
2 suspended in air. PM is emitted directly from motor vehicles and is also formed in the
3 atmosphere from other pollutants, including pollutants emitted from motor vehicles.

4 16. NO_x and NMHCs are reactive gases that contribute to the formation of
5 ozone and PM.

6 17. Ozone (ground level) is a highly reactive gas that is formed in the
7 atmosphere from emissions of other pollutants, including emissions from motor
8 vehicles.

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

13 19. CO is a highly toxic gas that can cause headaches, dizziness, vomiting,
14 nausea, loss of consciousness, and death. Long-term exposure to CO has been
15 associated with an increased risk of heart disease.

16 **B. Acts Prohibited by the Clean Air Act, 42 U.S.C. § 7522(a)(3)(B)**

17 20. Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B), makes it a
18 prohibited act for “any person to manufacture or sell, or offer to sell, or install any part
19 or component intended for use with, or as a part of, any motor vehicle or motor
20 vehicle engine, where a principal effect of the part or component is to bypass, defeat,
21 or render inoperative any device or element of design installed on or in a motor

1 vehicle or motor vehicle engine in compliance with regulations under this subchapter,
2 and where the person knows or should know that such part or component is being
3 offered for sale or installed for such use or put to such use.”

4 21. Persons violating Section 203(a)(3)(B) of the Act, 42 U.S.C. §
5 7522(a)(3)(B), are subject to injunctive relief pursuant to 42 U.S.C. § 7523.

6 22. Persons violating Section 203(a)(3)(B) of the Act, 42 U.S.C. §
7 7522(a)(3)(B), are subject to civil penalties of up to \$5,911 for each violation
8 occurring on or after November 2, 2015, where penalties are assessed on or after
9 January 8, 2025, in accordance with Sections 204(a) and 205(a) of the CAA, 42
10 U.S.C. §§ 7523(a) and 7524(a). 40 C.F.R. § 19.4 (2025).

11 23. Pursuant to 42 U.S.C. § 7524(a), each part or component manufactured,
12 sold, offered for sale, or installed in violation of Section 203(a)(3)(B) of the Act,
13 42 U.S.C. § 7522(a)(3)(B), is a separate violation.

14 **C. The CAA’s Certificate of Conformity Program for New Motor**
15 **Vehicles and Motor Vehicle Engines**

16 24. Manufacturers of new motor vehicles or motor vehicle engines must
17 apply for and obtain a certificate of conformity (COC) from EPA to sell, offer to sell,
18 or introduce or deliver for introduction into commerce any new motor vehicle or
19 motor vehicle engine in the United States. 42 U.S.C. § 7522(a)(1).

20 25. To obtain a COC, the original equipment manufacturer (“OEM”) must
21 demonstrate that the motor vehicle or motor vehicle engine will conform to

1 established emissions standards for NO_x, PM, NMHCs, and CO, and other pollutants
2 during the motor vehicle or motor vehicle engine's useful life. 42 U.S.C. § 7525(a)(2);
3 *see* 40 C.F.R. §§ 86.007-30(a)(1)(i), 86.1848-01(a)(1).

4 26. OEMs comply with the CAA's emission standards by installing a variety
5 of software and hardware elements in motor vehicles and motor vehicle engines that
6 are designed to monitor and control emissions of pollutants (hereinafter referred to as
7 "Emission-Related Elements of Design").

8 27. The COC application must include a description of the OEM's selected
9 Emission-Related Elements of Design and demonstrate that the combination of the
10 installed Emission-Related Elements of Design will achieve applicable emissions
11 standards. 42 U.S.C. § 7525(a); 40 C.F.R. §§ 86.094-21(b)(1), 86.1844-01(d)–(e).

12 28. Once issued by EPA, a COC only covers those new motor vehicle or
13 motor vehicle engines that conform in all material respects to the specifications
14 provided to EPA in the COC application for such vehicles or engines.
15 40 C.F.R. § 86.1848-01(c)(6).

16 29. EPA regulations promulgated under the CAA define "element of design"
17 as "any control system (i.e., computer software, electronic control system, emission
18 control system, computer logic), and/or control system calibrations, and/or the results
19 of systems interaction, and/or hardware items on a motor vehicle or motor vehicle
20 engine." 40 C.F.R. §§ 86.094-2 and 86.1803-01.

30. Each Emission-Related Element of Design identified in this Complaint is an “element of design” within the meaning of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

D. Emission-Related Elements of Design

31. As used herein, Emission-Related Elements of Design include the hardware and the software set forth in Paragraphs 0-0 below and any component thereof.

32. Motor vehicles are equipped with one or more electronic control units (ECUs) which are on-board computer systems that run software that monitors and controls vehicle and engine operations, including the operation of Emission-Related Elements of Design.

33. Auxiliary Emission Control Devices. Motor vehicles are also equipped with auxiliary emission control devices (AECDs) which sense temperature, motor speed, engine revolution per minute, transmission gear, or any other parameter for the purpose of activating, modulating, delaying, or deactivating the operation of an Emission-Related Elements of Design. *See* 40 C.F.R. §§ 1037.801 and 1039.801.

34. Exhaust Gas Recirculation System (EGR System).

a. Diesel engines produce high combustion temperatures that result in the production of NO_x. An EGR System reduces NO_x emissions by recirculating a portion of engine exhaust gas back through the engine’s cylinders, thereby lowering combustion temperature and reducing NO_x formation.

1 b. The EGR System includes but is not limited to the EGR cooler,
2 throttle valve, EGR valve, other valves, piping, flanges, and gaskets as well as various
3 other hardware, parts, sensors, subassemblies, AECDs, ECU software (calibrations),
4 and other components that collectively constitute the system for implementing this
5 emissions control strategy.

6 c. The EGR System is a “device or element of design installed on or
7 in a motor vehicle or motor vehicle engine in compliance with [CAA] regulations”
8 within the meaning of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522 (a)(3)(B).

9 35. Aftertreatment System.

10 a. As an alternative or in addition to the EGR System, OEMs
11 typically equip motor vehicles with one or more Aftertreatment Systems “whose
12 design function is to reduce emissions in the engine exhaust before it is exhausted to
13 the environment.” *See* 40 C.F.R. § 1068.30.

14 b. A motor vehicle’s Aftertreatment System consists of hardware
15 installed in the stock exhaust system, as well as software that runs on one or more
16 ECUs and directs operation of the hardware components. Aftertreatment Systems
17 include but are not limited to Diesel Particulate Filters, Selective Catalytic Reduction
18 Systems, Diesel Oxidation Catalysts, NO_x Adsorption Catalysts, and Three-Way
19 Catalytic Converters. Each component of these Aftertreatment Systems is a “device or
20 element of design installed on or in a motor vehicle or motor vehicle engine in
21

1 compliance with [CAA] regulations” within the meaning of Section 203(a)(3)(B) of
2 the CAA, 42 U.S.C. § 7522(a)(3)(B).

3 i. Diesel Particulate Filter (DPF). A DPF is a filter that
4 captures particulates or soot from engine exhaust, thereby decreasing PM emissions.
5 By design, soot that collects in the DPF is periodically burned off by elevated exhaust
6 temperatures in a process referred to as active or passive regeneration. The DPF
7 includes all hardware, parts, sensors, subassemblies, AECDs, ECU software
8 (calibrations), and other components that collectively constitute the system for
9 implementing this emissions control strategy.

10 ii. Selective Catalytic Reduction System (SCR). An SCR is a
11 type of catalytic converter or catalyst that reduces NO_x emissions by chemically
12 converting exhaust gas that contains NO_x into nitrogen and water through the injection
13 of diesel exhaust fluid, typically composed of urea. The SCR includes all hardware,
14 parts, sensors, subassemblies, AECDs, calibrations, and other components that
15 collectively constitute the system for implementing this emissions control strategy.

16 iii. Diesel Oxidation Catalyst (DOC). A DOC is a type of
17 catalytic converter. As exhaust gas passes through the DOC, the coating of precious
18 metal causes a catalytic reaction that breaks down CO and NMHCs in the exhaust into
19 their less harmful components. The DOC includes all hardware, parts, sensors,
20 subassemblies, AECDs, calibrations, and other components that collectively constitute
21 the system for implementing this emissions control strategy.

1 iv. NO_x Adsorption Catalyst (NAC). A NAC is a type of
2 “catalytic converter” that reduces NO_x emissions by chemically adsorbing NO_x from
3 exhaust gas. The NAC includes all hardware, parts, sensors, subassemblies, AECDs,
4 calibrations, and other components that collectively constitute the system for
5 implementing this emissions control strategy.

6 v. Three-Way Catalytic Converter (TWC). A TWC oxidizes
7 CO and NMHC to form carbon dioxide and water and reduce NO_x to nitrogen. The
8 TWC includes all hardware, components, parts, sensors, subassemblies, software,
9 AECDs, calibrations, and other Emission-Related Elements of Design that collectively
10 constitute the system for implementing this emissions control strategy.

11 36. On Board Diagnostics System (OBD). The CAA requires OEMs to
12 install an OBD on all motor vehicles. 42 U.S.C. § 7521(m). As such, the OBD is a
13 “device or element of design installed on or in a motor vehicle or motor vehicle
14 engine in compliance with [CAA] regulations” within the meaning of Section
15 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B).

16 a. The OBD monitors, detects, reports, and records malfunctions of
17 monitored Emissions Related Element of Design and other components through the
18 controller area network installed throughout the motor vehicle or motor vehicle
19 engine. 40 C.F.R. §§ 86.007-17, 86.010-18, 86.1806-05.

20 b. The OBD monitors sensor inputs for malfunction or deterioration
21 that could cause a vehicle to fail to comply with applicable emission standards. The

1 OBD includes hardware, parts, sensors, subassemblies, AECDs, ECU software
2 (calibrations), and other components that collectively constitute the system.

3 c. CAA regulations require that when the OBD detects a malfunction
4 of an Emissions Related Element of Design, it must illuminate the vehicle's
5 malfunction indicator light (a/k/a check engine light) on the dashboard. *See* 40 C.F.R.
6 § 86.1806-05(b)-(d).

7 d. CAA regulations require that once the check engine light has been
8 illuminated, the OBD must record a diagnostic trouble code ("DTC"). 40 C.F.R. § 86-
9 1806-05(e). The OBD stores DTCs that service personnel can read to diagnose and
10 repair a vehicle and government inspectors can download to verify a vehicle's
11 compliance with emissions standards.

12 37. Certified Stock Calibrations. OEMs install a suite of pre-set software
13 calibrations on a vehicle's ECU for operational parameters that control all aspects of
14 vehicle and engine operation including combustion, performance, and operation of
15 EGR and Aftertreatment Systems. These calibrations operate together to minimize
16 and/or control the formation and emission of pollutants and ensure the motor vehicle
17 or motor vehicle engine can meet applicable emissions requirements in the CAA and
18 regulations promulgated thereunder and are disclosed in the COC for each vehicle
19 model. *See* 40 C.F.R. § 86.1844-01(e)(2) (requiring that fuel pump flow rate, fuel
20 pressure, engine speed, EGR exhaust gas flow rate, and basic engine timing be
21 included in the COC application). As such, each Certified Stock Calibration is an

1 “element of design installed on or in a motor vehicle or motor vehicle engine in
2 compliance with [CAA] regulations” within the meaning of Section 203(a)(3)(B) of
3 the CAA, 42 U.S.C. § 7522(a)(3)(B).

4 The types of Certified Stock Calibrations relevant to this Complaint include but
5 are not limited to:

6 a. calibrations for parameters that affect the operation of the EGR
7 System including EGR flowrate and EGR cooler bypassing;

8 b. calibrations for parameters that affect the operation of the
9 Aftertreatment System;

10 c. calibrations for parameters that affect engine combustion,
11 performance, and operation, including air-fuel ratio, fuel injection timing, fuel
12 quantity, fuel injection pulse width, fuel injection pressure, fuel injection mass,
13 multiple injection patterns, open loop/closed loop functionality and control, ignition
14 control (spark timing), boost pressure, limiters (fuel, torque, smoke, etc.), manifold
15 pressure, camshaft timing, electronic throttle control, engine air flow characteristics,
16 mass air flow rate, turbocharger/supercharger air flow, and other parameters disclosed
17 on the COC which are elements of the OEM’s strategy to control the formation of
18 pollutants in the engine; and

19 d. calibrations for parameters that affect OBD operations including
20 detection, warning, and recording of malfunctions.

E. The Types of Aftermarket Performance Products at Issue

38. Defendants sell and offer to sell products that are designed to alter, replace, or disable OEM-installed elements of design, including Emission-Related Elements of Design, in order to enhance a vehicle's power, improve a vehicle's fuel economy, or reduce the costs related to operating and maintaining a vehicle's Emission-Related Elements of Design (hereinafter "Aftermarket Performance Products").

39. Aftermarket Performance Products' effect on vehicle power, vehicle fuel economy, or Emission-Related Elements of Design maintenance costs is derived from their effect of bypassing, defeating, or rendering inoperative devices or Emission-Related Elements of Design.

1. Hardware Defeat Devices

40. Some of the Aftermarket Performance Products that Defendants sell and offer to sell are Hardware Defeat Devices that physically interfere with or replace Emission-Related Elements of Design (hereinafter, "Hardware Defeat Devices").

41. Some of the Hardware Defeat Devices that Defendants sell and offer to sell interfere with (including via bypass or removal) exhaust recirculation in the EGR System. These products use blocker/block-off plates, replacement tubes, replacement pipes, or other hardware to interfere with the recirculation of exhaust gas back into the engine combustion chamber, thereby defeating or rendering inoperative the vehicle's

1 EGR System. These Hardware Defeat Devices are hereinafter referred to as “EGR
2 Delete Hardware Defeat Devices.”

3 42. Some Hardware Defeat Devices that Defendants sell and offer to sell
4 interfere with (including via bypass or removal) Aftertreatment Systems by, for
5 example, removing the DOCs, DPFs, NACs, OBD Sensors, and/or SCR System.
6 These are sometimes referred to as “delete pipes” or “straight pipes.” These Hardware
7 Defeat Devices are hereinafter referred to as “Aftertreatment Delete Hardware Defeat
8 Devices.”

9 *2. Tunes*

10 43. Some of the Aftermarket Performance Products that Defendants sell and
11 offer to sell are electronic software products (hereinafter, “Tunes”) that alter or
12 overwrite aspects of a motor vehicle’s ECU and/or OBD System.

13 44. Tunes can be stored and transmitted in numerous ways by other
14 Aftermarket Performance Products, including electronically through email and
15 through electronic storage devices (hereinafter, “Tuners”).

16 45. Some Tunes manipulate the ECU and/or OBD System to bypass, defeat,
17 or render inoperative Emission-Related Elements of Design, including Certified Stock
18 Calibrations, EGR System, DPFs, DOCs, SCR System, and/or other Aftertreatment
19 Systems. Other Tunes electronically disable or allow for the full physical removal of
20 Emission-Related Elements of Design, including by working in conjunction with
21 Hardware Defeat Devices to manipulate the monitoring function of the OBD System

1 so that it will fail to detect the new Hardware Defeat Devices and the removal of one
2 or more of a vehicle's Emission-Related Elements of Design.

3 ***3. Delete Packages***

4 46. Some of the Aftermarket Performance Products that Defendants sell and
5 offer to sell consist of Hardware Defeat Devices bundled with Tunes (hereinafter
6 "Delete Packages").

7 **V. GENERAL ALLEGATIONS**

8 47. Defendants sell and offer to sell Aftermarket Performance Products
9 intended for use in "motor vehicles" as that term is defined by the CAA,
10 42 U.S.C. § 7550(2), and the regulations promulgated thereunder at
11 40 C.F.R. § 85.1703.

12 48. A principal effect of the Aftermarket Performance Products that
13 Defendants sell or offer to sell, including both Hardware Defeat Devices and Tunes, is
14 to bypass, defeat, or render inoperative devices or Emission-Related Elements of
15 Design installed on or in a motor vehicle or motor vehicle engine.

16 49. Defendants sell and offer to sell Aftermarket Performance Products over
17 the internet through the website dieseldiscounters.com, other websites, and through
18 sale to other retailers that sell the products to consumers.

19 50. On at least April 2, 2021, Defendants' website dieseldiscounters.com
20 included the page entitled "Diesel Tuning Solutions," which stated in pertinent part:
21 "Diesel Discounters is a team of Aftermarket Tuning Specialists that can really take

1 care of your diesel pickup truck. We do offer Flo-Pro and GDP products and solutions
2 that unlock the true potential of your truck. Contact our diesel techs to get answers to
3 your Diesel Particulate Filter (DPF) and Exhaust Gas Recirculation (EGR) issues or
4 concerns you might have, and to discuss all your diesel tuning needs. Shipping to all
5 50 states.”

6 51. Defendants sold and offered for sale Aftermarket Performance Products
7 for diesel trucks nationwide between at least January 1, 2017, and the present.

8 52. Upon information and belief, Defendants have sold and offered to sell
9 Aftermarket Performance Products from at least January 1, 2017, to the present day.

10 53. On April 21, 2021, EPA issued a Notice of Violation and Request to
11 Provide Information to Defendants pursuant to Section 208(a) of the CAA,
12 42 U.S.C. § 7542(a) (hereinafter, “NOV”), that notified Defendants that EPA had
13 information indicating that Defendants had been selling Aftermarket Performance
14 Products in violation of Section 203(a) of the CAA and sought information about
15 Defendants’ sales of Aftermarket Performance Products since January 1, 2019.

16 54. On October 17 through 19, 2023, EPA conducted inspections of three of
17 Defendants’ shipments entering the Lynden, Washington Port of Entry into the United
18 States. EPA identified at least 198 Hardware Defeat Devices in Defendants’ three
19 shipments.

20 55. On October 20, 2023, EPA sent a letter to United States Customs and
21 Border Protection Lynden Area Port Director recommending denial of entry of the

1 Hardware Defeat Devices in one of the three shipments EPA inspected during the
2 October 17 through 19, 2023, inspections.

3 56. On or around October 20, 2023, the United States Customs and Border
4 Protection seized all of Defendants' parts shipped into the Lynden, Washington port
5 of entry on October 19, 2023.

6 57. On October 23, 2023, EPA conducted inspections of two of Defendants'
7 shipments entering the Blaine, Washington port of entry into the United States. EPA
8 identified at least 81 Hardware Defeat Devices in Defendants' two shipments.

9 58. On November 16, 2023, EPA sent a letter to United States Customs and
10 Border Protection Blaine Area Port Director recommending denial of entry of the 81
11 Hardware Defeat Devices EPA discovered during the October 23, 2023, inspection.

12 **FIRST CLAIM FOR RELIEF**

13 ***Violations of 42 U.S.C. § 7522(a)(3)(B)***
14 ***Sale and/or Offer to Sell Hardware Defeat Devices***

15 59. The United States re-alleges Paragraphs 1 through 0 above as if fully set
16 forth herein.

17 60. From March 15, 2020, through the present day, Defendants sold or
18 offered to sell, or caused the sale or offer to sell of at least 1,770 Hardware Defeat
19 Devices, including:

20 a. At least 103 EGR Delete Hardware Defeat Devices;

1 b. At least 1,606 Aftertreatment Delete Hardware Defeat Devices
2 (e.g. straight pipes); and

3 c. At least 61 Delete Packages.

4 61. Each Hardware Defeat Device that Defendants sold or offered for sale is
5 intended for use with certified motor vehicles and motor vehicle engines.

6 62. Defendants knew or should have known that the Hardware Defeat
7 Devices it sold or offered for sale were offered for sale or installed for such use or put
8 to such use.

9 63. A principal effect of each Hardware Defeat Device that Defendants sold
10 or offered for sale is to bypass, defeat, or render inoperative one or more of a vehicle's
11 Emission-Related Elements of Design.

12 64. Defendants knew or should have known that the Hardware Defeat
13 Devices it sold or offered to sell were offered for sale or installed to bypass, defeat, or
14 render inoperative devices or elements of design that control emissions of regulated
15 air pollutants.

16 65. Each unit of the Hardware Defeat Devices that Defendants sold or
17 offered for sale is a separate violation of Section 203(a)(3)(B) of the CAA,
18 42 U.S.C. § 7522(a)(3)(B). 42 U.S.C. § 7524(a).

19 66. Unless enjoined, Defendants are likely to continue to sell and offer to sell
20 Hardware Defeat Devices.

67. Defendants are liable to the United States for injunctive relief and civil penalties of up to \$5,911 for each violation occurring on or after November 2, 2015, where penalties are assessed on or after January 8, 2025, in accordance with Sections 204(a) and 205(a) of the CAA, 42 U.S.C. §§ 7523(a) and 7524(a). 40 C.F.R. § 19.4 (2025).

SECOND CLAIM FOR RELIEF

***Violations of 42 U.S.C. § 7522(a)(3)(B)
Sale, and/or Offering for Sale of Tunes***

68. The United States re-alleges Paragraphs 1 through 0 above as if fully set forth herein.

69. From March 15, 2020, through the present day, Defendants sold or offered for sale, or caused the sale or offer to sell of at least 1,839 Tunes.

70. Each Tune that Defendants sold or offered for sale is intended for use with certified motor vehicles and motor vehicle engines.

71. Defendants knew or should have known that the Tunes it sold or offered for sale were offered for sale or installed for such use or put to such use.

72. A principal effect of each Tune that Defendants sold or offered for sale is to bypass, defeat, or render inoperative one or more of a vehicle's Emission-Related Elements of Design.

73. Defendants knew or should have known that the Tunes it sold or offered to sell were offered for sale or installed to bypass, defeat, or render inoperative devices or elements of design that control emission of regulated air pollutants.

74. Each unit of the Tunes that Defendants sold or offered for sale is a separate violation of Section 203(a)(3)(B) of the CAA, 42 U.S.C. § 7522(a)(3)(B). 42 U.S.C. § 7524(a).

75. Unless enjoined, Defendants are likely to continue to sell and offer to sell Tunes.

76. Defendants are liable to the United States for injunctive relief and civil penalties of up to \$5,911 for each violation occurring on or after November 2, 2015, where penalties are assessed on or after January 8, 2025, in accordance with Sections 204(a) and 205(a) of the CAA, 42 U.S.C. §§ 7523(a) and 7524(a). 40 C.F.R. § 19.4 (2025).

RELIEF REQUESTED

WHEREFORE, the United States respectfully requests that this Court:

A. Permanently enjoin Defendants from selling or offering to sell parts or components, which are intended for use with a motor vehicle or motor vehicle engine in the United States where a principal effect of such 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 the CAA;

1 B. Order Defendants to take other appropriate actions to remedy, mitigate,
2 and offset the harm caused by their alleged CAA violations in the United States;

3 C. Assess civil penalties against Defendants for each part or component
4 Defendants sold, offered to sell, or caused thereof, in violation of 42 U.S.C.
5 § 7522(a)(3)(B), of up to \$5,911 for each violation;

6 D. Award the United States its costs and disbursements in this action; and

7 E. Award such other and further relief as the Court may deem just and
8 proper.

9 RESPECTFULLY SUBMITTED: May 27, 2026.

10 Todd Blanche
11 Acting Attorney General

12 *s/Derek T. Taylor*

DEREK T. TAYLOR
Assistant United States Attorney
Attorneys for United States

14 BRETT DUGAN
15 Assistant Regional Counsel
16 U.S. Environmental Protection Agency
17 Region 10, Office of Regional Counsel
18 1200 Sixth Avenue, Suite 155, M/S
19 ORC-11-C07
20 Seattle, Washington 98101-3140
21 (206) 553-8562
Of Counsel