

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC

In the Matter of:

Wilson Bros *doing business as* Galena Chrysler
doing business as Postal Pete,
Respondent.

Administrative Settlement Agreement
AED/MSEB # 7985

Purpose

1. The United States Environmental Protection Agency (EPA) has promulgated regulations to control emissions from mobile sources under the Clean Air Act (Act) for the protection of human health and the environment. These regulations are written to control emissions of hydrocarbons, carbon monoxide, and oxides of nitrogen. The EPA and Wilson Bros. -Hanover, Inc. *doing business as* Galena Chrysler *doing business as* Postal Pete (Galena Chrysler) enter into this Administrative Settlement Agreement (Agreement) to resolve alleged violations of section 203 of the Act, 42 U.S.C. § 7522.

Governing Law

2. Section 203(a)(1) of the Act prohibits “the sale, or the offering for sale, or the introduction, or delivery for introduction, into commerce . . . of any new motor vehicle or new motor vehicle engine, manufactured after the effective date of regulations” by a manufacturer unless it is covered by an EPA-issued certificate of conformity (COC). 42 U.S.C. § 7522(a)(1).
3. “Manufacturer” is defined expansively to include “any person engaged in . . . importing such vehicles or engines for resale.” 42 U.S.C. § 7550(1).
4. The Act further prohibits “any person” from importing a new motor vehicle or new motor vehicle engine unless it is covered by a COC. 42 U.S.C. § 7522(a)(1).

5. Imported motor vehicles or engines are “new” if manufactured after the regulations applicable to the vehicle or engine take effect. 42 U.S.C. § 7550(3).
6. A motor vehicle is “any self-propelled vehicle designed for transporting persons or property on a street or highway.” 42 U.S.C. § 7550(2). A light-duty vehicle is “a passenger car or passenger car derivative capable of seating 12 passengers or less.” 40 C.F.R. § 86.082-2.
7. Under 40 C.F.R. Part 85, Subpart P, vehicles not covered by a COC may be conditionally imported into the United States under certain circumstances by an Independent Commercial Importer. 40 C.F.R. § 85.1503(a). An Independent Commercial Importer may then apply to the EPA for final admission after modifying the vehicle in accordance with a valid COC. 40 C.F.R. § 85.1505(a).
8. Anyone who offered for sale, introduced into commerce, delivered for introduction into commerce, or imported into the United States a new motor vehicle that was not covered by a COC—or anyone who caused any of the foregoing—is subject to a civil penalty up to \$32,500 for each such vehicle imported between March 15, 2004, and January 12, 2009, and up to \$37,500 for each such vehicle imported after January 12, 2009. 42 U.S.C. § 7524(a); 40 C.F.R. § 19.4.
9. In lieu of commencing a civil action for violations of the Act and implementing regulations controlling mobile source emissions, the EPA may assess a civil penalty that shall not exceed \$295,000 for penalties effective after January 12, 2009. *See* 42 U.S.C. § 7524(c); 40 C.F.R. § 19.4.

Violations

10. Between June 16, 2008, and October 20, 2010, Galena Chrysler imported into the United States 57 right hand drive vehicles described below in Table 1 (Subject Motor Vehicles). Each is a Jeep brand vehicle manufactured by Chrysler Group LLC.
11. The Subject Motor Vehicles are model year 1997 and later motor vehicles. As such, the vehicles are considered “new” at the time of import and are regulated by the Act and 40 C.F.R. Parts 85 and 86. 42 U.S.C. § 7550(3).
12. The Subject Motor Vehicles are not covered by valid COCs; therefore, Galena Chrysler violated section 203(a) of the Act, 42 U.S.C. § 7522(a)(1), by importing the Subject Motor Vehicles.
13. Whereas nonconforming vehicles may be conditionally imported by an Independent Commercial Importer and modified to conform with a valid COC under 40 C.F.R. Part 85, Subpart P, Galena Chrysler was the importer of record for all 57 Subject Motor Vehicles and is not a registered Independent Commercial Importer.
14. Therefore, the EPA has determined that Galena Chrysler committed 57 violations of section 203(a) of the Act, 42 U.S.C. § 7522(a)(1), when it imported the uncertified Subject Motor Vehicles.

Table 1: Subject Motor Vehicles					
Customs Entry Number	Import Date	Vehicle Identification Numbers	Date of Manufacture	Model	Quantity
JG6-33036870	06/18/08	1J4FN68S7VL524427	1997	Cherokee	1
JG6-3308440-9	05/17/09	1J4FN78S0VL535078	1997	Cherokee	3
		1J4FN78S1VL573998	1997		
		1J4FN78SXVL556472	1997		
JG6-3309085-1	08/10/09	1J4FN68S2VL598631	1997	Cherokee	2
		1J4FN78S5WL261376	1998		
JG6-3309368-1	09/14/09	1J4FN68S5WL125680	1997	Cherokee	4
		1J4FN68S9VL599033	1997		
		1J4FN78S4VL598006	1997		
		1J4FN78S9VL597904	1997		
JG6-3309769-0	10/28/09	1J4FJB8S2WL196677	1998	Cherokee	1

Civil Penalty

15. Galena Chrysler must pay to the United States a civil penalty of \$5,000 (EPA Penalty). This amount reflects a significant reduction based on the fact that Galena Chrysler demonstrated that a higher amount would have unduly affected the company's ability to continue in business.
16. Galena Chrysler agrees to pay the EPA Penalty to the United States within the 30 calendar days immediately following the effective date of this Agreement (as defined in ¶ 21). Late payment is subject to interest and fees as specified in 31 U.S.C. § 3717, and such interest and fees must be paid by Galena Chrysler on demand by the United States. Galena Chrysler agrees to pay the EPA penalty in the manner specified in subparagraph a. or b. below:

- a. Mail by United States Postal Service a certified check or cashier's check, payable to the United States of America, to:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, MO 63197-9000
ATTN: AED/MSEB # 7985

This check must be identified with case number AED/MSEB # 7985 and state that it is remitted by Galena Chrysler. Simultaneously, scan and email a copy of the check to Evan M. Belser at belser.evan@epa.gov.

- b. Pay online through the Department of the Treasury using www.pay.gov. In the Search Public Form field, enter SFO 1.1, click EPA Miscellaneous Payments - Cincinnati Finance Center, and complete the SFO Form Number 1.1. The payment must be identified with case number AED/MSEB # 7985. Within 24 hours of payment, scan and email a copy of the receipt to belser.evan@epa.gov.

17. Besides the EPA Penalty, Galena Chrysler acknowledges that the United States Department of Homeland Security's Bureau of Customs and Border Protection may assess separate penalties related to the Subject Motor Vehicles.
18. Galena Chrysler agrees to pay a stipulated penalty of \$1,000 per calendar day for its failure to timely pay the civil penalty or provide proof of such payment according to ¶ 16. Galena Chrysler must pay every stipulated penalty in the manner specified in ¶ 16 and do so within 30 calendar days of the day that Galena Chrysler receives written notice for the EPA.

Effect of Agreement

19. This Agreement resolves the EPA's civil claims for the violations alleged in ¶¶ 10–14. The resolution of claims set forth in this Paragraph take effect upon the receipt by the United States of the civil penalty payment required by ¶ 15. Nothing herein limits the EPA's authority to proceed against Respondent in the event of default or noncompliance with this Agreement, for violations of the Act which are not the subject matter of this Agreement, for other violations of law, or with respect to other matters not within the scope of this Agreement. This Agreement in no way affects or relieves Respondent of responsibility to comply with other state, federal, or local laws or regulations. to comply with other state, federal, or local laws or regulations.

General Provisions

20. All correspondence to the EPA or notifications required by this Agreement must be in writing and emailed to belser.evan@epa.gov or mailed to:

(U.S. Postal Service Mail)
Evan Belser, US EPA
Mail Code 2242A
1200 Pennsylvania Ave., NW
Washington, DC 20460
Attn: AED/MSEB # 7985

(Courier Service)
Evan Belser, US EPA
Ariel Rios South, Room 1142C
1200 Pennsylvania Ave., NW
Washington, DC 20004
Attn: AED/MSEB # 7985

21. This Agreement becomes effective on the date executed by the EPA (effective date of the Agreement), at which time a fully executed electronic copy will be returned to Galena Chrysler.
22. The individual or individuals executing this Agreement on behalf of Galena Chrysler are authorized to do so and such execution is intended to and does bind Galena Chrysler and its agents, successors, and assigns.
23. This Agreement may be signed in any number of counterparts, each of which will be deemed an original and, when taken together, constitute one agreement. The counterparts are binding on each of the parties individually as fully and completely as if the parties had signed one single instrument, so that the rights and liabilities of the parties will be unaffected by the failure of any of the undersigned to execute any or all of the counterparts. Any signature page may be detached from any counterpart and attached to any other counterpart of this Agreement.
24. This Agreement 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.
25. Galena Chrysler may not delegate its duties under this Agreement to any other party without the written consent of the EPA, which may be granted or withheld at the EPA's sole discretion. If the EPA so consents, the Agreement is binding on the party or parties to whom the duties are delegated.
26. Notwithstanding any other provision of this Agreement, the parties agree that on Galena Chrysler's default or failure to comply with the terms of this Agreement, the EPA may refer this matter to the United States Attorney General pursuant to section 205 of the Act, 42 U.S.C. § 7524, to commence a civil action against Galena Chrysler in United States Federal District Court to enforce this Agreement, recover civil and stipulated penalties, and pursue any other

available remedies. Galena Chrysler expressly waives its right to assert that the Subject Motor Vehicles are certified or exempt from the certification requirements, or that such action is barred by 18 U.S.C. § 3282(a), other statutes of limitation, or other provisions limiting actions as a result of passage of time. Galena Chrysler acknowledges that the EPA intends to use Galena Chrysler's tax identification number, which Galena Chrysler has appended to this Agreement, for the purpose of collecting or reporting any delinquent monetary obligations arising from this Agreement. 31 U.S.C. § 7701.

27. Galena Chrysler waives its rights, if any, to a hearing, trial or any other proceeding on any issue of fact or law relating to the matters agreed to herein.
28. Nothing in this Agreement, whether express or implied, is intended or will be construed to confer on or give to any party, other than the EPA and Galena Chrysler, any rights, remedies, or other benefits.
29. The validity, enforceability, and construction of all matters pertaining to this Agreement will be determined in accordance with applicable federal law.
30. This Agreement is contingent on the truthfulness, accuracy, and completeness of Galena Chrysler's disclosures and representations to the EPA including, but not limited to, representations regarding importations and the construction and configuration of the Subject Motor Vehicles.
31. This Agreement in no way affects or relieves Galena Chrysler of responsibility to comply with other federal, state, or local laws or regulations.

SIGNATURES ON FOLLOWING PAGES

Administrative Settlement Agreement

***In the Matter of Wilson Bros doing business as Galena Chrysler doing business as Postal Pete,
AED/MSEB # 7985***

The following agrees to the terms of this Agreement:

Wilson Bros doing business as Galena Chrysler doing business as Postal Pete

By: John Wilson

Typed or Printed Name: John Wilson

Typed or Printed Title: V.P.

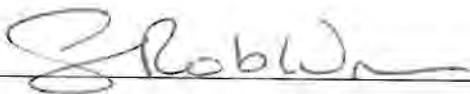
Federal Tax Identification Number: 36-3937838

Date: 07/08/2013

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AED/MSEB # 7985***

The following agrees to the terms of this Agreement:
United States Environmental Protection Agency

By: 

Date: 8/16/13

for Phillip A. Brooks, Director
Air Enforcement Division
Office of Enforcement and Compliance Assurance
U.S. Environmental Protection Agency