



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI
GOVERNOR

DAVID P. LITTELL
COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Peter Carleton, Bureau of Air Quality Control
SUBJECT: Starkey Ford, Inc.
DATE: October 1, 2009

*** **

Statutory and Regulatory References:

Maine's Rule, *New Motor Vehicle Emission Standards*, 06-096 CMR 127 requires that any new motor vehicle sold in the State of Maine be required to have emissions controls that comply with the "California-Certified" emissions standards.

Location:

York, Maine

Description:

After being notified by the Bureau of Motor Vehicles of the registration of a non-complying vehicle, a follow-up investigation was conducted by the Department's Mobile Source staff and it was documented that Starkey Ford, Inc., of York, Maine, had purchased and resold a 2008 Ford Econoline E-250 4x2 Van that was not California Emissions Certified to an individual within the State of Maine.

Environmental Issues:

Maine's Rule, *New Motor Vehicle Emission Standards*, 06-096 CMR 127 establishes motor vehicle emissions standards for vehicles sold within the State of Maine. By regulating the emissions from new vehicles that are sold within the State, the amount of pollutants from mobile sources can be limited, improving the quality of the air the public breathes.

Department Recommendation:

Staff recommends approval of the Consent Agreement which requires Starkey Ford, Inc. to comply with the requirements of 06-096 CMR 127 and provides for payment of civil penalties in the amount of \$2,060.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

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IN THE MATTER OF:

Starkey Ford, Inc.) ADMINISTRATIVE CONSENT
York County) AGREEMENT
York, Maine)
Air Quality Violation)

This Agreement by and among Starkey Ford, Inc., the Maine Department of Environmental Protection (the "Department") and the Maine Office of the Attorney General is entered into pursuant to the laws concerning the Department's Organization and Powers, 38 M.R.S.A. § 347-A(1)(A).

The parties agree as follows:

- 1. Starkey Ford, Inc., located at 422 Route 1, Blue Star Memorial Highway, York, Maine, is a Maine corporation authorized to conduct business as a dealer of new automobiles and trucks.
2. Maine's Rule, New Motor Vehicle Emission Standards, 06-096 CMR 127(2)(E), (H), (I) and (4)(A) state in relevant part:

2. Definitions:

- E. California-certified. "California-certified" means having a valid executive order and approved by CARB for sale in California.
H. Dealer. "Dealer" means any person engaged in the business of selling, offering to sell, soliciting or advertising the sale of new vehicles who holds a valid sales and service agreement, franchise or contract, granted by the manufacturer or distributor for the retail sale of said manufacturer's or distributor's new vehicles.
I. Delivered for Sale. "Delivered for sale" means delivered for sale or for lease in Maine.

4. Prohibitions:

- A. New Vehicle Emission Requirements. No person, including a manufacturer or dealer, shall deliver for sale or lease, offer for sale or lease, sell or lease, import or rent a new vehicle that is a 2001 or subsequent model-year passenger car or light-duty truck or 2003 or subsequent model-year medium-duty vehicle, unless the vehicle is California-certified and

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3. In an e-mail dated March 31, 2009, the Bureau of Motor Vehicles brought to the Departments attention a possible non-complying vehicle sold by Starkey Ford, Inc., located in York, Maine. Department Staff contacted the dealership and requested a copy of any documentation verifying the emissions certification of the vehicle in question. After receipt of the documentation on May 4, 2009 by the Department it was found that the vehicle in question (a 2008 Ford Econoline E-250 4x2 Van, VIN #1FTNE24L28DA24053) does not meet the required California Emissions standard. This vehicle was transferred from McFarland Ford Sales Inc. of Exeter, New Hampshire to Starkey Ford, Inc. on February 9, 2009. The vehicle was subsequently sold by Starkey Ford, Inc. in the State of Maine.
4. By the conduct described in paragraph three (3) of this Agreement, Starkey Ford, Inc. violated Maine's Rule, *New Motor Vehicle Emission Standards*, 06-096 CMR 127(4)(A).
5. A Notice of Violation (NOV) was issued to Starkey Ford, Inc. on July 2, 2009 for the violation described in paragraphs three (3) and four (4).
6. The Department has regulatory authority over the activities described herein.
7. Pursuant to 38 M.R.S.A. § 347-D(6)(A) and 347-A(1)(A)(1) Administrative Consent Agreements must be approved by the Board of Environmental Protection (the "Board"), which is part of the Department.
8. This Agreement shall not become effective unless and until it is approved by the Board and the Office of the Attorney General.
9. To resolve the violation identified in paragraphs three (3) and four (4) above, Starkey Ford, Inc. agrees to pay the sum of two thousand, sixty dollars (\$2,060.00) as a civil monetary penalty immediately upon signature of this Agreement, to the *Treasurer, State of Maine*.
10. The Department and the Office of the Attorney General grant Starkey Ford, Inc. a release of their causes of action against Starkey Ford, Inc. for the specific violation described in paragraphs three (3) and four (4) above in consideration of the requirements called for in paragraph nine (9) above. The release shall not become effective until all requirements of this Agreement are satisfied.
11. Non-compliance with this Agreement voids the release set forth in paragraph ten (10) of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. § 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.


Starkey Ford, Inc.)
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**ADMINISTRATIVE CONSENT
AGREEMENT**

12. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all local, state and federal laws, including but not limited to licensing requirements.
13. The provisions of this Agreement shall apply to, and be binding on, the parties, their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

IN WITNESS WHEREOF the parties hereto have executed this agreement of three (3) Pages.

STARKEY FORD, INC.

BY:  8/17/09
NAME, TITLE DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
SUSAN M. LESSARD, CHAIR DATE

SEEN AND AGREED TO, MAINE OFFICE OF THE ATTORNEY GENERAL

BY: _____
GERALD D. REID, ASSISTANT ATTORNEY GENERAL DATE