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: Casco Bay Motors
DATE: December 17, 2009

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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:

Yarmouth, 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 Casco Bay Motors, of Yarmouth, Maine, had purchased and resold a 2009 Ford Fusion 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 Casco Bay Motors to comply with the requirements of 06-096 CMR 127 and provides for payment of civil penalties in the amount of $2,640.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

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IN THE MATTER OF:

CASCO BAY MOTORS	)	**ADMINISTRATIVE CONSENT**
CUMBERLAND COUNTY	)	**AGREEMENT**
YARMOUTH, MAINE	)	**38 M.R.S.A. § 347-A**
AIR QUALITY VIOLATION	)	
2009-118-A		

This Agreement by and among Casco Bay Motors, the Maine Department of Environmental Protection ("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. Casco Bay Motors, is a Maine corporation, authorized to conduct business in Maine as a dealer of new automobiles and trucks with its principal location in Yarmouth, Maine.

2. The violation described herein occurred at Casco Bay Motors, located at 1213 US Route #1, Yarmouth, Maine.

3. Throughout the period of time addressed by this Agreement, Casco Bay Motors was subject to Maine's Rule, *New Motor Vehicle Emission Standards*, 06-096 CMR 127(2)(F), (I), (J) and (4)(A), which states in relevant part:

2. Definitions:

F. California-certified. "California-certified" means having a valid executive order and approved by CARB for sale in California.

I. 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.

J. 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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4. In a letter dated August 28, 2009, the Bureau of Motor Vehicles brought to the Department's attention a possible non-complying vehicle sold by Casco Bay Motors, located in Yarmouth, Maine. On September 14, 2009, Department Staff visited the dealership and requested a copy of any documentation verifying the emissions certification of the vehicle in question. After receipt of the documentation on September 14, 2009, the Department found that the vehicle in question (a 2009 Ford Fusion, VIN #3FAHP07Z09R172633) does not meet the required California Emissions standard. This vehicle was transferred from Hampton Ford, Inc. of North Hampton, New Hampshire to Casco Bay Motors, Inc. on July 6, 2009. The vehicle was subsequently sold and registered in the State of Maine.

5. By the conduct described in paragraph four (4) above, Casco Bay Motors violated Maine's Rule, 06-096 CMR 127(4), which prohibits the sale of a vehicle in the State of Maine unless the vehicle is California-certified.

6. A Notice Of Violation ("NOV") was issued to Casco Bay Motors on September 21, 2009 for the violation described in paragraphs four (4) and five (5).

7. The Board has regulatory authority over the activities described herein.

8. For the purpose of this Agreement, Casco Bay Motors agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A § 347-A(1)(B).

9. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.

10. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.

11. To resolve the violations identified in paragraphs four (4) and five (5) of this Agreement, Casco Bay Motors agrees to pay the sum of two thousand, six hundred forty dollars ($2,640.00) as a civil monetary penalty immediately upon signature of this Agreement, to the *Treasurer, State of Maine*.

12. The Department and Office of the Attorney General grant a release of their causes of action against Casco Bay Motors for the specific violation listed in paragraphs four (4) and five (5) of this Agreement on the express condition that all actions listed in paragraph eleven (11) of this Agreement are completed in accordance with the express terms and conditions of this Agreement. The release shall not become effective until all requirements of this Agreement are satisfied.

IN THE MATTER OF:

CASCO BAY MOTORS	)	**ADMINISTRATIVE CONSENT**
CUMBERLAND COUNTY	)	**AGREEMENT**
YARMOUTH, MAINE	)	**38 M.R.S.A. § 347-A**
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13. Non-compliance with this Agreement voids the release set forth in paragraph twelve (12) 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.

14. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.

15. The provisions of this Agreement shall apply to, and be binding on, the parties and 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 consisting of three (3) pages:

CASCO BAY MOTORS

BY: _____ 11-27-09
NAME, TITLE DATE

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: _____
SUSAN M. LESSARD, CHAIR DATE

MAINE OFFICE OF THE ATTORNEY GENERAL

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