



STATE OF MAINE
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACC
GOVERNOR

BETH NAGUSKY
ACTING COMMISSIONER

MEMORANDUM

TO: Board of Environmental Protection
FROM: Kurt Tidd PE, Bureau of Air Quality Control
SUBJECT: Prime Ford, Lincoln, Mercury
DATE: November 4, 2010

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Statutory and Regulatory References:

Maine's Rule for *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:

Saco, Maine

Description:

On June 29, 2010, Department Staff performed a LEV audit at Prime Ford, Lincoln, Mercury and documented that Prime had offered for sale a 2010 Ford Fusion that was not California Emissions Certified.

Environmental Issues:

Maine's Rule for *New Motor Vehicle Emission Standards*, 06-096 CMR 127 establishes motor vehicle emissions standards for vehicles offered for sale or sold within the State of Maine. By regulating the emissions from new vehicles that are offered for sale or 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 Prime Ford, Lincoln, Mercury to comply with the requirements of Maine's Rule for *New Motor Vehicle Emission Standards*, 06-096 CMR 127 and provides for payment of civil penalties in the amount of \$500.00. The penalty was a negotiated settlement based on the Air Bureau's penalty assessment guideline.

AUGUSTA
17 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0017
(207) 287-7688 FAX: (207) 287-7826
RAY BLDG., HOSPITAL ST.

BANGOR
106 HOGAN ROAD, SUITE 6
BANGOR, MAINE 04401
(207) 941-4570 FAX: (207) 941-4584

PORTLAND
312 CANCO ROAD
PORTLAND, MAINE 04103
(207) 822-6300 FAX: (207) 822-6303

PRESQUE ISLE
1235 CENTRAL DRIVE, SKYWAY PARK
PRESQUE ISLE, MAINE 04679-2094
(207) 764-0477 FAX: (207) 760-3143



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IN THE MATTER OF:

SACO AUTO HOLDINGS - FLMM, LLC) ADMINISTRATIVE CONSENT
d/b/a PRIME FORD LINCOLN MERCURY) AGREEMENT
CUMBERLAND COUNTY)
SACO, MAINE)
EIS # 2010-077-A)

This Agreement, by and among Saco Auto Holdings - FLMM, LLC, d/b/a Prime Ford Lincoln Mercury ("Prime"), 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).

The parties agree as follows:

- 1. Prime is a Delaware Limited Liability Company authorized to conduct business in Maine and operates a retail auto sales business with its principal location at 875 Portland Road Saco, Maine.
2. Throughout the period of time addressed by this Agreement, Prime was subject to Maine's Rule for New Motor Vehicle Emission Standards, 06-096 CMR 127 2(F), (G), (I) and (J) and 4(A) (last amended May 20, 2009) which state in relevant part;

2. Definitions

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

G. CARB. "CARB" means the California Air Resources Board.

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.

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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 and subsequent model-year passenger car or light-duty truck or 2003 and subsequent model-year medium-duty vehicle, unless the vehicle or engine is California-certified...
3. Department staff conducted a LEV Audit of Prime on June 29, 2010. The LEV Audit documented that Prime had for sale a Non-California Certified vehicle. The vehicle in question was a 2010 Ford Fusion, VIN #3FAHPOHAXAR274048. Prime was instructed to remove the vehicle from the lot and transfer the vehicle out of state. Prime transferred the vehicle to a dealer in Ohio.
4. By the conduct described in paragraph three (3) of this Agreement, Prime violated Maine's Rule, *New Motor Vehicle Emissions Standards*, 06-096 CMR 127(4)(A).
5. A Notice Of Violation (NOV) was issued to Prime on July 14, 2010 for the violation described in paragraph three (3) in accordance with 38 M.R.S.A. § 347-A(1)(B).
6. The Department has regulatory authority over the activities described herein.
7. For the purpose of this Agreement, Prime agrees that it received proper notice of all violations identified herein pursuant to 38 M.R.S.A § 347-A(1)(B).
8. 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.
9. This Agreement shall not become effective unless and until it is approved by the Board and the Office of the Attorney General.
10. To resolve the violation identified in paragraph three (3) Prime agrees to pay the sum of five hundred (\$500.00) as a civil monetary penalty immediately upon signature of this Consent Agreement, to the Treasurer, State of Maine.
11. The Department and the Office of the Attorney General grant Prime a release of the causes of action that they have for the specific violation described in paragraph three (3) above in consideration of the payment called for in paragraph ten (10) above. The release shall not become effective until all requirements of this Agreement are satisfied.

SACO AUTO HOLDINGS - FLMM, LLC) ADMINISTRATIVE CONSENT
d/b/a PRIME FORD LINCOLN MERCURY) AGREEMENT
CUMBERLAND COUNTY)
SACO, MAINE)
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- 12. Non-compliance with this Agreement voids the release set forth in paragraph eleven (11) 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.
- 13. 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.
- 14. 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.

SACO AUTO HOLDINGS – FLMM LLC, d/b/a PRIME FORD LINCOLN MERCURY

BY: Paul Michel Mgr 10/4/10
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