

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA and)
PEOPLE OF THE STATE OF)
CALIFORNIA)
)
Plaintiffs,)
)
v.)
)
DAIMLER AG and)
MERCEDES-BENZ USA, LLC,)
)
Defendants.)
_____)

Civil Action No.: 1:20-cv-2564-EGS

**JOINT STIPULATION MODIFYING
CONSENT DECREE (ECF NO. 10-1)**

(NO ACTION REQUIRED BY
THE COURT)

JOINT STIPULATION

The Parties jointly stipulate to modify the Consent Decree (ECF No. 10-1) entered in this action on March 9, 2021, as stated below. These modifications, made pursuant to Paragraphs 102 and 103 of the Consent Decree, are non-material, and no action is required of the Court.

WHEREAS, the United States filed a civil complaint (ECF No. 1) against Daimler AG and Mercedes-Benz USA, LLC (together, “Daimler”) on September 14, 2020, alleging that Daimler violated multiple parts of Section 203(a) of the Clean Air Act (CAA), 42 U.S.C. § 7522(a), when it sold uncertified Mercedes-Benz and Freightliner diesel passenger cars and vans (“Subject Vehicles”) in the United States that contain undisclosed auxiliary emission control devices (AECDs) and emission control “defeat devices;”

WHEREAS, the People of the State of California, by and through the California Air Resources Board (CARB) and Xavier Becerra, Attorney General of the State of California, represented by the Office of the California Attorney General, filed a civil complaint under civil

action number 1:20-cv-2565-EGS against Daimler on September 14, 2020, alleging that Daimler violated multiple parts of Section 203(a) of the CAA, 42 U.S.C. § 7522(a), and several provisions of California law when it sold Subject Vehicles in California that contain undisclosed AECs and emission control defeat devices, and the Court consolidated California's action with this action on September 14, 2020;

WHEREAS, numerous models and model-years of Mercedes-Benz and Freightliner diesel vehicles make up the Subject Vehicles;

WHEREAS, the Court signed and entered a Consent Decree among the United States, CARB, and Daimler (ECF No. 10-1) (the "Joint Consent Decree") on March 9, 2021, resolving the claims alleged in the United States' and CARB's complaints and requiring Daimler to, among other things, implement an approved emission modification (AEM) to update the emission control systems in the Subject Vehicles;

WHEREAS, the Joint Consent Decree groups the Subject Vehicles into 12 Emission Modification Categories (EMCs) for purposes of implementing the AEM;

WHEREAS, as part of implementing the AEM, the Joint Consent Decree requires Daimler to make hardware changes to the vehicles in each EMC, and these changes are enumerated in Appendix B, Attachment I of the Joint Consent Decree;

WHEREAS, Table 1 below sets forth vehicle parts that are discussed in this Joint Stipulation, and these parts are hereinafter referred to by their corresponding letter (*e.g.*, "Part A");

TABLE 1

	PART DESCRIPTION
A.	PM Sensor
B.	DPF
C.	DEF Injector
D.	Crankcase Ventilation Valve (including Line and Heating Element)
E.	Left Charge Air Distribution Line/Intake Manifold (including Intake Port Shutoff Linkage)
F.	Right Charge Air Distribution Line/Intake Manifold (including Intake Port Shutoff Linkage)
G.	Charge Air Distribution Line Transverse Tube
H.	Intake Port Shutoff Actuator
I.	Clean Air Duct and Mass Air Flow Sensors
J.	EGR Valve (Actuator)
K.	EGR Cooler
L.	EGR Line(s)
M.	Coolant Thermostat
N.	Lambda Sensor

WHEREAS, Appendix B, Attachment I of the Joint Consent Decree requires Daimler to replace Part A in all EMC 12 vehicles that receive the AEM, except model-year 2016 E250 vehicles (test group number GMBXV02.1U2B);

WHEREAS, based on new information, the Parties agree that Daimler should also replace Part A in model-year 2016 E250 vehicles that receive the AEM;

WHEREAS, Appendix B, Attachment I of the Joint Consent Decree requires Daimler to replace Part B in all EMC 4 vehicles that receive the AEM, except model-year 2013 GL350 and ML350 vehicles (test group number DMBXT03.0U2A);

WHEREAS, the Parties agree that a scrivener's error occurred and Daimler should also replace Part B in model-year 2013 GL350 and ML350 vehicles (test group number DMBXT03.0U2A) that receive the AEM;

WHEREAS, Appendix B, Attachment I of the Joint Consent Decree does not require Daimler to replace Parts C through L on vehicles in any EMC that receive the AEM;

WHEREAS, based on new information, the Parties agree that Daimler should replace Parts C through L on all vehicles in EMC 5 that receive the AEM and that Daimler should replace Parts D through L on all vehicles in EMCs 7 and 8 that receive the AEM;

WHEREAS, Appendix B, Attachment I of the Joint Consent Decree originally required Daimler to replace Part M for certain existing part numbers in model-year 2012 and 2013 EMC 4 and EMC 6 vehicles;

WHEREAS, based on new information, the Parties agree that Daimler should replace Part M on all model-year 2012 and 2013 vehicles in EMCs 4 and 6 that receive the AEM;

WHEREAS, Appendix B, Attachment I of the Joint Consent Decree did not originally require Daimler to replace Part N for model-year 2009 EMC 5 vehicles;

WHEREAS, the Parties agree that a scrivener's error occurred and Daimler should replace Part N in model-year 2009 EMC 5 vehicles;

WHEREAS, the Parties agree that replacement of Part A in model-year 2016 E250 vehicles, replacement of Part B in model-year 2013 GL350 and ML350 vehicles in EMC 4, replacement of

Parts C through L in EMC 5 vehicles, replacement of Parts D through L in EMC 7 and 8 vehicles, replacement of Part M in model-year 2012 and 2013 vehicles in EMCs 4 and 6, and replacement of Part N in model-year 2009 vehicles in EMC 5 will not reduce the efficacy of the AEM;

WHEREAS, Appendix A, Paragraph 18.a of the Joint Consent Decree requires Daimler to provide an extended warranty on a list of parts impacted by the AEM;

WHEREAS, all Parts listed in Table 1 except Part D are already covered under Appendix A, Paragraph 18.a of the Joint Consent Decree;

WHEREAS, the Parties agree that Part D should be covered under Appendix A, Paragraph 18.a of the Joint Consent Decree;

WHEREAS, Appendix B, Paragraph 4 of the Joint Consent Decree requires Daimler to submit to the Environmental Protection Agency (EPA) and CARB an Emission Modification Proposal Report (“EMP Report”) for each EMC by a date enumerated in Appendix B, Attachment I;

WHEREAS, the EMP Report for EMC 5 is due on August 30, 2021, the EMP Report for EMC 6 is due on November 8, 2021, and the EMP Report for EMCs 7 and 8 is due on October 4, 2021;

WHEREAS, the Parties agree that, based on new information, the EMP Report for EMC 5 should be due on November 8, 2021, the EMP Report for EMC 6 should be due on October 4, 2021, and the EMP Report for EMCs 7 and 8 should be due on January 31, 2022;

WHEREAS, Paragraph 19.a of the Joint Consent Decree requires Daimler to perform in-use monitoring performance verification and reporting related to on-board diagnostics (OBD);

WHEREAS, the Parties agree that Paragraph 19.a should be modified to provide additional specificity related to the vehicle selection criteria for such testing;

WHEREAS, Paragraph 97 of the Joint Consent Decree requires Daimler to submit reports and other notices to EPA, in the first instance, through the agency's CDX system, and if CDX is unavailable, by mail;

WHEREAS, the United States and Daimler agree that Paragraph 97 should be modified because of limited access to mail caused by the ongoing COVID-19 pandemic, and because of limits on the type of documents that Daimler can upload to EPA's CDX system;

WHEREAS, under Paragraphs 102 and 103 of the Joint Consent Decree, the Parties may make non-material modifications to the Decree through a written agreement signed by the Parties and filed with the Court;

WHEREAS, under Paragraph 102 of the Joint Consent Decree, non-material modifications do not require action by the Court;

WHEREAS, the Parties recognize and agree that this Joint Stipulation Modifying Consent Decree is a non-material modification and is fair, reasonable, and in the public interest:

NOW, THEREFORE, the Parties stipulate as follows:

1. Attachment A to this Joint Stipulation Modifying Consent Decree shall be substituted for Appendix B, Attachment I of the Joint Consent Decree.
2. Attachment C to this Joint Stipulation Modifying Consent Decree shall be substituted for Paragraph 97 of the Joint Consent Decree.
3. Attachment E to this Joint Stipulation Modifying Consent Decree shall be substituted for Appendix A, Paragraph 18.a of the Joint Consent Decree.

4. Attachment G to this Joint Stipulation Modifying Consent Decree shall be substituted for Paragraph 19.a of the Joint Consent Decree.

5. This Joint Stipulation Modifying Consent Decree shall be effective immediately after the Parties file it with the Court, as recorded on the CM/ECF docket sheet.

6. This Joint Stipulation Modifying Consent Decree may be signed in counterparts, and its validity shall not be challenged on that basis. For purposes of this Joint Stipulation Modifying Consent Decree, a signature page that is transmitted electronically shall have the same effect as an original.

7. Each person signing this Joint Stipulation Modifying Consent Decree certifies that he or she is fully authorized to enter into the terms of this Joint Stipulation and to execute and legally bind the party he or she represents to this document.

8. This Joint Stipulation Modifying Consent Decree includes the following attachments:

Attachment A – Substitution for Appendix B, Attachment I of the Joint Consent Decree.

Attachment B – Redline showing modifications made to Appendix, B, Attachment I of the Joint Consent Decree.

Attachment C – Substitution for Paragraph 97 of the Joint Consent Decree.

Attachment D – Redline showing modifications made to Paragraph 97 of the Joint Consent Decree.

Attachment E – Substitution for Appendix A, Paragraph 18.a of the Joint Consent Decree.

Attachment F – Redline showing modification made to Appendix A, Paragraph 18.a of the Joint Consent Decree.

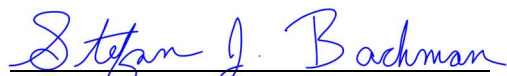
Attachment G – Substitution for Paragraph 19.a of the Joint Consent Decree.

Attachment H – Redline showing modification made to Paragraph 19.a of the Joint Consent Decree.

THE UNDERSIGNED PARTIES hereby agree to this Joint Stipulation Modifying Consent Decree.

For the UNITED STATES OF AMERICA:

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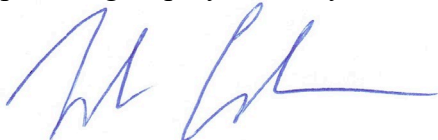
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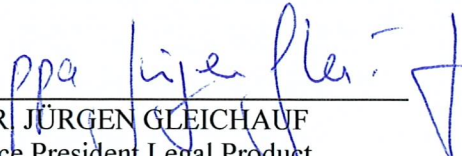
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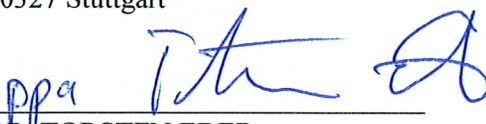
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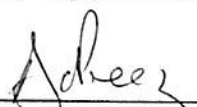
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