

Attachment 1

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CHRYSLER-DODGE-JEEP
ECODIESEL MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

No. 3:17-md-02777-EMC

**STIPULATION AND AGREEMENT
REGARDING NON-MATERIAL CHANGES
TO THE CONSENT DECREE**

Hon. Edward M. Chen

UNITED STATES,

Plaintiff,

v.

FCA US LLC,
FIAT CHRYSLER AUTOMOBILES
N.V., V.M. MOTORI S.P.A., and
V.M. NORTH AMERICA, INC.,

Defendants.

3:17-cv-3446-EMC

PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

v.

FCA US LLC,
FIAT CHRYSLER AUTOMOBILES
N.V., V.M. MOTORI S.P.A., and
V.M. NORTH AMERICA, INC.,

Defendants.

3:19-cv-00051

The United States of America, on behalf of the United States Environmental Protection Agency (“EPA”), and 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 (collectively, “Governmental Plaintiffs”) enter into this Stipulation and Agreement with FCA US LLC, Fiat Chrysler Automobiles N.V., V.M. Motori S.P.A., and V.M. North America, Inc. (collectively, “Defendants”) for the purpose of clarifying and modifying certain provisions of the consent decree approved and entered by the Court on May 3, 2019, Doc. No. 562 (“Consent Decree”). The provisions in question are (a) Paragraph 70, which governs the timing of various reports submitted under the Consent Decree, (b) Paragraphs 54.b, 55.b, and 56.b, which set forth deadlines for certain projects under the Improvement Plan that is incorporated by reference pursuant to Paragraph 149.f of the Consent Decree, and (c) Paragraph 43.b and Appendix D, which together govern the disclosure that FCA must make to consumers who receive the Approved Emissions Modification (“AEM”). In accordance with Paragraph 136 of the Consent Decree, the Governmental Plaintiffs and the Defendants hereby stipulate and agree as follows:

1. The reporting period for annual reports submitted in accordance with Paragraph 70.a of the Consent Decree shall run from May 1 through April 30 of each calendar year (with the report due on June 3), except for any annual reports submitted during the first year of the Consent Decree, which shall cover the reporting period from May 3, 2019 through April 30, 2020 (with the report due on June 3, 2020).

2. The reporting periods for semi-annual reports submitted in accordance with Paragraphs 70.b and 71.c of the Consent Decree are January 1 through June 30 (with the report due on July 31) and July 1 through December 31 (with the report due on January 31 of the following year).

3. The reporting periods for quarterly reports submitted in accordance with Paragraph 70.c of the Consent Decree are May 1 through July 31 for first quarter reports (with the exception of the first quarterly report, which shall cover the reporting period from May 3, 2019 through July 31, 2019), which are due on September 3; August 1 through October 31 for second quarter reports, which are due on December 3; November 1 through January 31 for third quarter reports, which are due on March 3; and February 1 through April 30 for fourth quarter reports, which are due on June 3.

4. The deadline for completing Post Certification Processes Project 5 (“PC5”), which is described on page 35 of the Improvement Plan, is extended to October 31, 2019.

5. The deadline for completing New Product Development Project 6 (“PD6”), which is described on page 17 of the Improvement Plan extended to November 30, 2019.

6. The deadline for completing Certification Processes Project 7 (“CP7”), which is described on page 28 of the Improvement Plan, is extended to December 31, 2019.

7. The deadline for completing Certification Processes Project 8 (“CP8”), which is described on page 29 of the Improvement Plan, is extended to December 31, 2019.

8. The deadline for complete Auditing/Checking Project 2 (“AC2”), which is described on page 37 of the improvement Plan, is extended to December 31, 2019.

9. The AEM Disclosure in Appendix D to the Consent Decree is updated to include the following statement regarding the effect of the AEM upon key vehicle attributes:

Key Vehicle Attributes: The AEM is not expected to change any of your key vehicle attributes, such as reliability, durability, vehicle performance, drivability, engine noise or vibration, or other driving characteristics. The original version of the AEM released in May of 2019 caused a slight hesitation or lag in acceleration during approximately the initial five minutes of driving after engine start until the engine and exhaust warm up. This problem, which was reported by only a small percentage of drivers, has been addressed by an updated AEM that the U.S. Environmental

Protection Agency and the California Air Resources Board approved in December of 2019. With the updated AEM, for a short period of time after engine start, some customers may have to depress the accelerator pedal further to minimize any hesitation or lag in acceleration.

10. Before applying the updated AEM to an Eligible Vehicle, Defendants shall provide the updated AEM Disclosure, with the above statement regarding Key Vehicle Attributes, to Eligible Owners or Eligible Lessees in accordance with Paragraph 43.b. Defendants shall also make the updated AEM Disclosure available on the public website referenced in Paragraph 43.b of the Consent Decree within two business days of the date of the final signature of this Agreement and Stipulation. No later than 20 days after signing this Stipulation and Agreement, Defendants shall submit to EPA and CARB for review and approval a notice, which shall be sent to all Eligible Owners or Eligible Lessees whose vehicles received the original AEM, as approved in May of 2019, for the purpose of (a) disclosing the fact that a slight hesitation or lag in acceleration may occur during the initial five minutes of driving after engine start until the engine and exhaust warm up and (b) informing Eligible Owners and Eligible Lessees as to the availability of the updated AEM, which will be installed free-of-charge, to address this effect.

11. Nothing in this Stipulation and Agreement constitutes a material change to the Consent Decree.

12. The Stipulation and Agreement shall be effective upon signature by the Governmental Plaintiffs and Defendants. No action by the Court is required to effectuate this Stipulation and Agreement.

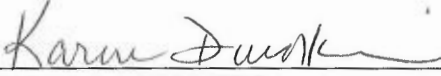
13. The Stipulation and Agreement may be signed in counterparts, and a signature page that is transmitted electronically (e.g., by facsimile or e-mailed "PDF") shall have the same effect as an original.

14. The United States will file a copy of the executed Stipulation and Agreement with the Court. Defendants shall post the filed version (with the ECF stamp) on the website required by Paragraph 78 of the Consent Decree.

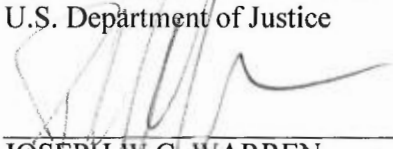
15. Each undersigned representative of Defendants and California and the United States certifies that he or she is fully authorized to enter into the terms and conditions of this Stipulation and Agreement and to execute and legally bind the party that he or she represents.

FOR THE UNITED STATES OF AMERICA:

12/17/19
DATE


KAREN S. DWORKIN
Deputy Chief
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

12/17/19
DATE


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FOR THE U.S. ENVIRONMENTAL PROTECTION
AGENCY:

PHILLIP A. BROOKS
Director, Air Enforcement Division, Office of Civil
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Office of Enforcement and Compliance Assurance
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FOR THE PEOPLE OF THE STATE OF CALIFORNIA
BY AND THROUGH THE CALIFORNIA AIR
RESOURCES BOARD AND XAVIER BECERRA,
ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA:

12/17/2019
DATE



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FOR THE PEOPLE OF THE STATE OF CALIFORNIA
BY AND THROUGH THE CALIFORNIA AIR
RESOURCES BOARD AND XAVIER BECERRA,
ATTORNEY GENERAL OF THE STATE OF
CALIFORNIA:

DATE

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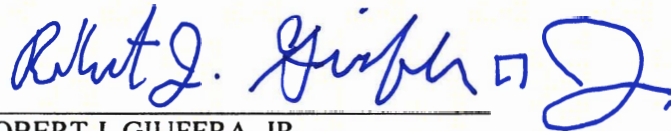
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12/17/2019
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17 December 2019
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