

refer to *United States v. Caterpillar, Inc.*, Civil Action No. 98-2544 (HHK), D.J. Ref. 90-5-2-1-2255.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202-624-0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 3RD Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of \$34.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Joel M. Gross,

*Chief, Environmental Enforcement Section,
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DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices which will be the subject of a motion for leave to file under seal) in *United States v. Cummins Engine Co.* Civil Action No. 98-2546 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Cummins Engine Company ("Cummins") and the California Air Resources Board ("CARB") have concluded a related settlement agreement that resolves California claims similar to the federal claims addressed by this proposed Consent Decree; and (2) the United States filed similar settlements with six other manufacturers of motor vehicle diesel engines, notice of which is also being published at this time.

The United States has asserted in a civil complaint against Cummins under the Clean Air Act, as amended 42 U.S.C. 7401 *et seq.* ("the Act"), that Cummins sold, offered for sale, or introduced or delivered for introduction into commerce, certain heavy duty diesel engines that are equipped with computer software that alters fuel injection timing when the engines are in actual use, relative to the fuel injection timing used to control emissions of oxides of nitrogen ("NO_x") on the

emissions test (the Federal Test Procedure or "FTP") required by U.S. Environmental Protection Agency ("EPA") regulations for the sale of motor vehicle engines in the United States. The United States alleges in its complaint that these computer strategies have an adverse effect on the engines' emission control system for NO_x, that they were not adequately disclosed to EPA, that they are emission-control defeat devices prohibited under the Act, and that these engines are not covered by an EPA Certificate of Conformity, as required by the Act for motor vehicle engines to be sold in the United States.

Under the proposed Consent Decree, Cummins has agreed to resolve the United States' claims by, among other things:

(1) Reducing emissions from heavy duty diesel engines and eliminating the strategies of concern in future production, in accordance with the schedule set forth in the proposed Decree. This includes a substantial reduction in emissions by the end of this year, and a requirement that Cummins achieve early compliance (by October 1, 2002) with the more stringent NO_x plus nonmethane hydrocarbon emission standard that would otherwise not apply (under current law) until January 1, 2004;

(2) Meeting Consent Decree emission limits both on the FTP and on a supplemental test called the EURO III test, which measures emissions under steady state conditions;

(3) Meeting "emission surface limits" and "not-to-exceed" limits that impose specific emissions limits in real-world operating conditions;

(4) Addressing emissions from engines previously sold and currently in use by developing and supplying dealers and independent rebuilders with Low NO_x Rebuilt Kids, which would be used by engine rebuilders at the time of rebuild, and would reduce NO_x emissions in rebuilt engines; and

(5) Meeting certain emission limits for nonroad engines one year earlier than the law requires;

(6) Conducting, in conjunction with Chrysler Corporation, a recall of certain medium heavy-duty pickup trucks, so that modifications may be made to the engine to reduce emissions.

As additional injunctive relief Cummins also will spend up to \$35 million to fund projects approved by EPA and CARB that are designed to reduce NO_x and PM emissions. Some of those projects are already specified in the Consent Decree. Others will be selected after the close of the public comment period following consideration of, and review and

approval by the United States and CARB, of projects proposed by Cummins, including any ideas submitted by the public. Cummins may receive credit against a portion of this \$35 million obligation in return for securing verifiable reductions in NO_x emissions not otherwise required by this Decree or other applicable by law, but in no event will its obligation to fund projects be less than \$25 million.

Finally, Cummins is required to pay \$25 million in civil penalties, twenty-five percent of which will be paid to CARB as part of its parallel settlement with Cummins. The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States v. Cummins Engine Co.* Civil Action No. 98-2546 (HHK), D.J. Ref. 90-5-2-1-2136A.

The Consent Decree may be examined at the Office of the United States Attorney for the District of Columbia, Judiciary Center Bldg., 555 Fourth St., N.W., Washington, D.C. 20001; at the Environmental Protection Agency Library, Reference Desk, Room 2904, 401 M Street, S.W., Washington, D.C. 20460; and at the Consent Decree Library, 1120 G Street, N.W., 3rd Floor, Washington, D.C. 20005, 202-624-0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1220 G Street, N.W., 3rd Floor, Washington, D.C. 20005. In requesting a copy, please enclose a check in the amount of \$41.95 (25 cents per page reproduction cost) payable to the Consent Decree Library.

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DEPARTMENT OF JUSTICE

Notice of Filing of Consent Decree Under the Clean Air Act

Under 28 CFR 50.7, notice is hereby given that on October 22, 1998, a proposed Consent Decree (excepting two appendices that will be the subject of a motion for leave to file under seal) in *United States v. Detroit Diesel Corporation*, Civil Action No. 98-2548 (HHK), was filed with the United States District Court for the District of Columbia. At the same time, (1) Detroit