

1 JOHN C. CRUDEN
Assistant Attorney General
2 Environment and Natural Resources Division

3 JOSHUA H. VAN EATON (WA-39871)
4 BETHANY ENGEL (MA-660840)
Trial Attorneys
5 Environmental Enforcement Section

6 U.S. Department of Justice
7 P.O. Box 7611
Washington DC 20044-7611
8 Telephone: (202) 514-5474
9 Facsimile: (202) 514-0097
Email: Josh.Van.Eaton@usdoj.gov

10
11 *Attorneys for Plaintiff United States of America*

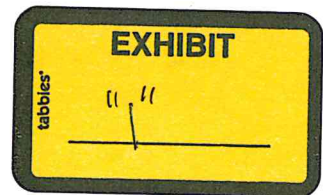
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 _____)
IN RE: VOLKSWAGEN "CLEAN)
16 DIESEL" MARKETING, SALES)
PRACTICES, AND PRODUCTS)
17 LIABILITY LITIGATION)
18)
19)
20)
21 _____)

Case No: MDL No. 2672 CRB (JSC)

PARTIAL CONSENT DECREE

Hon. Charles R. Breyer



PARTIAL CONSENT DECREE
MDL No. 2672 CRB (JSC)

V. EMISSIONS MODIFICATION

5.1 Emissions Modification Recall: No later than fifteen (15) Days after Settling Defendants receive from EPA/CARB notice of the Approved Emissions Modification for one or more Test Groups pursuant to the terms of Appendix B of this Consent Decree, Settling Defendants shall offer to Eligible Owners and Eligible Lessees of the applicable Eligible Vehicles an Approved Emissions Modification in accordance with the terms approved by EPA/CARB.

5.1.1. No Incurred Costs. Settling Defendants, their agents, contractors, dealers, successors, or assigns shall provide the Approved Emissions Modification free of charge to all Eligible Owners and Eligible Lessees. Although Settling Defendants need not provide any consumer payment to any person eligible to participate in the Class Action Settlement who elects not to do so, Settling Defendants must provide an Approved Emissions Modification to any Eligible Owner or Eligible Lessee regardless of such participation.

5.1.2. No Release of Private Party Claim Solely for Approved Emissions Modification. Settling Defendants may not require any release of liability for any legal claims or arbitration of any claim that an Eligible Owner or Eligible Lessee may have against Settling Defendants or any other person solely in exchange for receiving an Approved Emissions Modification.

5.2 No End Date for Emissions Modification Recall: Once an emissions modification is approved by EPA/CARB pursuant to Appendix B and is offered to Eligible Owners or Eligible Lessees in accordance with Paragraph 5.1, such modification offer shall remain available to all Eligible Owners or Eligible Lessees of an Eligible Vehicle within the applicable Test Group or Test Groups indefinitely and shall remain subject to the conditions in subparagraphs 5.1.1, 5.1.2, 5.3.1, and the label requirements in subparagraph 5.3.5 of this Appendix A. In accordance with Paragraph 95 of the Consent Decree, the requirements contained in this Paragraph 5.2 shall continue in full force and effect after Termination of the Decree. Settling Defendants may move for Termination of the Decree pursuant to the requirements of Consent Decree Section XVII even though the obligations of this Paragraph 5.2 shall remain in place.

5.3 Additional Requirements for Emissions Modification.

5.3.1 Warranty. 2.0 Liter Subject Vehicles receiving the Approved Emissions Modification shall qualify for a warranty as described in Appendix B (the "Warranty").

5.3.2 Warranty Remedies. In addition to any protections provided by law (including those referenced in subparagraph 5.3.3 below), Settling Defendants must reoffer and provide a Buyback or Lease Termination to any Eligible Owner or Eligible Lessee of a Modified Vehicle in the event that, during the 18 months or 18,000 miles following the completion of the Approved Emissions Modification (the "Reoffer Period"), Settling Defendants fail to repair or remedy a confirmed mechanical failure or malfunction covered by the Warranty and associated with the Approved Emissions Modification (a "Warrantable Failure") after the Eligible Owner or Eligible Lessee physically presents the Modified Vehicle to a dealer for repair of the Warrantable Failure; and (1) the Warrantable Failure is unable to be remedied after making four separate service visits for the same Warrantable Failure during the Reoffer Period; or (2) the Modified Vehicle with the Warrantable Failure is out of service due to the Warrantable Failure for a cumulative total of 30 Days during the Reoffer Period. (For avoidance of doubt, a Modified