

Issued: January 10, 2024.

**Lisa Barton,**

*Secretary to the Commission.*

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On January 10, 2024, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of Columbia in the case captioned *United States v. Cummins Inc.*, Case No. 1:24–cv–00088.

The United States filed a Complaint in this lawsuit seeking civil penalties and injunctive relief from Defendant Cummins Inc. (“Cummins”) for alleged violations of title II of the Clean Air Act, as amended, 42 U.S.C. 7521–7590, and the regulations promulgated thereunder, which aim to protect human health and the environment by reducing emissions of nitrogen oxides (“NO<sub>x</sub>”) and other pollutants from mobile sources of air pollution, including new motor vehicles. The State of California has filed a separate Complaint alleging corresponding claims for civil penalties and injunctive relief against Cummins under the Clean Air Act’s citizen suit provisions, 42 U.S.C. 7404(a)(1), and California laws and regulations.

The United States’ Complaint alleges that Cummins violated the Clean Air Act through the company’s production and sale of diesel motor vehicle engines—along with associated engine control and emission control systems—that were installed in nearly one million pickup trucks sold in the United States under the RAM 2500 and RAM 3500 model names. The United States alleges that Cummins’ applications to the U.S. Environmental Protection Agency for Certificates of Conformity for those trucks did not disclose multiple software-based features that affect their emission control systems. In addition, the United States alleges that some of these undisclosed software features qualify as illegal “defeat devices” that bypass, defeat and/or render inoperative emission control systems in more than 630,000 model year 2013–2019 RAM 2500 and RAM 3500 trucks, causing those vehicles to emit substantially higher levels of NO<sub>x</sub> during certain normal real world driving conditions, as compared to the vehicles’ NO<sub>x</sub> emissions levels during federal emission tests.

When the United States’ Complaint was filed, the United States also lodged

a proposed Consent Decree among the United States (on behalf of the U.S. Environmental Protection Agency), the State of California (on behalf of the California Air Resources Board), and Cummins (the “Joint Consent Decree”). If approved by the Court, the Joint Consent Decree would resolve the claims against Cummins in the United States’ Complaint on agreed terms and conditions. The Joint Consent Decree also would partially resolve the claims against Cummins in the California Complaint. A separate proposed Consent Decree between Cummins and California (the “California Partial Consent Decree”) was lodged concurrently with the proposed Joint Consent Decree. The California Partial Consent Decree would resolve the remaining claims in the California Complaint, including claims brought by the California Attorney General.

The Joint Consent Decree would require Cummins to: (i) pay the United States a \$1.478 billion civil penalty; (ii) pay the California Air Resources Board a \$164 million penalty; and (iii) take various steps to remedy the alleged violations, including conducting vehicle recall campaigns to replace the software in model year 2013–2019 RAM trucks and satisfying mitigation requirements to offset the excess NO<sub>x</sub> emissions from those trucks.

The California Partial Consent Decree would require Cummins to pay \$33 million in civil penalties to the California Attorney General and make an additional payment to fund actions or projects that reduce NO<sub>x</sub> emissions through mitigation programs administered by the California Air Resources Board.

Taken together, the Joint Consent Decree and the California Partial Consent Decree would require Cummins to pay more than \$2 billion to resolve the violations alleged by the United States and California, including \$1.675 billion in civil penalties.

The publication of this notice opens a period for public comment on the United States’ proposed Joint Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Cummins Inc.*, DJ Ref. No. 90–5–2–1–12300. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email .....	<a href="mailto:pubcomment-ees.enrd@usdoj.gov">pubcomment-ees.enrd@usdoj.gov</a>
By mail .....	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Joint Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the proposed Joint Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for \$45.75 (25 cents per page reproduction cost) payable to the United States Treasury.

**Patricia A. McKenna,**

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## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation and Liability Act, Clean Water Act, and Oil Pollution Act

On January 8, 2024, the Department of Justice lodged five proposed consent decrees with the United States District Court for the Northern District of Ohio in the lawsuit entitled *United States v. Ohio Refining Co., et al.*, Civil Action No. 3:24–cv–00039.

The United States filed a Complaint alleging claims against Ohio Refining Co., LLC, Chevron U.S.A. Inc., Energy Transfer (R&M), LLC, Pilkington North America, Inc., and Chemtrade Logistics, Inc., under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), the Clean Water Act, and the Oil Pollution Act for recovery of damages for injury to, loss of, or destruction of natural resources resulting from the release of hazardous substances and oil at the Duck & Otter Creeks NRDA Site located near Toledo, Ohio. Each Defendant or its predecessor historically owned and/or operated an industrial facility within the Site which discharged polynuclear aromatic hydrocarbon (“PAH”) compounds,