Message

From: Cohen, Janet [cohen.janet@epa.gov]
Sent: 1/13/2017 1:25:36 PM
To: Bunker, Byron [bunker.byron@epa.gov]; Birgfeld, Erin [Birgfeld.Erin@epa.gov]
CC: Wehrly, Linc [wehrly.linc@epa.gov]
Subject: FW: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Byron and Erin –
I'm forwarding a somewhat long email dialog between Jennifer France and me from yesterday regarding a public inquiry she received about Mercedes status. Bringing you in now because I expect more of these questions so we better figure out how we want to respond.

Of course we need to talk this one over but my leaning now is respond as clearly and openly as we can. I think we should say directly that Mercedes testing is still underway because we did see some results that we didn't entirely understand and that required followup. Ex. 5 Deliberative Process (DP)

Ex. 5 Deliberative Process (DP)

- J. -

From: France, Jennifer
Sent: Thursday, January 12, 2017 5:16 PM
To: Cohen, Janet <cohen.janet@epa.gov>
Cc: Wehrly, Linc <wehrly.linc@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Ex. 5 Deliberative Process (DP)

From: Cohen, Janet
Sent: Thursday, January 12, 2017 4:01 PM
To: France, Jennifer <france.jennifer@epa.gov>
Cc: Wehrly, Linc <wehrly.linc@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Jennifer,
I will help you craft an answer but you can send but it is going to be a little bit tricky to adequately respond without going beyond what we've been willing to say so far about Mercedes.

Here is a very long start at an answer. As I said, I'll work with you on something more appropriate for public use.

For your background, you will recall that after the first VW announcement, in September 2015, we announced that we would:

1) run a special test program for all LD diesels currently for sale in the U.S. The program focused mostly on already-certified 2015 models but we also tested certain already-certified 2013 and 2014 models, and we ran the special confirmatory testing on all of the 2016 diesel models seeking certification. The initial test list was:

- VW/Audi/Porsche 3.0L MY 2014-2016
- FCA 3.0L Dodge Ram MY2014-2015
- Mercedes 2.1L GLK250 MY 2015
- Mercedes 3.0L GL350 MY 2015
- BMW 2.0L 328d MY 2016
- BMW 2.0L X3 MY 2015
- BMW 3.0L X5 MY 2013, 2015, 2016
- GM 2.0L Cruze MY 2014
- GM 2.8L Colorado/Canyon MY 2016
- Land Rover Range Rover MY 2016

2) expand all of our confirmatory and compliance testing to employ a broader set of screening tools to look for emissions anomalies going forward. So all the diesels that subsequently came in for certification got the extra testing, including the 2017 Mercedes models.

The first thing that happened after we started the special testing was that we found problems with the VW 3L vehicles, which led to a second NOV to VW in November, 2015 and ultimately to the settlement and criminal indictments that got announced yesterday. After that, we focused on already-certified 2016 models, plus the vehicles that needed their 2016 certificates, so we confirmatory tested the 2016 prototypes and in some cases, older production models. We proceeded to certify the 2016 models that passed the tests, at which point the certification decision became public, though we never made specific statements about which vehicles had passed and which hadn't. And we did more and more extensive testing on the vehicles that didn't, including expanding the initial test list to other models. We ended up certifying the BMWs, GMs, and Land Rovers. Now that FCA has been announced, anyone watching carefully can probably deduce that only Mercedes is left, but EPA has not yet made that statement. FYI, here's a dialog between Byron and Janet McCabe so you can see how Byron responded to a similar question from Janet McCabe this morning.
.....
While we have communicated that we are certifying vehicles on an ongoing basis, I don't believe we have ticked off the list of certified vehicles. We certainly can do so from this list.

These vehicles are already published to the FuelEconomy.Gov website and can be found using the following link if we want to share it with reporters.

http://www.fueleconomy.gov/feg/PowerSearch.do?action=noform&year1=2017&year2=2017&minmsrpsel=0&maxmsrpsel=0&city=0&hwy=0&comb=0&YearSel=2017&make=&model=&mclass=&mclass=&vfuel=&vtype=Diesel&trany=&drive=&cyl=&MpgSel=&SortBy=City&Units=&url=SearchServlet&opt=new&minmsrp=0&maxmsrp=0&rowLimit=25&pageno=1&sortBy=Comb&tabView=0

Thanks,

Byron

****
Byron Bunker
Director Compliance Division
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From: McCabe, Janet
Sent: Thursday, January 12, 2017 8:32 AM
To: Bunker, Byron <bunker.byron@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>; Wehrly, Linc <wehrly.linc@epa.gov>; Millett, John <Millett.John@epa.gov>; Conger, Nick <Conger.Nick@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>
Subject: RE: FCA_blog_1-11-17.docx

Thanks, Byron.

The models at the bottom—we haven't said anything publicly about these yet, right? If not, is it time to share this information?

From: Bunker, Byron
Sent: Thursday, January 12, 2017 8:16 AM
To: McCabe, Janet <McCabe.Janet@epa.gov>; Grundler, Christopher <grundler.christopher@epa.gov>
Cc: Birgfeld, Erin <Birgfeld.Erin@epa.gov>; Cohen, Janet <cohen.janet@epa.gov>; Wehrly, Linc <wehrly.linc@epa.gov>; Millett, John <Millett.John@epa.gov>; Conger, Nick <Conger.Nick@epa.gov>; Haman, Patricia <Haman.Patricia@epa.gov>
Subject: RE: FCA_blog_1-11-17.docx
Importance: High

Hi Janet,

The list is copied below. There was an earlier version of this list that included some Mercedes vehicles for MY2016 that were certified BEFORE Sept 18, 2015. I have removed those from the list so that this list only shows vehicles that have gone through our more rigorous screening program.

Thanks,

Byron

EPA Certified 2017 Light-Duty Diesel Vehicle Models
2017 (15 models)

BMW – 4 models
2.0 L, 4 cylinder**:** 328d; 328d xDrive; 328d xDrive Sports Wagen
3.0 L, 6 cylinder**:** X5 xDrive 35d

GM – 4 models (all 2.8 L, 4 cylinder**)**
Chevrolet Colorado 2WD; 4WD
GMC Canyon 2WD, $WD

Jaguar – 5 models (all 2.0 L, 4 cylinder)
XE; XF; XE AWD; XF AWD; F-Pace

Land Rover – 2 models (all 3.0 L, 6 cylinder)
Range Rover; Range Rover Sport

In addition, EPA and CARB have very carefully tested and screened the Heavy-Duty Pickup trucks from Ford, General Motors, FCA/RAM and Nissan. All of those passed with flying colors.
……

Getting back to the specific questions your correspondent is asking, I think we have to say that for the older Mercedes models, testing is still underway and that we do not disclose status of vehicles pending certification. Here's how Nick Conger has responded to press inquiries about when we will issue certification decisions:

"EPA doesn't confirm the status of preproduction vehicles until manufacturers introduce them into commerce to respect any potential confidential business information."

You can say that we are doing the diesel oversight/compliance testing in collaboration with our partners CARB and Environment Canada.

There is some good language in the Q/A document I sent before about holding mfrs accountable if there are problems and you can refer to the fact that we just did so with FCA.

Probably should talk about how very complex these issues are, the need to get things right, etc.

Again, I'll help you draft something if you like but won't have time to work on that until tomorrow. I'm copying Linc so he can check what I've said here and add his thoughts.

- J. -

From: France, Jennifer
Sent: Thursday, January 12, 2017 2:54 PM
To: Cohen, Janet <cohen.janet@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

So I responded to him with "EPA, together with its partners Environment Canada and CARB is continuing to conduct additional testing. We expect to complete our current model year diesel testing within the next few months." But he's interested in purchasing a used BMW, so he wants to make sure that the 2013-15 model year diesels have been tested and cleared. So he wrote back stating:

> "…, you do not mention BMW and Mercedes diesel models from 2013, 2014 and 2015. I understood those older cars were being tested; I know that the current 2017 BMW diesel will be on sale soon after some changes were made or negotiations completed. Mercedes apparently has not cleared their diesel 2017 models for marketing here and no 'due date' for that has been announced.
>
> It is claimed that these older BMW and M/B vehicles do not have defeat devices but they do, at least sometimes, exceed NOx guidelines, and perhaps some sort of software, however labeled, causes that to happen. I believe BMW says this only happens at high speeds and is necessary to prevent engines from overheating. I thought this testing of recent diesel models was supposed to be on-going. Can you not disclose the status of those tests and when a conclusion is expected? Is another party doing the testing? Why wouldn't you test them and require modifications if that is what you have done with Volkswagen/Audi. It seems we should be entitled to know what is or what is not going on."

I'm not sure how to respond to those specific questions. Do you have any suggestions?

From: Cohen, Janet
Sent: Thursday, January 12, 2017 11:15 AM
To: France, Jennifer <france.jennifer@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Use your judgment but yes. – j. -

From: France, Jennifer
Sent: Thursday, January 12, 2017 11:14 AM
To: Cohen, Janet <cohen.janet@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Thanks Janet! Even though they are internal Qs&As, can I use them to respond to public inquiries?

From: Cohen, Janet
Sent: Thursday, January 12, 2017 11:13 AM
To: France, Jennifer <france.jennifer@epa.gov>
Subject: RE: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Yes. Will forward the final fca materials that include an internal q/a with an answer on testing. – j. -

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From: EPA Office of Transportation & Air Quality
Sent: Thursday, January 12, 2017 10:56 AM
To: Cohen, Janet <cohen.janet@epa.gov>
Subject: Your EPA Inquiry RE: BMW Diesel cars prior to 2016 - is there an update on releasing test results?

Hi Janet – I have text from last year's original Q&A that sort of addresses this, but it doesn't really say when we are going to release the test results. Do you have an update I can use to respond to this inquiry?

> **How does EPA know that other manufactures such as BMW are not cheating also?**
> We are in the process of acquiring diesel vehicles for EPA testing. Prior tests by ICCT/WVU of one BMW SUV in the US checked out as compliant with our standards, but we will do our own testing.
>
> **What about BMW diesels? Have you tested them?**
> The West Virginia University study included one BMW diesel vehicle that performed well. EPA in collaboration with the California Air Resources Board (CARB), and Environment Canada have started a screening test program to evaluate recent model year diesel vehicles for defeat devices.
>
> **How will you test other vehicles?**
> EPA will conduct a variety of tests and other evaluations to assess compliance and especially to uncover defeat devices. EPA is not providing specifics about how it will conduct the expanded testing.
>
> **When will you make available the results of those tests?**
> As soon as the three agencies have completed the testing and evaluated the results, we expect to make our findings available to the public.

-----Original Message-----
From: drupal_admin@epa.gov [mailto:drupal_admin@epa.gov]

Sent: Wednesday, January 04, 2017 3:38 PM
To: EPA Office of Transportation & Air Quality <OTAQ@epa.gov>
Subject: BMW Diesel cars prior to 2016

Subject: BMW Diesel cars prior to 2016
Name: Barry Schenof
Email Address: bschenof@mac.com
Comments:
I am a long-time diesel devotee. VW is about to purchase my 2009 Jetta Sportswagen TDI -- I bought the original model and loved it -- and I want to buy a used diesel from BMW or M/B. It is my understanding other existing cars are under testing and have been for some time. Can you please update me when your results will become public? I would like to buy the car knowing there is no 'fix' required or that any required 'fix' is minor. I can wait but want to know how long the wait is likely to be.
Thanks very much, Barry.