



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
2565 PLYMOUTH ROAD
ANN ARBOR, MICHIGAN 48105-2498

February 23, 2015

OFFICE OF
AIR AND RADIATION

**United Postal Service
Delivery Confirmation Requested**

Mr. Matthias Vogel
Chief Executive Officer
MTU America Inc.
39525 MacKenzie Drive
Novi, Michigan 48377

Jim Stevenot
MTU America Inc. General Counsel
39525 MacKenzie Drive
Novi, Michigan 48377

Dear Mr. Vogel and Mr. Stevenot:

This letter is to inform you that the U.S. Environmental Protection Agency ("EPA") is voiding ab initio five certificates of conformity issued to MTU Detroit Diesel, Inc., now known as MTU America Inc. ("MTU") for certain 2008 and 2009 engine families.

On December 3, 2007, EPA issued MTU a certificate of conformity for the stationary and non-road compression-ignition engine family 8MDDL95.4XTR. On November 14, 2007, EPA issued a certificate of conformity for marine compression-ignition engine family 8MDDM65.0MTR. On October 9, 2008, EPA issued a certificate of conformity for marine compression-ignition engine family 9MDDM65.0MTR. On May 13, 2008, EPA issued a certificate of conformity for marine compression-ignition family 9MDDN86.2MTR. On November 19, 2008, EPA issued a certificate of conformity for the stationary and non-road compression-ignition engine family 9MDDL95.4XTR. These certificates were issued based on information and statements MTU made in its applications for certification, as required in 40 C.F.R. Part 89 (non-road compression-ignition engine families) and Part 94 (marine compression-ignition engine families). Specifically, MTU stated that the non-road compression-ignition engines described in the certification applications "have been tested in accordance with the applicable test procedures, utilizing the fuels and equipment required under subparts B, D, and E of 40 CFR Part 89 and that on the basis of such tests the engines conform to the requirements of 40 CFR 89 and Subpart III of 40 CFR 60." Similarly, MTU stated that the marine engines described in the certification applications "have been tested in accordance with applicable test procedures, utilizing the fuels and equipment

required under subpart B of 40 CFR Part 94 (subparts D and E of 40 CFR 89 for category 1 and subparts B or 40 CFR 92 for category 2/3 engines), and that on the basis of such tests the engine(s) conforms to the requirements of 40 CFR part 94.”

EPA’s decision to issue these certificates of conformity was based on our review of information and statements in MTU’s certification applications, and most importantly, our presumption that the information and statements in the applications were true and complete. We concluded that the above-referenced engine families met all of the requirements of 40 CFR Parts 60, 89, and 94 (as applicable) and the Clean Air Act; consequently, we issued certificates of conformity.

After issuing these certificates of conformity, EPA received information from MTU described as a “self-disclosure” of “compliance issues affecting the certification testing” of engine family 8MDDL95.4XTR. This letter and the follow-up materials provided by MTU and its counsel disclosed to EPA that MTU’s certification testing program did not conform to applicable testing, retention of data and records, and limitations on maintenance requirements.

On April 14, 2011, EPA notified MTU of a number of regulatory violations related to conduct discussed above and provided MTU a 30-day opportunity for the company to demonstrate or achieve compliance with all the applicable requirements governing these certificates of conformity. We received a response to EPA’s April 14, 2011 letter from your legal counsel, Mr. Jonathan Martel, of Arnold & Porter LLP, on July 29, 2011. Subsequently, MTU and the United States have reached agreement on the terms of a consent decree to resolve the violations discussed above. Accordingly, MTU has withdrawn the July 29, 2011 letter, subject to certain conditions, by Mr. Martel on February 23, 2015. Specifically, the conditions include that, following public notice and comment, if the United States Department of Justice withdraws its support for entry of the consent decree, or if the court denies entry of the consent decree, then MTU reserves the right to request that EPA withdraw its voiding of the certificates ab initio and provide MTU with 30 days to reassert its response to EPA’s April 14, 2011 letter.

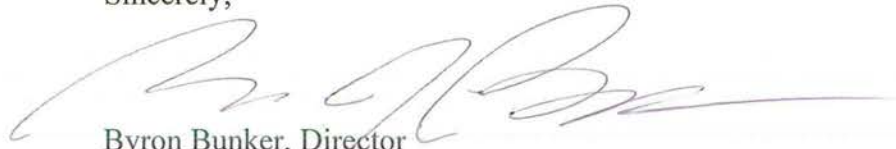
For the reasons set forth above and as described in greater detail in EPA’s April 14, 2011 letter, and in agreement with the specific conditions contained in MTU’s February 23, 2015 letter from Mr. Martel, EPA concludes that MTU satisfies the conditions for EPA to deem the above-referenced certificates void ab initio pursuant to 40 C.F.R. Parts 89 and 94.

Therefore, EPA is voiding ab initio your certificates of conformity for engine families 8MDDL95.4XTR, 8MDDM65.0MTR, 9MDDM65.0MTR, 9MDDN86.2MTR, and 9MDDL95.4XTR effective immediately. By voiding ab initio your certificates of conformity, the certificates are deemed void from the beginning of the 2008 model year for engine families 8MDDL95.4XTR and 8MDDM65.0MTR, and from the beginning of the 2009 model year for engine families 9MDDM65.0MTR, 9MDDN86.2MTR, and 9MDDL95.4XTR.

Sections 203 and 213(d) of the Clean Air Act prohibit the sale of new vehicles and new engines unless such new vehicles and new engines are covered by a valid certificate of conformity. Each introduction of a new non-road compression-ignition engine and new marine compression-ignition engine into U.S. commerce under these certificates of conformity during the applicable model year and thereafter was a violation of section 203 and 213 of the Clean Air Act.

Should you have any further questions please contact Mr. David Dickinson at (202) 343-9256, or Dickinson.David@epa.gov.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Byron Bunker', written over a horizontal line.

Byron Bunker, Director
Compliance Division
Office of Transportation and Air Quality

cc: Jonathan Martel, Esq., Counsel for MTU
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