

NGO Response to Clean Tech Industry Letter Proposing Remedies for Volkswagen Diesel Violations

December 18, 2015

Mary Nichols
Chairman
California Air Resources Board
1001 "I" Street
Sacramento, CA, 95814

Re: NGO response to Clean Tech Industry Letter Proposing Remedies for Volkswagen Diesel Violations

Dear Chairman Nichols:

On behalf of the undersigned organizations, we are writing in response to the letter submitted to you on December 17, 2015, by 45 individuals largely representing the clean tech industry and investor community¹ and proposing how CARB should proceed in seeking remedy from Volkswagen (VW) for its use of defeat-devices in the roughly 50,000 light-duty diesel (LDD) vehicles in California.² Each year these VW vehicles may have been emitting as much NOx as 1.9 - 2 million legally compliant cars driving California's roads.³ While we fully support CARB's work to transition California's transportation system to a zero emissions vehicle (ZEV) future we are concerned that the industry letter:

- 1) Does not address the real health impacts caused by non-compliant diesels, particularly to vulnerable communities near roadways, in a rapid time frame.
- 2) Offers no remedy to the purchasers of the defective VW diesel vehicles who have been defrauded. Many of these consumers purchased the VW vehicles because they were led to understand that they were cleaner and more fuel-efficient than those of competing manufacturers.⁴
- 3) Risks reducing an enforcement action from a punitive action appropriate to one of the most egregious examples of corporate and environmental fraud in history to one which merely expedites VW's longer term corporate strategy.⁵
- 4) Fails to acknowledge that, while the defective VW vehicles are dispersed throughout more affluent neighborhoods, it is the residents of poorer communities along the roadways that these vehicles commute who are disproportionately exposed to the emissions from these non-compliant vehicles.⁶
- 5) Fails to consider the need to make any new zero emissions vehicles and related technologies available and affordable to the low income communities suffering with the worst air quality.

A full investigation should be conducted by federal and state law enforcement officials, and VW and its executives should be held responsible for their actions. Vigorous enforcement of both criminal and civil

¹ The text of the letter is available here: <http://mashable.com/2015/12/17/open-letter-volkswagen-diesel-carb/#dJ2I3jHXGOq5>

² http://www.arb.ca.gov/newsrel/in_use_compliance_letter.pdf

³ Nationally emissions could have been as high as 19 million cars per year or equivalent to the pollution released from one coal-fired power plant.

⁴ Before VW's cheat-devices were discovered, the 2009 Jetta TDI and 2010 Audi A3 TDI had been awarded *Green Car Journal's* "Green Car of the Year" award. The awards subsequently were rescinded: <http://www.prnewswire.com/news-releases/vw-and-audi-returning-green-car-of-the-year-awards-vehicles-deemed-ineligible-300151534.html>

⁵ <http://www.hybridcars.com/volkswagen-to-shift-strategy-from-diesel-to-plug-in-hybrids-and-electric-vehicles/>

⁶ <https://keva.la/vw/>

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laws is essential to deterring this kind of intentional and egregious violation of laws that protect public health.

VW should be required to immediately and comprehensively remedy the deterioration in air quality caused by their fraud. The company must reduce the emissions of hazardous air pollutants, particularly NO_x, on an air-basin-by-air-basin basis, to the level that they would have been had VW's vehicles complied with applicable emissions regulation. This must be done as soon as technically possible, and solely at VW's expense. There must be additional reductions beyond a return to statutorily required levels to redress the years of health harm they have inflicted on communities; VW must be obligated to remove several times the total amount of excess pollution their vehicles emitted while operating in violation of the law.

In addition to remediating the damage to the air, VW should make particular reparations to the communities suffering most from unhealthy air. Since communities near roadways have been burdened with the bulk of the excess pollution from VW's non-compliant LDD vehicles, VW should be required to offset all the excess emissions in these communities through verified, enforceable contemporaneous pollution reductions (i.e., these must be new real emissions reductions; not, for example, through the purchase of ERCs generated from past shut-down credits).

Further VW reparations should be required to broaden access to clean transportation in those same disadvantaged and burdened communities. Any penalties collected by CARB from VW should be directed towards further supporting programs seeking to boost deployment of ZEVs in underserved communities(e.g., through direct purchase incentives to low and moderate income individuals, by supporting the development of community ride-share programs, and paying for the installation of charging infrastructure or other infrastructure upgrades, etc.) VW also should fund a substantial expansion of near-road air quality monitoring infrastructure along with independent research on the impact of motor vehicle emissions on public health in order to ensure that these remedies actually yield durable improvements.

VW's punishment for knowingly violating California's air pollution regulations should fit the crime and ensure that any resulting reparations are directed towards delivering real solutions that will bring cleaner air and cleaner transportation to communities and neighborhoods with the most urgent needs.

Please feel free to contact any of us if you would like to discuss this issue further.

Sincerely,

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American Lung Association in California

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Asian Pacific Environmental Network (APEN)

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AZUL

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cc: CARB Board
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