

State of Oregon
Department of Environmental Quality

Memorandum

Date: Oct. 19, 2016
To: Environmental Quality Commission
From: Richard Whitman, Director *Rmw*
Subject: Agenda item I, Informational item: VW Partial Settlement Decree Terms
Nov. 2-3, 2016, EQC meeting

Purpose of item DEQ will present an update on next steps in the proposed settlement of federal litigation regarding diesel emissions.

Background Diesel-powered passenger cars in certain models of Volkswagen and Audi brands sold between 2009 to 2015 were built with emission control defeat devices that resulted in up to 40 percent higher nitrogen oxide emissions than claimed during normal driving.

A settlement was announced in June 2016 to address the allegations of cheating on emission tests and deceiving customers of these 2.0 liter diesel engine passenger cars. Parties to the settlement talks included the U.S. Department of Justice, the Environmental Protection Agency, the state of California and representatives from other states, including Oregon.

While a major portion of the settlement directly provides relief to the owners and lessees of these cars, including buyback or repair options, the state of Oregon has an indirect and direct role in two other elements of the decree. The first is a zero emission vehicle investment fund and the second is an environmental mitigation fund.

Volkswagen will commit \$2 billion over 10 years to a program promoting the use of zero emission vehicles. Of that, \$800 million will be spent on projects in California and \$1.2 billion in the rest of the nation. The national fund will be dedicated to ZEV infrastructure, public education and outreach, and programs that provide the opportunity for people to experience ZEV technology without having to make a purchase, as in car sharing programs. Volkswagen will have discretion over where and what activities are funded under a plan approved by EPA. Oregon and other states with ZEV programs are meeting with Volkswagen to provide a recommended list of actions designed to support and advance widespread use of zero emission vehicles in these states.

An environmental trust fund is also established to mitigate some of the impact from the excess emissions that have occurred, and will still occur even after emission modifications are installed on remaining vehicles. Volkswagen will commit \$2.7 billion made available to states, the District of Columbia and Puerto Rico. The allocation is based on the proportion of VW diesel vehicles registered in each jurisdiction. Under this formula Oregon is expected to receive at least \$68 million.

The consent decree provides a prescriptive list of eligible mitigation actions for these funds with a focus on reducing NOx emissions from primarily diesel-powered trucks and buses. Some other harmful pollutants, like diesel particulate and polycyclic aromatic hydrocarbons, will be simultaneously reduced because of the emphasis on vehicle replacement and engine repowering. Even with a prescriptive list of eligible actions, states will still need to determine programmatic priorities and criteria for selection of preferred projects.

Next steps

DEQ is developing its outreach plan to gather input from stakeholders and the public over the new few months. Staff will seek input on key factors such as project funding prioritization and program goals. To date, DEQ has completed a webinar on basic terms of the decree and either responded to or requested invitations to speak before several trade and environmental groups, including the Environmental Justice Task Force.

As certified by the commission, DEQ presented a Policy Option Package and Legislative Concept to the Governor's Office for the 2017-19 Agency Request Budget for authority to accept and expend the funds and request positions to administer the program. DEQ will also need statutory authority to receive and expend funds distributed from the environmental trust fund.

**EQC
involvement**

DEQ intends to present a plan in 2017 outlining mitigation fund priorities for the commission's consideration and endorsement.

Available online

1. Oregon DEQ VW Settlement webpage:
<http://www.deq.state.or.us/aq/vw-settlement.htm>
 - Includes links to the consent decree, VW Settlement Fact Sheet and other descriptive documents

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