



# Volkswagen Clean Air Act Civil Settlement

(Washington, D.C.) - Through a series of three partial settlements, the EPA has resolved a civil enforcement case against Volkswagen AG, Audi AG, Dr. Ing. h.c. F. Porsche AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, and Porsche Cars North America, Inc. (collectively “Volkswagen”). On October 25, 2016, the United States District Court for the District of Northern California approved the first partial settlement with certain of these Volkswagen entities addressing vehicles containing 2.0 liter diesel engines (the “2.0 liter partial settlement”). On May 17, 2017, the court approved the second partial settlement addressing vehicles containing 3.0 liter diesel engines (the “3.0 liter partial settlement”). Third, on April 13, 2017 the court approved the third partial settlement addressing civil penalties and injunctive relief to prevent future violations (the “third partial settlement”).

These settlements resolve allegations that Volkswagen violated the Clean Air Act (“CAA”) by the sale of approximately 590,000 model year 2009 to 2016 diesel motor vehicles equipped with “defeat devices.” The EPA alleged that these vehicles are equipped with defeat devices in the form of computer software designed to cheat on federal emissions tests. The major excess pollutant at issue in this case is oxides of nitrogen (NO<sub>x</sub>) and is a serious health concern.

Concurrent with the third partial settlement the United States Department of Justice resolved a criminal case against Volkswagen AG with a plea agreement for the offenses of conspiracy, obstruction of justice, and entry of goods by false statement; and the United States Customs and Border Protection resolved civil fraud claims with Volkswagen arising from the illegal importation of affected vehicles. Details on these resolutions are not included on this page.

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## Overview of Companies

Defendants in these CAA partial settlements are Volkswagen AG, Audi AG, Dr. Ing. h.c. F. Porsche AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, and Porsche Cars North America, Inc. (collectively here “Volkswagen”).

- **Volkswagen AG** is headquartered in Wolfsburg, Germany and is one of the world’s leading automobile manufacturers and the largest carmaker in Europe. This is the parent company of Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga, LLC, and Audi AG.
- **Volkswagen Group of America, Inc.** is a wholly owned subsidiary of Volkswagen AG. It operates a manufacturing plant in Chattanooga, Tennessee and houses the U.S. operations of several brands of cars.
- **Volkswagen Group of America Chattanooga Operations, LLC** operates a manufacturing plant in Chattanooga, Tennessee and is as a subsidiary of Volkswagen Group of America, Inc.
- **Audi AG** has been owned by Volkswagen since 1969 and produces Audi vehicles.
- **Dr. Ing. h.c. F. Porsche AG** is a German corporation, headquartered in Stuttgart, Germany, that is owned by Volkswagen AG. The company designs, develops, manufactures, and distributes vehicles, engines, and other technical products.
- **Porsche Cars North America, Inc.** is a wholly-owned subsidiary of Dr. Ing. h.c. F. Porsche AG, headquartered in Atlanta, Georgia. Porsche Cars North American, Inc. is the exclusive importer of Porsche vehicles for the United States. The company provides Porsche vehicles, parts, service, marketing and training for its 189 dealers in the United States.

## Settlement Resources

- [FAQs: Beneficiaries to the VW Mitigation Trust](#)
- [Complaint](#)
- [Consent Decrees](#)
- [Announcement and Statements](#)
- [Press Release](#)
- [Timeline of Events](#)
- [Other Documents and Reports](#)
- Information for Consumers
  - [Affected Vehicles](#)
  - [Volkswagen/Audi Diesel Emissions Settlement Program](#) 
  - [Volkswagen “Clean Diesel” Multi-District Litigation](#) 
- Mitigation Resources
  - [Environmental Mitigation Trust Agreements](#)

## Clean Air Act Certification Requirements and Violations

The CAA and its regulations aim to protect human health and the environment, in part, by reducing harmful emissions from mobile sources of air pollution. The CAA partial settlements concern light-duty motor vehicles. Light-duty vehicles must satisfy tailpipe emission standards for certain air pollutants, including NO<sub>x</sub>. Pursuant to the CAA, the EPA administers a certification program to ensure that every vehicle introduced into United States commerce satisfies applicable emission standards. Under this program, manufacturers apply to the EPA for a certificate of conformity (“COC”) and must demonstrate in their applications that representative test vehicles meet emission standards. The EPA issues COCs to vehicle manufacturers based on these applications. A COC covers only those new motor vehicles that conform, in all material respects, to the design specifications described in the manufacturer’s application for that COC. Manufacturers are prohibited from selling any new motor vehicle unless that vehicle is covered by an EPA-issued COC.

On January 4, 2016, and as amended on October 7, 2016, the United States filed a complaint against the Volkswagen entities alleging violations of the CAA with regard to approximately 590,000 diesel vehicles sold in the U.S. Specifically, the U.S. complaint alleges that each of these vehicles contains, as part of the engine control module, certain computer algorithms and calibrations that cause the emissions control system of those vehicles to perform differently during normal vehicle operation and use than during emissions testing. The U.S. complaint alleges that these computer algorithms and calibrations are prohibited defeat devices under the CAA, and that during normal vehicle operation and use, the cars emit levels of NO<sub>x</sub> significantly in excess of the EPA compliant levels.

## **Elements of the Settlement**

### **Vehicle Recall**

#### **CAA 2.0 Liter Partial Settlement**

Under the CAA 2.0 liter partial settlement, Volkswagen must remove from commerce in the United States or perform an approved emissions modification on at least 85 percent of the affected 2.0 liter vehicles by June 2019. VW must also meet a separate 85 percent recall rate in California. If VW fails to reach the 85 percent recall rate, VW must pay additional funds into the mitigation trust in an amount equal to \$85 million for each percentage point by which it fell short of the national recall target, and \$13.5 million for each percentage point by which it fell short of the California recall target.

In order to achieve the 85 percent recall rate, Volkswagen must offer owners and lessees of the vehicles the opportunity to have their vehicles bought back by Volkswagen at a fair replacement value of the vehicle as of September 17, 2015, or to have their leases terminated at no cost. This buyback or lease termination option will be available to consumers for two years.

Additionally, if Volkswagen proposes an emissions modification to EPA and California Air Resources Board (CARB) and the agencies approve it, Volkswagen must also offer owners and lessees the option of an emissions modification. The EPA and CARB will assess any proposed emissions modification according to detailed requirements including a substantial reduction in NO<sub>x</sub> emissions. Any approved emission modification will require extensive testing by Volkswagen and may include both software changes and new hardware. If approved, an emissions modification will reduce NO<sub>x</sub> emissions from the vast majority of

vehicles by approximately 80 to 90 percent compared to their original condition. VW must provide consumers with an emissions modification disclosure that has been approved by EPA and CARB and that contains a clear and accurate description regarding all impacts of the emissions modification on the vehicle, including emissions levels as compared with the limits to which the vehicles were originally certified, and any impacts on fuel economy or vehicle maintenance. Any modified vehicle will also be covered by an extended warranty covering the emissions control system.

On January 6, 2017, the EPA and CARB approved Volkswagen's proposed emissions modification for the following 2.0 liter vehicles:



- model year 2015 Volkswagen Beetle, Beetle Convertible, Golf, Golf SportWagen, Jetta and Passat diesel vehicles, and
- model year 2015 Audi A3 diesel vehicles.

On May 19, 2017, the EPA and CARB approved Volkswagen's proposed emissions modification for the following 2.0 liter vehicles:

- model year 2012, 2013 and 2014 Volkswagen Passat diesel vehicles with automatic transmissions.

On July 27, 2017, the EPA and CARB approved Volkswagen's proposed emissions modification for the following 2.0 liter vehicles:

- model year 2009, 2010, 2011, 2012, 2013 and 2014 Volkswagen Jetta and Jetta SportWagen diesel vehicles;
- model year 2010, 2011, 2012, 2013 and 2014 Volkswagen Golf diesel vehicles;
- model year 2013 and 2014 Volkswagen Beetle and Beetle Convertible diesel vehicles; and
- model year 2010, 2011, 2012, and 2013 Audi A3 diesel vehicles.

Further information on the details of the approved emissions modifications, as well as information about consumer options can be found at [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com)  and [www.AudiCourtSettlement.com](http://www.AudiCourtSettlement.com) .

Volkswagen may resell or export vehicles that are bought back or for which the lease is terminated only after performing an EPA and CARB approved emission modification. If there is no approved emissions modification, the vehicles will be recycled or scrapped.

Under two related settlements concurrently approved by the court, a Federal Trade Commission (FTC) stipulated order and a class action settlement agreement, Volkswagen has also agreed to pay eligible consumers compensation for alleged consumer damages related to marketing and sale of the 2.0 liter vehicles with defeat devices. Volkswagen estimates that the total cost of achieving the 85 percent recall rate required under the CAA 2.0 liter partial settlement, and concurrently satisfying the FTC stipulated order and class action settlement agreement, will be up to \$10.033 billion.

Certain consumer notices and the claims administration for the buyback and lease termination program for 2.0 liter vehicles have been coordinated and consolidated with the FTC order and related class action

settlement. Further information on those settlements is available for consumers at [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com) and [www.AudiCourtSettlement.com](http://www.AudiCourtSettlement.com).

## CAA 3.0 Liter Partial Settlement

Under the CAA 3.0 liter partial settlement, Volkswagen must remove from commerce in the United States or perform an approved emissions modification on at least 85 percent of the affected 3.0 liter vehicles. Volkswagen's specific obligations for these vehicles differ depending on the technology generation of the vehicles – referred to as the generation 1 or the generation 2 vehicles.

Volkswagen must meet the 85 percent recall rate for the generation 1 affected 3.0 liter vehicles by November 30, 2019, and the generation 2 affected 3.0 liter vehicles by May 31, 2020. VW must also meet separate 85 percent recall rates in California. If VW fails to reach the 85 percent recall rate for the generation 1 vehicles, VW must pay additional funds into the mitigation trust in an amount equal to \$5.5 million for each percentage point by which it fell short of the national recall target, and \$900,000 for each percentage point by which it fell short of the California recall target. If VW fails to reach the 85 percent recall rate for the generation 2 vehicles, VW must pay additional funds into the mitigation trust in an amount equal to \$21 million for each percentage point by which it fell short of the national recall target, and \$5.5 million for each percentage point by which it fell short of the California recall target.

Under two related settlements concurrently approved by the court, a Federal Trade Commission (FTC) stipulated order and a class action settlement agreement, Volkswagen has also agreed to pay eligible consumers compensation for alleged consumer damages related to marketing and sale of the 3.0 liter vehicles with defeat devices.

Vehicle owners and lessees will receive updated information from Volkswagen, Audi and Porsche concerning their available buyback or modification options, and can also obtain information about these options at: [www.VWCourtSettlement.com](http://www.VWCourtSettlement.com) and [www.AudiCourtSettlement.com](http://www.AudiCourtSettlement.com).

## 3.0 Liter Generation 1 Vehicles

In order to achieve the 85 percent recall rate for the 3.0 liter generation 1 vehicles, Volkswagen must offer owners and lessees of these older 3.0 liter vehicles the option to have their vehicle bought back by Volkswagen, or to have their leases terminated at no cost.

This buyback or lease termination option will be available to consumers for two years.

Additionally, if Volkswagen proposes a generation 1 emissions modification to EPA and CARB and the agencies approve it, Volkswagen must also offer owners and lessees the option of an emissions modification. The EPA and CARB will assess any proposed emissions modification according to detailed requirements that include a substantial reduction in NO<sub>x</sub> emissions. Any approved emission modification will require extensive testing by Volkswagen and may include both software changes and new hardware. If approved, a generation 1 emissions modification will reduce NO<sub>x</sub> emissions from the majority of vehicles by approximately 80 percent compared to their original condition. VW must provide consumers with an emissions modification disclosure that has been approved by EPA and CARB and that contains a clear and accurate description regarding all impacts of the emissions modification on the vehicle, including emissions levels as compared with the limits to which the vehicles were originally certified, and any

impacts on fuel economy or vehicle maintenance. Any modified vehicle will also be covered by an extended warranty covering the emissions control system.

The affected 3.0 liter generation 1 diesel vehicles eligible for a buyback and that may also be eligible for an emissions modification are:

- Model year 2009 – 2012 Volkswagen Touareg
- Model year 2009 – 2012 Audi Q7

Volkswagen may resell or export vehicles that are bought back or for which the lease is terminated only after performing an EPA and CARB approved emission modification. If there is no approved emissions modification, the vehicles will be recycled or scrapped.

## **3.0 Liter Generation 2 Vehicles**

In order to achieve the 85 percent recall rate for the 3.0 liter generation 2 vehicles, Volkswagen must recall and modify these vehicles so that the vehicles meet their certified exhaust emissions standards, if such a technical solution is approved by EPA and CARB.

If EPA and CARB approve such an emissions compliant recall, VW must provide consumers with a clear and accurate description regarding all impacts of the emissions compliant recall on the vehicle, including emissions levels as compared with the limits to which the vehicles were originally certified, and any impacts on fuel economy or vehicle maintenance. Any modified vehicle will also be covered by an extended warranty covering the emissions control system. In the unlikely event that Volkswagen is unable to return generation 2 vehicles to their certified exhaust emissions standards, Volkswagen must offer to buy back the generation 2 vehicles or terminate leases at no cost to the customer. In this circumstance, Volkswagen could also seek approval of an emissions modification plan to reduce the emissions from these generation 2 vehicles.

The affected 3.0 liter generation 2 diesel vehicles eligible for an emissions compliant recall, pending EPA and CARB approval, are:


- Model year 2013 – 2015 Audi Q7
- Model year 2014 – 2016 Audi A6, A7, A8, Q5
- Model year 2013 – 2016 Porsche Cayenne
- Model year 2013 – 2016 VW Toureg

## **Mitigation**




The CAA 2.0 liter partial settlement required Volkswagen to fund a \$2.7 billion mitigation trust fund. Under the CAA 3.0 liter partial settlement, Volkswagen contributed an additional \$225 million in funding to the mitigation trust fund.

There are two mitigation trust agreements created pursuant to the settlement: one for states, Puerto Rico, and the District of Columbia and one for federally recognized Indian tribes. The trusts are being administered by Wilmington Trust, an independent trustee. The purpose of the mitigation trusts is to fund

eligible mitigation actions that replace diesel emission sources with cleaner technology, thereby offsetting the excess emissions of nitrogen oxides (NOx) caused by the violating 2.0 and 3.0 liter vehicles. The settlement is structured to provide the states, Puerto Rico, the District of Columbia, and federally recognized Indian tribes with the ability to select and implement appropriate mitigation actions funded by Volkswagen.


All 50 States, Puerto Rico, and the District of Columbia have elected to become beneficiaries. Each state, Puerto Rico, and the District of Columbia will receive a specific allocation of funds that can be used for any of the listed eligible mitigation actions. The allocation structure is primarily based on the number of registered affected Volkswagen vehicles within the boundaries of the beneficiary. The Tribes have a separate process for becoming a beneficiary, pursuant to the tribal mitigation trust agreement. For more information on the tribal trust, please visit <http://www7.nau.edu/itep/main/volkswagensettlement/> .

Eligible mitigation actions include projects to reduce NO<sub>x</sub> from heavy duty diesel sources. Eligible projects include the replacement or repower of medium and heavy-duty trucks, school and transit buses. Other eligible mitigation actions include engine repower for freight switcher locomotives, ferries, tugs, forklifts, and port cargo handling equipment. Beneficiaries may also install ocean going vessel shorepower. Eligible mitigation actions may also include, in a more limited capacity, charging infrastructure for light duty zero emission passenger vehicles. Beneficiaries may also use trust funding on DERA state and tribal grants. Beneficiaries have the flexibility to choose which projects on the list of eligible mitigation actions are the best options for their citizens.

Any member of the public interested in specific eligible mitigation actions should contact their state or tribal lead agency. The [National Association of State Energy Officials](#)  (NASEO) and the [National Association of Clean Air Agencies](#)  (NACAA) compiled a list of state lead agencies. A tribal lead agency is designated when the tribe becomes a certified beneficiary to the trust. The Institute for Tribal Environmental Professionals (ITEP) may be able to assist in identifying tribal lead agencies for beneficiaries. Their website can be found at <http://www7.nau.edu/itep/main/volkswagensettlement/Index> .

## Zero Emission Vehicle (ZEV) Investment

The CAA 2.0 liter partial settlement requires Volkswagen to invest \$2 billion in ZEV charging infrastructure and in the promotion of ZEVs. The ZEV investments required by the CAA 2.0 liter partial settlement are intended to address the fact that consumers purchased these illegal vehicles under the mistaken belief that such vehicles were lower-emitting than others. Electrify America, LLC, was created by Volkswagen Group of America to implement this requirement.

As part of the settlement, Volkswagen has submitted and will continue to submit as required a series of National ZEV Investment plans to EPA for review and approval based on criteria detailed in the consent decree. The settlement also requires that Volkswagen submit ZEV investment plans to California for the money to be spent in that state. The plans can be found here: <https://www.electrifyamerica.com/our-plan> .

The CAA 3.0 liter partial settlement does not include any additional ZEV investment requirements.



# Health Effects and Environmental Benefits

NOx pollution contributes to the formation of harmful smog and soot, exposure to which is linked to a number of respiratory- and cardiovascular-related health effects as well as premature death. Children, older adults, people who are active outdoors (including outdoor workers), and people with heart or lung disease are particularly at risk for health effects related to smog or soot exposure. Nitrogen dioxide formed by NOx emissions can aggravate respiratory diseases, particularly asthma, and may also contribute to asthma development in children. [For more information.](#)

## Civil Penalty

Under the third partial settlement, Volkswagen has paid a \$1.45 billion civil penalty for the alleged civil violations of the Clean Air Act.

## State and Regional Partners

The State of California, on behalf of its California Air Resource Board and the California Attorney General, joined the United States in both the 2.0 liter partial settlement and the 3.0 liter partial settlement.

## Actions to Prevent Future Violations

Volkswagen will take various measures to prevent future problems, including among other things the following (some but not all of the following requirements apply to the Porsche defendants). Pursuant to the third partial settlement, Volkswagen will ensure the personnel who test their vehicles for emissions compliance are separate from the personnel who design their vehicles. Volkswagen will also establish a steering committee to ensure compliance with the Clean Air Act. The company will perform portable emission measurement system (PEMS) testing on their vehicles, including gasoline vehicles, and follow strict procedures when developing new vehicles. The company will establish a whistleblower system, and survey employees to gauging compliance, among other things, with United States laws relating to environmental compliance. Lastly, an independent auditor will thoroughly assess Volkswagen's compliance with this settlement.

## For more information, contacts:

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