United States Environmental Protection Agency

Frequently Asked Questions (FAQ)

On the Zero Emission Vehicle Investment

Air Enforcement Division
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On October 25, 2016, the court approved a settlement partially resolving allegations that Volkswagen violated the Clean Air Act by the sale of approximately 500,000 model year 2009 to 2015 motor vehicles containing 2.0 liter diesel engines equipped with "defeat devices." As part of this settlement, Volkswagen is required to invest $2 billion to advance zero emission vehicles (ZEVs) and ZEV infrastructure. The partial settlement and the provisions about the ZEV Investment are largely found in paragraph 13 of the CD and Appendix C and Appendix C-1 to the consent decree (CD).

This document contains frequently asked questions about the $2 billion ZEV investment that Volkswagen is required to make. EPA will update this document as necessary.

For simplicity, this document uses the term Volkswagen to refer to all applicable settling defendants: Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC.

1. FAQs: General

FAQ 1.1: What is the purpose of the $2 billion zero emission vehicle investment?

A: The ZEV investment requirement will remedy adverse impacts from Volkswagen's Clean Air Act violations. The company sold approximately 500,000 vehicles in the United States that it claimed were "green," "lower emitting," and "clean diesel" vehicles. Consumers purchased these vehicles on the premise that they were clean vehicles, but they were not, and this likely adversely affected the market for vehicles that are actually clean. This settlement addresses this harm by requiring Volkswagen, through its investments, to promote the development and use of clean vehicle technologies.

A separate component of this settlement, the mitigation trust fund (described in Appendix D of the CD), is intended to mitigate the excess NO_x emissions from the 2.0 liter vehicles.

FAQ 1.2: What is a zero emission vehicle?

A: For the purpose of this CD, *zero emission* refers to producing zero exhaust emissions of non-methane organic gases, carbon monoxide, particulate matter, carbon dioxide, methane, formaldehyde, oxides of nitrogen, and nitrous oxide. *Zero emission vehicles* fall into one of three categories: 1) on-road zero emission passenger cars, light duty vehicles, light duty trucks, medium duty vehicles, or heavy duty vehicles including, but not limited to, battery electric vehicles (BEVs) and fuel cell vehicles (FEVs); 2) on-road plug-in hybrid electric vehicles (PHEVs) with a zero emission range greater than 35 miles in the case of passenger cars and light trucks, and 10 miles in the case of medium- and heavy-duty vehicles; and 3) on-road heavy duty vehicles with electric powered takeoff.

ZEVs do not include: off-road equipment and vehicles, light rail, additions to transit bus fleets utilizing existing catenary electric power, or any vehicle not capable of being licensed for use on public roads.

FAQ 1.3: When will the money be spent?

A: The investments will be made over 10 years, with $1.2 billion directed toward a national EPA-approved investment plan (the National ZEV Investment Plan) and $800 million directed toward a California-specific investment plan (the California ZEV Investment Plan) that will be approved by California Air Resources Board (CARB). The money will be divided evenly over four 30-month investment cycles—comprised of $200 million of investments in California per cycle and $300 million of investments in the rest of the country per cycle—unless otherwise approved in writing by CARB and EPA, respectively.

Volkswagen is required to submit draft plans to EPA and CARB for the first investment cycle no later than February 22, 2017, or, in the case of the national plan, 30 days after the period for stakeholder comment on the plan closes, if that is later (see FAQ 3.1). Subsequent National ZEV Investment Plans for the remaining investment cycles are due 30, 60, and 90 months from the effective date of the settlement, October 25, 2016. Subsequent California ZEV Investment Plans are due 29 months after submission of the then-current plan.

FAQ 1.4: Why does California get such a large share?

A: California will receive 40% of the total ZEV Investment and will manage its own plan. This structure and allocation is consistent with (a) CARB’s unique role in mobile source regulation under the Clean Air Act; (b) California’s status as a party to the CD; and (c) the fact that the CD partially resolves not only federal environmental claims under the Clean Air Act, but also California’s claims under its state environmental and unfair competition laws.

FAQ 1.5: Is Volkswagen required to make investments in each state?

A: No. For the $1.2 Billion National ZEV Investment, Volkswagen will select the type and locations of the ZEV investments subject to the requirements in Appendix C. However, Volkswagen is required to provide states and other entities with an opportunity to provide input on the development of the National ZEV Investment plan (see FAQ 3.1).

2. FAQs: ZEV Investments

FAQ 2.1: What type of ZEV investments can be funded?

A: There are three categories of eligible ZEV investments common to both the National ZEV Investment and California ZEV Investment: 1) infrastructure, 2) education and public outreach, and 3) activities to increase ZEV exposure or access. In addition, the “Green City” initiative is an eligible investment in California.

The first investment category includes the planning, installation, operation, and maintenance of the following types of ZEV infrastructure, which must be available to all vehicles, utilizing non-proprietary connectors:

- Level 2 charging at multi-unit dwellings, workplaces, and public sites,
- DC fast charging facilities,
- later generations of charging infrastructure, and
- hydrogen fueling stations.
- New heavy-duty ZEV fueling infrastructure is also considered an eligible investment in California.

Education and public outreach investments are intended to build or increase public awareness of ZEVs. Investments may include media activities such as print, television, radio, websites, and social media. All education and public outreach under this plan must be brand-neutral, meaning that they do not feature, favor, or advertise Volkswagen vehicles or services.

Programs or actions to increase public exposure and/or access to ZEVs may include partnering with rental fleet and car-share providers to make ZEVs available at no extra cost to consumers, creating new ZEV car-share programs, operating ZEV car sharing services or ZEV ride hailing services, and hosting “ride and drive” events. In California, scrap and replace with zero emission vehicles is also considered an eligible investment.

Finally, in California’s “Green City” initiative, Volkswagen will select a city (subject to CARB’s approval) for a variety of zero-emission projects such as ZEV car sharing services, zero emission transit applications, and zero emission freight transport projects.

FAQ 2.2: Is Volkswagen required to make a certain amount of investments in each category?

A: Under the National ZEV Investment Plan, Volkswagen is required to spend between $25 and $50 million in every thirty-month cycle on public education and outreach. There are no specific monetary requirements for the remaining categories; however, Volkswagen is required to make an infrastructure investment in each of the four investment cycles, and may make investments to increase ZEV access.

Under the California plan, there are no specific requirements regarding the amount spent in each category.

FAQ 2.3: For each of the allowable investment categories, what costs count toward the $2 billion?

A: The CD designates specific categories of costs that are allowable under the settlement, including personnel costs, office rent, and goods and services obtained from third parties. Some allowable cost categories have defined limitations that are described further in Appendix C-1. Furthermore, Volkswagen is required to develop Creditable Cost Guidances for submission to EPA and CARB that are intended to assist in determining which costs are allowable under the National and California ZEV Investment Plans.

FAQ 2.4: Won't these investments favor Volkswagen's vehicles?

A: The $2 Billion ZEV investment is intended to increase the use of zero emission vehicle technology in the United States, not promote or advertise Volkswagen's cars. The purpose of the investments is to advance infrastructure for cleaner vehicles and protect clean air in the United States. Funds spent on public education and outreach are required to be brand neutral, i.e. not feature or favor Volkswagen's vehicles or services. Likewise, if Volkswagen chooses to invest funds under this settlement on charging infrastructure, it must ensure that charging units are accessible to all vehicles utilizing non-proprietary connectors. This may mean including both CHAdeMO and SAE J1772 Combo connectors at each DC Fast charging site, since such connectors (and protocols) are not standardized across electric vehicle manufacturers. Additionally, Volkswagen may not credit costs incurred in connection with ZEV charging infrastructure installed at or adjacent to its dealerships.

FAQ 2.5: Can Volkswagen get credit for ZEV investments it was already planning to make?

A: No. The ZEV Investments required by this partial settlement are intended to advance the use of zero emission vehicles in the United States beyond that which would already have occurred. Investments that were approved by the Board of Management of any Volkswagen Group defendant prior to September 18, 2015—the date EPA first issued the Notice of Violation—are not considered eligible investments under the CD. Likewise, Volkswagen may not credit any ZEV investments that are required by a contract entered into by Volkswagen before the CD was lodged on June 28, 2016, nor may Volkswagen credit investments necessary for compliance with any federal, state, or local laws.

3. FAQs: Process

FAQ 3.1: How can states, tribes, and other interested parties provide input to Volkswagen on these investments?

A: Volkswagen is required to provide notice and opportunities for stakeholders to provide suggestions, observations, and offers of assistance or support for potential ZEV investments that it may make under its National ZEV Investment Plans (see National Outreach Plan description in section 2.3 of Appendix C). Volkswagen must provide reasonable notice of these opportunities on VW.com and VWCourtSettlement.com. Government agencies and tribes interested in learning about this process for stakeholder comment should visit these websites.

Note that this requirement does not apply to the California ZEV Investment Plan.

FAQ 3.2: What information is Volkswagen required to provide in its ZEV investment plans?

A: For each thirty-month cycle, Volkswagen is required to submit both a National and California ZEV Investment Plan that provide descriptions of the proposed ZEV investments, timelines, and anticipated creditable costs. Sections 2.5 and 3.3.2 of Appendix C describe other elements Volkswagen is required to provide in the National and California plans, respectively. For example, the National ZEV Investment plan must include an explanation, taking into account relevant literature from academia, industry, and government, if available, that each investment, to the extent applicable, increases the use and/or market penetration of ZEVs, has a high likelihood of utilization, provides accessibility and availability where it is most needed, and builds positive awareness about ZEVs.

FAQ 3.3: Can EPA direct the ZEV investments that Volkswagen makes?

A: No. The $1.2 billion ZEV Investment described in Appendix C of the CD is structured as an investment by Volkswagen. It is not a government program and none of the funds will be given to, or expended by, EPA. Rather, Volkswagen will be solely responsible for every aspect of these investments. EPA will review and approve plans for funds spent outside of California to ensure that they meet the requirements set forth in the CD. The CD expressly provides that Volkswagen remains subject to all federal, state and local laws in making these investments, which includes competition and antitrust laws.

FAQ 3.4: What is EPA’s role?

A: The decisions on where and how to invest rest with Volkswagen. EPA’s role is limited. EPA’s focus will be on ensuring that Volkswagen provides a robust opportunity for stakeholder input into the plans before Volkswagen spends any money, and that Volkswagen complies with the requirements of the CD. EPA’s approval role for Volkswagen’s plans will be limited to these essential elements, as is laid out in the CD. EPA strongly encourages all interested parties to share their views with VW through the required stakeholder input process.

In any situation where EPA determines that Volkswagen has failed to comply with the requirements of the CD, EPA will work with the United States Department of Justice to address the matter.

FAQ 3.5: What oversight will be conducted on how the funds are spent?

A: Volkswagen is required to retain an independent third-party certified public accounting firm to review and audit all costs that Volkswagen claims are creditable toward either the National or California ZEV Investment Plan to ensure they are consistent with the requirements of Appendix C and the Creditable Cost Guidance Document(s). This firm is ultimately approved by the United States with consultation from CARB.

The independent firm does not, however, have authority to approve Volkswagen’s incurred costs as Creditable. EPA retains the authority to approve or disapprove claimed costs for the National ZEV Investment Plan and CARB retains similar approval authority for the California plan. In any situation where EPA determines that Volkswagen has failed to comply with the requirements of the CD, EPA will work with the United States Department of Justice to address the matter.

FAQ 3.6: What data will be collected about these investments? Will it be publicly available?

A: Volkswagen is required to submit annual reports detailing the status of National and California ZEV investments, including utilization rates of the new infrastructure, creditable costs incurred during that year, and any problems encountered while implementing these projects. Volkswagen is required to make all portions of the reports that are not considered confidential business information available to the public. See sections 2.9 and 3.6 of Appendix C for more information about the requirements and timelines associated with national and California reports, respectively.

4. FAQs: Miscellaneous

FAQ 4.1: Are any other components of this settlement applicable to ZEVs and ZEV infrastructure?

A: Yes. The partial CD requires Volkswagen to establish and fund a $2.7 billion environmental mitigation trust to be used for eligible mitigation actions that replace diesel emission sources with cleaner technology to reduce excess emissions of oxides of nitrogen caused by the violating 2.0 liter cars. Certain zero emission vehicle and infrastructure investments are included in the list of eligible projects. Information about the mitigation trust can be found in a separate EPA FAQ document and in Appendix D to the CD.

FAQ 4.2: Where can I get additional information?

A: You can find information about this settlement, including a copy of the CD, at EPA's website: epa.gov/vw. Additional information is available at Volkswagen's site VWCourtSettlement.com, the court website cand.uscourts.gov/crb/vwmdl, and CARB's website arb.ca.gov/msprog/vw_info/vw_faq.htm.