



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

PO Box 47600 • Olympia, WA 98504-7600 • 360-407-6000

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July 28, 2016

Volkswagen AG
Audi AG
Porsche AG
Volkswagen Group of America
Porsche Cars North America, Inc.

Notice of Penalty Docket #:	13464
Site Location:	State of Washington
Penalty Amount:	\$176,096,250
Due date:	Within 30 days of receiving this Notice of Penalty

Through:

David Detweiler
Executive Vice President and General Counsel
Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Drive
Herndon, VA 20171

Joseph Folz
Vice President, General Counsel and Secretary
Porsche Cars North America, Inc.
One Porsche Drive
Atlanta, GA 30354

Stuart Johnson
General Manager
Engineering and Environment Office
Volkswagen Group of America, Inc.
3800 Hamlin Road
Auburn Hills, MI 48326

Walter J. Lewis
Manager, Regulatory Affairs
Porsche Cars North America, Inc.
980 Hammond Drive, Suite 1000
Atlanta, GA 30354

Re: Notice of Penalty

The Department of Ecology (Ecology) is issuing the enclosed Notice of Penalty to you for violating provisions of:

- Chapter 173-421 Washington Administrative Code (WAC) – Motor Vehicle Emission Control Systems
- Chapter 70.120A Revised Code of Washington (RCW) – Motor Vehicle Emission Standards
- Chapter 173-423 Washington Administrative Code (WAC) – Low Emission Vehicles
- Chapter 70.94 Revised Code of Washington (RCW) – Washington Clean Air Act

Notice of Penalty Docket #13464
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Please read the following enclosure:

- **Notice of Penalty:** Describes the violation(s) and the options for responding to the penalty.

If you have questions please contact Brett Rude at brett.rude@ecy.wa.gov or (360) 407-6847.

Sincerely,



Maia D. Bellon, Director

Enclosures: Notice of Penalty Docket #13464

By certified mail: #91 7199 9991 7036 4650 1503 (Detweiler), #91 7199 9991 7036 4650 1497 (Johnson), #91 7199 9991 7036 4650 1480 (Folz), and #91 7199 9991 7036 4650 1473 (Lewis)

cc: Penalty Desk – Fiscal Office, Ecology

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

IN THE MATTER OF COMPLIANCE)
WITH WASHINGTON STATE CLEAN AIR) NOTICE OF PENALTY
LAWS AND RULES) DOCKET #13464

To: Volkswagen AG
Audi AG
Porsche AG
Volkswagen Group of America
Porsche Cars North America, Inc.

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- Chapter 173-421 Washington Administrative Code (WAC) – Motor Vehicle Emission Control Systems
- Chapter 70.120A Revised Code of Washington (RCW) – Motor Vehicle Emission Standards
- Chapter 173-423 Washington Administrative Code (WAC) – Low Emission Vehicles
- Chapter 70.94 Revised Code of Washington (RCW) – Washington Clean Air Act

This Notice of Penalty is in reference to Notice of Violation No. 12936 issued on November 10, 2015 and Notice of Violation No. 13190 issued on March 10, 2016. Ecology has the authority to issue this penalty under RCW 70.94.141, RCW 70.94.331, and RCW 70.94.332.

I. FINDINGS OF FACT

Effective January 1, 2005 and as authorized by 42 U.S.C. Sec. 7507 (section 177 of the Federal Clean Air Act), the Washington State Legislature adopted by reference the California motor vehicle emission standards in Title 13 of the California Code of Regulations. *See* RCW 70.120A. The Washington State Department of Ecology (Ecology) subsequently adopted rules implementing the California emission standards for passenger cars, light duty trucks, and medium duty passenger vehicles. *See* Chapter 173-423 WAC. These rules provide, among other things:

“Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standard....”

WAC 173-423-050(1)

To be certified to California emission standards, a vehicle must demonstrate that its exhaust and evaporative emission control systems are durable and comply with the emission standards for the vehicle's useful life. This is done through durability and certification testing of the prototype certification vehicle(s). An application for certification must be submitted to, and approved by, the California Air Resources Board (CARB) and the U.S. Environmental Protection Agency (EPA).

Beginning in about 2008, Volkswagen (VW) manufactured and installed defeat devices in certain model year 2009 through 2016 light duty diesel vehicles equipped with 2.0 and 3.0 liter engines. These defeat devices bypass, defeat, or render inoperative elements of the vehicles' emission control systems that are necessary to enable the vehicles to comply with EPA, California, and Washington State motor vehicle emission standards.

EPA and CARB initially discovered the defeat device software after independent analysis by researchers at West Virginia University, working with the International Council on Clean Transportation (a non-governmental organization), raised questions about emissions levels, and the agencies began further investigations into the issue. In September, 2015, after EPA and CARB demanded an explanation for the identified emission problems, Volkswagen admitted that its light duty diesel vehicles equipped with 2.0 liter engines contained defeat devices.

Affected 2.0 liter diesel models include, at least:

- Jetta (MY 2009 – 2015)
- Jetta Sportwagen (MY 2009-2014)
- Beetle (MY 2012 – 2015)
- Beetle Convertible (MY 2012-2015)
- Audi A3 (MY 2010 – 2015)
- Golf (MY 2010 – 2015)
- Golf Sportwagen (MY 2015)
- Passat (MY 2012-2015)

According to Washington Department of Licensing records, there were 19,091 affected 2.0 liter vehicles registered in Washington as of October, 2015. Of those, 18,183 had been sold as new vehicles for use in the state of Washington.

Following their initial Notice of Violation (NOV) to Volkswagen AG, Audi AG and Volkswagen Group of America, Inc., EPA and CARB began testing all 2015 and 2016 light duty diesel model vehicles. That testing, performed by the EPA's National Vehicle and Fuel Emissions Laboratory, CARB's Haagen-Smit Laboratory, and Environment Canada's River Road Laboratory, found that Volkswagen had also developed and installed defeat devices in certain light duty diesel vehicles equipped with 3.0 liter engines that increases emissions of nitrogen oxide up to nine times EPA's standard.

On November 2, 2015, EPA issued Volkswagen AG, Audi AG and Volkswagen Group of America, Inc. a second NOV that included Porsche AG and Porsche Cars North America. The NOV alleges that Volkswagen developed and installed defeat devices in certain light duty diesel vehicles equipped with 3.0 liter engines.

On November 19, 2015, Volkswagen informed EPA that the defeat device has existed in all of its U.S. 3.0 liter diesel models since 2009.

Affected 3.0 liter diesel models include, at least:

- Volkswagen Touareg (2009-2016)
- Porsche Cayenne (2013-2016)
- Audi A6 Quattro (2014-2016)
- Audi A7 Quattro (2014-2016)
- Audi A8 (2014-2016)
- Audi A8L (2014-2016)
- Audi Q5 (2014-2016)
- Audi Q7 (2009-2016)

According to Washington Department of Licensing records, there were 2,682 affected 3.0 liter vehicles registered in Washington as of February, 2016. Of these, 2,306 had been sold as new vehicles for use in the State of Washington.

A sophisticated software algorithm on the affected Volkswagen vehicles detects when the car is undergoing official emissions testing, and turns full emissions controls on only during the test. The effectiveness of these vehicles' pollution emissions control devices is greatly reduced during all normal driving situations. This results in cars that meet emissions standards in the laboratory or testing station, but during normal operation, emit nitrogen oxides (NOx) at up to 40 times the standard.

NOx pollution contributes to nitrogen dioxide, ground-level ozone, and fine particulate matter. Exposure to these pollutants has been linked with a range of serious health effects, including increased asthma attacks and other respiratory illnesses that can be serious enough to send people to the hospital. Exposure to ozone and particulate matter has also been associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly, and

people with pre-existing respiratory disease are particularly at risk for adverse health effects from these pollutants.

Additionally, due to the existence of the defeat devices in these vehicles, these vehicles do not conform to the vehicle specifications described in the applications for the certificates (California's Executive Orders) that purportedly cover them.

Motor vehicles equipped with defeat devices, which reduce the effectiveness of the emission control system during normal driving conditions, cannot be certified. Such vehicles, therefore, cannot be sold for use in Washington.

II. DETERMINATION OF VIOLATIONS

Ecology is basing this notice on the violations below:

Violation 1:

Date(s) of violation: 2008 through 2015 (Model years 2009 through 2016)

Description: Violation of Washington State motor vehicle emission standards

“Starting with the 2009 model year, no vehicle shall be registered, leased, rented, licensed or sold for use in the state of Washington unless such vehicle is certified to California emission standards....”

Rule citation: Chapter 173-423-050(1) WAC

Law citation: RCW 70.94.040; Chapter 70.120A RCW

Affected vehicles: 18,183 2.0 liter vehicles + 2,306 3.0 liter vehicles = 20,489

Violation 2:

Date(s) of violation: 2008 through 2015 (Model years 2009 through 2016)

Description: Tampering with motor vehicle emission control systems

“A person shall not remove or render inoperable any component or change any element of design of a motor vehicle including adjustments outside the range of manufacturer's specifications that could affect the amount of air contaminants emitted from that vehicle....”

Rule citation: Chapter 173-421-100 WAC

Law citation: RCW 70.94.040

Affected vehicles: 19,091 2.0 liter vehicles + 2,682 3.0 liter vehicles = 21,773

III. ELIGIBILITY FOR PAPERWORK VIOLATION WAIVER AND OPPORTUNITY TO CORRECT

Under RCW 34.05.110, small businesses are eligible for a waiver of a first-time paperwork violation.

Ecology has determined the requirements of RCW 34.05.110 do not apply to the violation(s) described in this Notice of Penalty because Volkswagen is not a small business as defined in RCW 34.05.110(9).

IV. OPTIONS FOR RESPONDING TO A NOTICE OF PENALTY

Option 1: Pay the penalty within 30 days after receiving the Notice of Penalty.

Make your payment payable to the *Department of Ecology*. Please include the penalty docket number (#13464) on your payment.

Mail payment to:

Department of Ecology
Cashiering Unit
PO Box 47611
Olympia, WA 98504-7611

Note: Ecology may take legal action to collect the penalty if you have not paid 30 days after receiving the Notice of Penalty, and have not appealed.

Option 2: Appeal to the PCHB and serve Ecology within 30 days after the date of receipt of the Notice of Penalty

The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. "Date of Receipt" is defined in RCW 43.21B.001(2).

To appeal you must do both of the following within 30 days after the receipt of this Notice of Penalty:

- File your appeal and a copy of this Notice of Penalty with the Pollution Control Hearings Board (PCHB) during regular business hours.
- Serve a copy of your appeal and the Notice of Penalty on Ecology in paper form, by mail or in person. E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

V. ADDRESS AND LOCATION INFORMATION

Street Addresses	Mailing Addresses
Department of Ecology Attn: Appeals Processing Desk 300 Desmond Drive SE Lacey, WA 98503	Department of Ecology Attn: Appeals Processing Desk PO Box 47608 Lacey, WA 98504-7608
Pollution Control Hearings Board 1111 Israel Road SW STE 301 Tumwater, WA 98501	Pollution Control Hearings Board PO Box 40903 Olympia, WA 98504-0903

VI. CONTACT INFORMATION

Please direct all questions about this Notice of Penalty to:

Brett Rude, Air Quality Program
Washington State Department of Ecology
300 Desmond Drive SE
Lacey, WA 98503

Phone: (360) 407-6847
Email: Brett.Rude@ecy.wa.gov

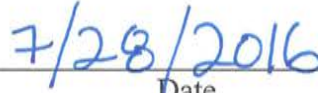
VII. MORE INFORMATION

- Pollution Control Hearings Board
<http://www.eluho.wa.gov/Board/PCHB>
- Chapter 43.21B RCW, Environment and Land Use Hearings Office – Pollution Control Hearings Board
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- Chapter 34.05 RCW – Administrative Procedure Act
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- Chapter 70.94 RCW, Washington Clean Air Act
<http://app.leg.wa.gov/RCW/default.aspx?cite=70.94>
- Air Quality Rules
<http://www.ecy.wa.gov/laws-rules/ecywac.html#air>

VIII. SIGNATURE



Maia D. Bellon, Director
Washington State Department of Ecology



Date