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VOLKSWAGEN'S EMISSIONS CHEATING ALLEGATIONS:

INITIAL QUESTIONS

THURSDAY, OCTOBER 8, 2015

House of Representatives

Subcommittee on Oversight and Investigations

Committee on Energy and Commerce

Washington, D.C.

The subcommittee met, pursuant to call, at 10:00 a.m., in Room 2123 Rayburn House Office Building, Hon. Tim Murphy [chairman of the subcommittee] presiding.

Members present: Representatives Murphy, Barton, McKinley, Burgess, Blackburn, Griffith, Bucshon, Flores, Brooks, Mullin, Collins, Upton (ex officio), DeGette, Schakowsky, Castor, Tonko, Yarmuth, Clarke, Kennedy, Green, Welch, and Pallone (ex officio).

Staff present: Gary Andres, Staff Director; Sean Bonyun,

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Communications Director; Leighton Brown, Press Assistant; Rebecca Card, Staff Assistant; Karen Christian, General Counsel; James Decker, Policy Coordinator, Commerce, Manufacturing, and Trade; Andy Duberstein, Deputy Press Secretary; Brittany Havens, Oversight Associate, Oversight and Investigations; Ben Lieberman, Counsel, Energy and Power; Paul Nagle, Chief Counsel, Commerce, Manufacturing, and Trade; John Ohly, Professional Staff, Oversight and Investigations; Tim Pataki, Professional Staff Member; Mark Ratner, Policy Advisor to the Chairman; Chris Santini, Policy Coordinator, Oversight and Investigations; Dan Schneider, Press Secretary; Peter Spencer, Professional Staff Member, Oversight; Dylan Vorbach, Staff Assistant; Greg Watson, Staff Assistant; Christine Brennan, Press Secretary; Jeff Carroll, Staff Director; Tiffany Guarascio, Deputy Staff Director and Chief Health Advisor; Ashley Jones, Director of Communications, Member Services and Outreach; Rick Kessler, Senior Advisor and Staff Director, Energy and Environment; Chris Knauer, Oversight Staff Director; Una Lee, Chief Oversight Counsel; Elizabeth Letter, Professional Staff Member; and Adam Lowenstein, Policy Analyst.

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1 Mr. Murphy. [presiding] Thank you and good morning. We
2 now convene this hearing of the Oversight and Investigations
3 Subcommittee on Volkswagen Emissions Cheating Allegations:
4 Initial Questions.

5 Let me start off by saying my first car was a Volkswagen.
6 It was a 1976 Volkswagen Beetle. I learned a lot about cars and
7 internal combustion engines. I could take that thing apart and
8 put it back together, and it actually continued to work. I did
9 all the maintenance myself, because the Beetle and the Volkswagen
10 had a legacy as the people's car, to be people-friendly.

11 I loved that car, loved it a lot, not so much as to call it
12 Brad, but I loved that car.

13 [Laughter.]

14 But I trusted the car to get me around, and I trusted that
15 Volkswagen would continue to build a reliable car. That word
16 "trust" alone, as you know, is a key factor in building customer
17 loyalty, and that trust is what helped the Volkswagen because we
18 believed this company looked out for customers first.

19 Then, just three weeks ago, car owners around the world were
20 shocked to learn that Volkswagen AG, the world's largest
21 automaker, admitted that it installed software for a number of
22 years in millions of its diesel models that effectively defeated
23 emissions controls during routine driving. This news followed

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24 the Environmental Protection Agency's public announcement on
25 September 18th that it had sufficient evidence to support
26 allegations that VW was cheating on its emissions tests.

27 As EPA reported at the time, when the cars were subject to
28 emissions testing, the diesel vehicles switched into an
29 operational mode designed specifically to pass the test and, then,
30 switched back to a different mode during normal driving, a mode
31 that emitting nitrogen oxides up to 10 and 40 times the federal
32 limits.

33 In the United States alone, some 482,000 Volkswagen and Audi
34 models were affected by the cheating software. Worldwide the
35 software was used in an estimated 11 million vehicles involving
36 several VW lines.

37 In the wake of this apparently massive deception, the Energy
38 and Commerce Committee opened a bipartisan investigation to get
39 answers for the American public. This investigation will seek
40 to understand the facts and circumstances surrounding the VW
41 actions, the impact of its decisions, and related issues about
42 emissions compliance generally.

43 At this morning's hearing we will receive testimony from the
44 head of Volkswagen's American operations, Mr. Michael Horn, and
45 from EPA officials tasked with ensuring the automobiles on
46 American roads meet federal environmental standards.

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47 In addition, this subcommittee intends to pursue answers to
48 critical initial questions concerning the troubling revelations
49 about VW's actions, what happened, who was involved, and, most
50 importantly, why.

51 Let me acknowledge that Mr. Horn is appearing before us
52 voluntarily today, and I can say that I expect that he and the
53 Volkswagen organization will continue to cooperate with our
54 inquiry. This means providing documents and information to the
55 committee as quickly as possible, including documents that have
56 already been discussed publicly in connection with Volkswagen's
57 various Board meetings in Germany.

58 As I said before, there are a number of core questions that
59 we will begin to pursue today, both for Volkswagen and for the
60 EPA, most critically, what happened, who was involved, why were
61 these actions taken. We also have a number of questions
62 concerning the impact of these decisions on customers,
63 family-owned dealerships, and the American public.

64 I hope today Mr. Horn can provide some important context for
65 us and expand upon the facts he represents in his testimony. We
66 will look to him to explain the current understanding of VW
67 executives about what exactly was done to these engines and was
68 it done to deliberately deceive government regulations and
69 regulators. And what is VW doing to fix the problem and make whole

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70 those who have been affected by the actions.

71 At some point prior to 2009, VW made a choice to move forward
72 with engines that evidence now suggests were not compliant with
73 U.S. emissions standards. The illegal software was initially
74 deployed in the first generation of these diesel engines, which
75 account for approximately 340,000 of the affected vehicles.
76 However, despite apparent advancement in their emissions control
77 systems in two future generations of these engines, the software
78 remained in place. And if the technology was improving, what did
79 the company understand about the software cheat and what does this
80 mean for fixing these vehicles? Will some be easier than others?

81 Of course, for EPA, we have questions about its compliance
82 and recall programs. I hope we can get some clear answers today
83 from that agency. Why did EPA standard compliance tests and
84 audits fail to detect problems, especially in older technology?
85 What is EPA doing to ensure any fix it requires of the automaker
86 does not negatively affect vehicle performance?

87 There is some need for a sense of proportion regarding this
88 matter. The 480,000 or so VW vehicles implicated in this scandal
89 represent only .2 percent of the cars and light trucks on the
90 United States highways. And so far, we have no evidence that the
91 software similar to what was used by VW is present in any other
92 U.S. vehicles.

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93 The EPA's ongoing testing will help address this question,
94 but I hope our witnesses from VW and EPA can understand where
95 confidence has been shaken. At root, the behavior to which VW
96 admitted represents a fundamental violation of public trust, and
97 reverberations of this violation can be seen across the United
98 States and across the world, as people grapple with the
99 implications.

100 We need to develop a clear understanding of the facts and
101 circumstances surrounding this case, and this hearing will be a
102 first important step towards that goal.

103 I now recognize the ranking member of the subcommittee, Ms.
104 DeGette, for five minutes.

105 Ms. DeGette. Thank you, Mr. Chairman.

106 In the spirit of bipartisanship of this investigation, I will
107 tell you my first car was also a Volkswagen. It was a 1960 VW
108 Beetle with a rag top sunroof that I inherited from my grandmother.
109 And I will tell you that that 1960 Beetle, I still miss that car.
110 It didn't have any lines of computer code required to operate that
111 vehicle.

112 In this situation, fast forward to today, we know some
113 things, but we don't know enough. And that is why I am glad we
114 are having this investigation.

115 We know that in May 2014 West Virginia University published

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116 a study commissioned by the International Council on Clean
117 Transportation that found that on-road emissions from Volkswagen
118 cars were well above VW standards. They also did not match the
119 emissions outputs found under testing conditions.

120 We know that VW tried to justify this discrepancy to
121 regulators with explanations of technical issues and unexpected
122 in-use conditions. We know that in December 2014 VW initiated
123 a voluntary recall of nearly half a million vehicles to resolve,
124 among other things, the emissions issues. Yet, when the
125 California Air Resources Board tested the fixed vehicles, they
126 found that the emissions were still above the legal standards.

127 And we know that, by July of this year, the EPA and CARB told
128 VW that they would not approve the company's 2016 model year diesel
129 vehicles for sale unless the emissions could be explained. VW
130 was essentially forced to come clean, and they ultimately
131 confessed that they had installed a defeat device in their diesel
132 cars designed to circumvent EPA emission standard for certain air
133 pollutants.

134 We know that this defeat device sensed when the vehicles were
135 undergoing emissions testing and ensured emissions control
136 systems were operating to pass. And we know that during normal
137 road use the emissions controls were reduced and the cars were
138 producing up to 40 times more nitrogen oxide than is allowed by

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139 emissions standards. We know that almost half a million cars in
140 the United States might be affected by this.

141 Now, Mr. Horn, I am glad you have come today to testify here
142 because, while we know all of the things I just talked about, there
143 are a lot more things we don't know and that we need answers for.
144 For example, VW hasn't revealed how the defeat device affects the
145 engine, why it was installed, and how it was able to evade
146 emissions tests. You haven't revealed when and how the engines
147 equipped with this defeat device will be fixed. You haven't told
148 us whether this fix will affect fuel economy or performance of
149 the vehicles.

150 You haven't revealed what Volkswagen told regulators over
151 the last year, as EPA and the California Board were trying to
152 figure out why the vehicles' emissions were out of compliance.
153 You haven't revealed whether the voluntary recall that VW set in
154 place in 2014 was just merely a ruse. Was the VW Group of America
155 actually trying to find out what was wrong with the cars and fix
156 them or did VW know that the cars had defeat devices on them and
157 were only trying to buy time with the regulators?

158 You haven't revealed who is responsible for this scheme. We
159 don't know if it came from Germany and who knew about it in the
160 United States.

161 Now we have all seen the press reports, and we can all

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162 speculate about what happened here and why. But, until
163 Volkswagen comes forward with some answers and provides some
164 assurances that we can trust about what they are saying, the
165 American people, the regulators, and Congress are all left in the
166 dark. So, I hope, Mr. Horn, that you come prepared to answer some
167 of these questions, and I also hope that VW will be prepared to
168 work with this committee as we move forward.

169 Hundreds of thousands of owners invested money and trust in
170 VW. Many of them bought those cars specifically because they were
171 seeking environmentally-friendly vehicles. Now they are left
172 with cars with much higher levels of pollution. They don't have
173 any answers about when or how their car will be fixed or what kind
174 of car they will be left with.

175 Earlier this week, I visited a Volkswagen dealership in
176 Denver. I saw the pollution control equipment on VW diesel
177 vehicles firsthand. These cars account for almost 25 percent of
178 the sales at that particular dealership and a significant
179 percentage of sales at VW dealerships in Colorado and across this
180 country.

181 Now, because they can't sell them, these cars are just
182 sitting on the lots, which is a scene that is being repeated across
183 the country. So, as, Mr. Chairman, you say, it is a small
184 percentage of all the cars on the road in the U.S.; it is a

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185 tremendous economic impact to these dealers and, also, to the
186 consumers who don't know what is going to happen to their cars.
187 And so, that is perhaps the key answer that I am looking for today:
188 what do we do moving forward?

189 Now, Mr. Chairman, this subcommittee has been here before.
190 In the last 15 years, we have had Ford and Firestone, Toyota, GM,
191 and Takata before this committee. We were able to get information
192 from all these companies to help us understand what happened.
193 But, most importantly, we have used this information to chart a
194 path forward and to help the consumers affected by this event.

195 I hope that Volkswagen can similarly tell us today what is
196 happening, and I hope that they will get beyond this series of
197 terrible decisions and do something to restore the public trust.

198 Thank you, and I yield back.

199 Mr. Murphy. The gentlelady yields back.

200 I now recognize the chairman of the full committee, the
201 gentleman from Michigan, Mr. Upton, for five minutes.

202 The Chairman. Good morning. Thank you, Mr. Chairman.

203 Fahrvergnugen, it makes a car a Volkswagen. That ad campaign
204 swept the nation in the nineties. VW has long enjoyed an almost
205 cultish following, dating back to the Beetle, VW Van, and the
206 Rabbit. But, through the years, something apparently became
207 rotten in Wolfsburg and cheating and betrayal became part of that

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208 game plan.

209 There is a lot that we don't know about VW's actions or their
210 motivations in attempting to skirt emission standards. But,
211 regardless of intent, they have betrayed the trust of regulators,
212 dealers and suppliers, and, most important, the driving public.

213 Probably the most famous congressional hearing question is,
214 "What did you know and when did you know it?", asked by Senator
215 Howard Baker back in the seventies at Watergate. Now we learn
216 that you knew some 18 months ago. So, we add, what did you really
217 do to fix it and come clean versus simply going along?

218 Ultimately, this saying rings true: cheaters never
219 prosper. And that is why we are here today. We have many
220 questions about how we got here and the road ahead. Why would
221 one of the world's largest automakers go to such lengths to avoid
222 emissions requirements? Who was responsible for these decisions
223 and why did they for years, even as the technology improved,
224 continue that path?

225 If they were willing to cut corners here, what else have they
226 done? How will you fix the flaw and when? Will the fix affect
227 the performance of these vehicles? Unraveling these questions
228 will take time, and I don't expect that we are going to discover
229 all the answers today. But if VW is serious about rebuilding this
230 broken trust, its leaders will need to demonstrate a serious

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231 commitment to answer these and many other questions prompted by
232 its actions.

233 This requires transparency, cooperation, and clear,
234 consistent communication not only with this committee, the EPA,
235 and other ongoing investigations, but also with its customers,
236 suppliers, dealers, and the general public. VW will inevitably
237 pay a steep price for this dirty little secret. How it responds
238 to the failure will go a long way to rebuilding or further eroding
239 the public's trust.

240 VW must also consider what implications these actions have
241 for the thousands of Americans that it employs, including their
242 facility in Auburn Hills, Michigan. Every single one of us who
243 has ties to Michigan is proud of our rich tradition that is so
244 closely intertwined with the success of the automobile. In fact,
245 Michigan is one of several states that have launched their own
246 investigations. All automakers must advance by imagination and
247 innovation, not by gaming the system and breaking the law.

248 We will get some additional insight today, but the
249 committee's investigation is just beginning. This hearing is an
250 important step. As we receive documents and information, new
251 details are certain to emerge. I look forward to getting to the
252 bottom of this issue as quickly as possible.

253 I take this very personally. As the author of the TREAD Act

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254 to protect the public, Congress was very clear in our work to
255 protect consumers from abuses from automakers, which included
256 steep fines and, yes, criminal prosecution.

257 VW has betrayed a nation, a nation of regulators, loyalists,
258 suppliers, and innocent customers. It is time to clean it up or
259 get off the road.

260 I yield the balance of my time to Marsha Blackburn, the vice
261 chairman.

262 Mrs. Blackburn. Thank you, Mr. Chairman.

263 Mr. Horn, thank you for being here, and I think it is
264 completely appropriate that you come before the committee, that
265 you apologize for the actions, and that you and VW take full
266 responsibility for what has transpired. It is disappointing.

267 I am fully aware that our governor has been at the Chattanooga
268 facility. And I know that the governor, state legislators, the
269 other members of the congressional delegation, and I are quite
270 concerned about this. You have got a lot of hard-working, honest
271 Tennesseans who were at that Chattanooga facility, and we are
272 quite concerned about the actions of a few, a few VW employees,
273 not Chattanoogaans and not Tennesseans.

274 We are going to be very precise with you and VW. It is, as
275 the chairman said and as Chairman Murphy has said, it is basically
276 the who, what, when, where, how, and why. Why you did it, how

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277 you did it, when you did it, when you knew, who carried this out.
278 Where did this take place? Did it go across the brands? Was it
279 pointed at EU regulations? Was it pointed at some of the climate
280 regulations? Is the EPA too overburdened to have noticed this?

281 This is a systemic failure. And I will also point out some
282 want to say it is a safety issue. No, sir, this is an issue of
283 integrity.

284 So, we appreciate that you are here. We look forward to
285 hearing from you.

286 And I want to yield the balance of my time to the vice chair
287 of the subcommittee, Mr. McKinley.

288 Mr. McKinley. Thank you.

289 And thank you, Mr. Chairman, for ordering this meeting that
290 the others of you have talked about the car. My first was a 1957
291 Volkswagen. I think I have got everybody beat on that.

292 But, listen, there should be zero tolerance for this
293 unethical behavior and flagrant disregard of the U.S. laws, public
294 health, and the consumer. That is why this hearing is important
295 to us today. The impaired people need to understand what
296 happened, how it happened, and how it will be resolved.

297 And they feel in West Virginia that they have been deceived.
298 So, on Monday there was action taken by the attorney general to
299 file action against this.

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300 I also just want to touch on the University. At West
301 Virginia University they use a fraction of the money that we spend
302 with EPA, just a fraction of the money to make this discovery.
303 And they found out, as you know, that one of the cars that they
304 tested was 15 to 35 times more emissions than they were allowed.
305 Another was 5 to 20 times more emissions.

306 So, Mr. Chairman, I want to touch on the fact that this
307 opportunity about WVU and what its research, how research dollars
308 can work. And this is what happened, not the EPA, but this was
309 a university that would have accomplished this.

310 So, I am looking forward to this hearing and getting some
311 clarity as to what this is. I thank you very much for holding
312 this session --

313 Mr. Murphy. Thank you.

314 Mr. McKinley. -- and look forward to the conversation.

315 Mr. Murphy. Thank you.

316 We now recognize the ranking member of the committee, Mr.
317 Pallone, for five minutes.

318 Mr. Pallone. Mr. Chairman, thank you for holding this
319 hearing.

320 We are here today because Volkswagen lied. They lied to
321 regulators, they lied to their customers, and they lied to the
322 American people.

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323 We all have many important questions that deserve answers.
324 What did Volkswagen do to its cars? Why did they do it? And who
325 knew this was happening, both in Germany and here in the United
326 States?

327 This whole scheme makes me question how much we should trust
328 Volkswagen. To be honest, this committee's investigations over
329 the last five years make me question how much we should trust the
330 auto industry in general.

331 Let me remind the committee of the difficult history the
332 American driver has had with the auto industry in recent years.

333 In 2010, this committee investigated Toyota's recall of 9
334 million vehicles worldwide for unexplained cases of sudden
335 unintended acceleration. Dozens of people died in accidents
336 linked to runaway Toyota vehicles. Our committee held multiple
337 hearings and, in the end, it was determined that Toyota knew about
338 certain problems with their vehicles that, if fixed early, would
339 likely have saved lives.

340 In early 2014, we launched an investigation of General
341 Motors' ignition switches that killed many people. Our
342 committee's investigation found that individuals within GM knew
343 about the deadly ignition defect for nearly a decade before the
344 company initiated a recall.

345 Later in 2014, we learned of the exploding Takata airbags

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346 installed in vehicles made by at least 11 auto manufacturers. The
347 recalls for airbag problems began as early as 2008. Yet, Takata
348 and NHTSA continued to investigate whether additional recalls are
349 still necessary, and Takata still has not determined the root
350 cause of the defect, which has killed a number of people worldwide
351 and injured hundreds more.

352 And now, we have Volkswagen, a company that told regulators
353 that their vehicles met emission standards, but had actually
354 installed defeat devices to bypass emission controls.

355 Over the past five years, the world's three largest
356 automakers have come before this committee to admit that they have
357 cheated the system and lied to American customers. This seems
358 to be a pervasive culture of deception in the auto industry, and
359 it has to stop now.

360 Mr. Chairman, the American people need to know that they are
361 safe on our roads, and they need to know that when they decide
362 to buy a car, they are actually getting what they paid for. The
363 auto industry has deliberately chosen to perpetuate lies and
364 mislead consumers, but the American public are not crash-test
365 dummies and cannot be treated as such.

366 Mr. Horn, I understand that you won't have all the answers
367 here today, but please don't hide behind an internal
368 investigations excuse. It is time for Volkswagen to be

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369 forthcoming with its customers, regulators, and Congress about
370 what you did to these cars and why. We deserve an explanation.

371 And I would like to yield, Mr. Chairman, my remaining time
372 to Ms. Schakowsky.

373 Ms. Schakowsky. Thank you for yielding, Mr. Ranking Member.

374 We will hear a lot from Volkswagen today. We will hear
375 apologies, I'm sure, for Volkswagen's deliberate deception of the
376 American people and federal and state public health agencies. We
377 will hear a pledge to get to the bottom of this issue without delay
378 and to fully cooperate with investigators. We will hear how the
379 use of so-called defeat devices is incompatible with Volkswagen's
380 corporate culture. And I want to tell you, Mr. Horn, I don't buy
381 it.

382 The American people, the EPA, and their counterparts around
383 the world have been defrauded by Volkswagen. The company's word
384 isn't worth a dime.

385 The only thing I want to hear today is exactly how will
386 Volkswagen make this right by consumers. Saying it will take time
387 to design and implement a fix is insufficient and I think
388 unacceptable. People shouldn't have to wait to get the fuel
389 economy, the low emissions, and performance that they already paid
390 for. If they wanted, every Volkswagen clean diesel vehicle owner
391 should be able to get their money back, all of it.

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392 The American people deserve answers. Yes, there are a lot
393 of questions, but there are also thousands of owners of clean
394 diesel Volkswagens out there, and what they are wanting to know
395 is what are you going to do for them and when. And I say now.
396 So, I expect those answers to be provided today.

397 And I yield back to the ranking member of the full committee.

398 Mr. Pallone. Thank you, Mr. Chairman.

399 Unless anyone else on this side would like the time, I am
400 going to yield back. I yield back, Mr. Chairman.

401 Mr. Murphy. Thank you. The gentleman yields back.

402 I also ask unanimous consent that the written opening
403 statements by other members of the committee be introduced into
404 the record, and without objection, the documents will be entered
405 into the record.

406 Mr. Murphy. You are aware that the committee is holding an
407 investigative hearing, and when doing so, has the practice of
408 taking testimony under oath, Mr. Horn. Do you have any objections
409 to testifying under oath?

410 Mr. Horn. No.

411 Mr. Murphy. Thank you.

412 The Chair then advises you that, under the rules of the House
413 and the rules of the committee, you are entitled to be advised
414 by counsel. Do you desire to be advised by counsel during your

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415 testimony today?

416 Mr. Horn. No.

417 Mr. Murphy. Then, in that case, will you please raise your
418 right hand and I will swear you in? Stand and raise your hand.

419 [Witness sworn.]

420 Mr. Murphy. Thank you.

421 Let the record show the witness answered yes. You are now
422 under oath and subject to the penalties set forth in Title 18,
423 Section 1011 of the United States Code.

424 You may now give a 5-minute summary of your written
425 statement. If you will please make sure your microphone is on
426 and pull it close to you, so we can hear you? You have to press
427 the button. Is it on?

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428 STATEMENT OF MICHAEL HORN, PRESIDENT AND CHIEF EXECUTIVE OFFICER,
429 VOLKSWAGEN GROUP OF AMERICA

430

431 Mr. Horn. Thank you very much, Chairman Upton, Chairman
432 Murphy, Ranking Member Pallone, Ranking Member DeGette, other
433 members of the committee. Thank you for inviting me here today
434 to testify before the committee.

435 My name is Michael Horn, and I am president and CEO of
436 Volkswagen Group of America, a subsidiary of Volkswagen AG,
437 headquartered in Germany, in Wolfsburg.

438 I volunteered to come here before this committee at the very
439 outset of these inquiries in an effort to show our commitment to
440 cooperation. We have not had the opportunity to review all
441 aspects of this matter. Indeed, the investigation is just
442 beginning. Therefore, my testimony and my answers to your
443 questions will be, by necessity, have to be considered preliminary
444 and based on my best current recollection and information.

445 On behalf of our company and my colleagues in Germany and
446 me personally, I would like to offer a sincere apology, sincere
447 apology for Volkswagen's use of a software program that served
448 to defeat the regular emissions testing regime.

449 In the spring of 2014, when the West Virginia University
450 study was published, I was told that there was a possible emissions

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451 non-compliance that could be remedied. I was informed that EPA
452 regulations included various penalties for non-compliance with
453 the emissions standards and, also, that the agency could conduct
454 engineering tests on their own which could include analysis on
455 defeat devices or other auxiliary equipment.

456 Let me be very clear about this. While I was told about the
457 EPA process, I was not then told, nor did I have any reason to
458 suspect or to believe, that our vehicles included such a device.

459 I was also informed that the company engineers would work
460 with the agencies to resolve the issue. Later in 2014, I was
461 informed that the technical teams had a specific plan for remedies
462 to bring the vehicle into compliance and that they were engaged
463 with the agencies about the process. And you mentioned this,
464 also, in your statements.

465 On September 3rd, 2015, Volkswagen AG disclosed at a meeting
466 with the California Air Resources Board and the U.S. Environmental
467 Protection Agency that emission software in four-cylinder diesel
468 vehicles for model years 2009 until 2015 contained a defeat device
469 in the form of hidden software that could recognize whether a
470 vehicle was being operated in a test laboratory or on the road.
471 The software made those vehicles emit high levels of nitrogen
472 oxides when the vehicles were driven in actual road use rather
473 than laboratory testing.

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474 In Volkswagen's recent, ongoing discussions with the
475 regulators, we described to the EPA and CARB that our emissions
476 control strategy also included a software feature that should be
477 disclosed to and approved by them as an Auxiliary Emissions
478 Control Device, which is also called AECD, in connection with the
479 certification process. As a result, in order to show that we
480 acted immediately, we have withdrawn the application for
481 certification for all model year 2016 vehicles and we are now
482 working with the agencies to continue the certification process.

483 These events -- and I fully agree on this -- are deeply
484 troubling. I did not think that something like this was possible
485 at the Volkswagen Group. We have broken the trust of our
486 customers, dealerships, employees, as well as the public and the
487 regulators. And let me be very clear. We at Volkswagen take full
488 responsibility for our actions and we are working with all the
489 relevant authorities in a cooperative way.

490 I am here to offer the commitment of Volkswagen AG to work
491 with this committee to understand what happened and how we will
492 move forward. EPA, CARB, the U.S. Department of Justice, state
493 attorneys general, as well as other authorities are fulfilling
494 their duties to investigate this matter, and we are determined
495 to make things right.

496 This includes accepting the consequences of our acts,

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497 providing a remedy, and beginning to restore the trust of our
498 customers, dealerships, employees, the regulators, and the
499 American public. We will rebuild the reputation of a company that
500 more than 2 million people worldwide, including dealers and
501 suppliers, rely upon for their livelihoods.

502 Our immediate goal is to develop a remedy for our customers.
503 While much work is still to be done, I would like to talk today
504 about how we get from where we are now to that goal.

505 First, we are conducting investigations on a worldwide scale
506 on how these matters could have happened. Responsible parties
507 will be identified and held accountable. Thorough
508 investigations have already begun, but any information
509 development at this stage is preliminary. We ask for your
510 understanding as we complete this work.

511 Second, it is important for the public to know that, as the
512 EPA has said, these vehicles do not present a safety hazard and
513 remain safe and legal to drive.

514 Third, technical teams are working tirelessly to develop
515 remedies for each of the affected group of vehicles. These
516 solutions will be tested and validated and, then, shared with the
517 responsible authorities for approval.

518 There are three groups of vehicles involved, each containing
519 one of the three generations of the two-liter diesel engine. Each

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520 will require a different remedy, but these remedies can only be
521 our first step to our customers.

522 Fourth, we will examine our compliance processes and
523 standards at Volkswagen and adopt measures to make certain that
524 something like this cannot happen again.

525 Fifth, we commit to regular and open communication with our
526 customers, dealers, employees, and the public as we move forward.
527 And as first steps, we have set up a designated service line,
528 website, micro-site, to be a channel for this communication. And
529 I have sent a personal letter to every affected customer.

530 I can offer today this outline of a path forward towards the
531 goal of making things right. Nevertheless, Volkswagen knows that
532 we will be judged not by our words, but clearly by our actions
533 over the coming weeks and months.

534 These events are fundamentally contrary to Volkswagen's
535 core principles of providing value to our customers, innovation,
536 and responsibility to our communities and our environment. They
537 do not reflect the company that I know and to which I have dedicated
538 25 years of my life. It is inconsistent that this company
539 involved in this emissions issue is also a company that has
540 invested in environmental efforts to reduce the carbon footprint
541 in our factories around the world, where our plant in Tennessee
542 is the best factory in this respect.

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543 In closing, again, I apologize on behalf of everyone at
544 Volkswagen. We will fully cooperate with the responsible
545 authorities. We will find remedies for our customers and we will
546 work to ensure that this will never happen again.

547 Thank you again for allowing me to testify today, and I look
548 forward to your questions. Thank you.

549 [The prepared statement of Mr. Horn follows:]

550

551 ***** INSERT 1*****

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552 Mr. Murphy. Thank you, Mr. Horn.

553 I now recognize myself for five minutes of questioning.

554 On September 3rd, 2015, VW admitted to CARB and EPA that it
555 had installed defeat devices in certain model year 2009 and model
556 year 2015 vehicles. To the best of your knowledge, did VW install
557 this software for the express purpose of defeating emissions
558 controls?

559 Mr. Horn. To our understanding -- and this is also part of
560 the investigation -- it was installed to this purpose, yes, for
561 this purpose.

562 Mr. Murphy. Now in your written testimony you noted that
563 you were made aware of potential emissions compliances in the
564 spring of 2014.

565 Mr. Horn. Uh-hum.

566 Mr. Murphy. You also noted discussions at the time about
567 penalties for non-compliance and the EPA's ability to test for
568 defeat devices. At that time were you aware or informed that
569 these vehicles contained defeat devices?

570 Mr. Horn. No.

571 Mr. Murphy. When did you first learn, then, that VW vehicles
572 contained a defeat device?

573 Mr. Horn. Around the September 3rd meeting, a couple of days
574 before.

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575 Mr. Murphy. And then, why were you having discussions about
576 defeat devices in the spring of 2014, then, if there was no
577 knowledge or at least a concern that these vehicles contained a
578 defeat device?

579 Mr. Horn. So, the University of West Virginia made the
580 study. There was a Jetta and Passat in there and another off-road
581 vehicle. I don't want to name the brand now. And the results
582 were communicated. In this context, I was told by our experts
583 in the Auburn Hills office -- and it was also, you know, into this
584 market -- that, of course, you know, not complying with the mission
585 standards is relating to fines, and hefty fines, specifically here
586 in the U.S., and that those experts, including the German
587 Technology Department, will check on the study and the study
588 results.

589 As you also mentioned, it was a small team. Results have
590 been published with all the emissions, which went overboard, and
591 that they will check this, point 1.

592 Point 2 is they would also look with all the responsible
593 departments, and there was a number of experts at the Department
594 in Germany, and then, how to possibly fix this. And then, there
595 was the notion in this communication that, also, the EPA or the
596 agencies could check also on their own, which to my degree is
597 normally around the world that agencies check once in a while on

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598 their own, for auxiliary devices, including defeat devices.

599 At that point of time, I had no understanding what a defeat
600 device was and I had no indication whatsoever that a defeat device
601 could have been in our cars.

602 Mr. Murphy. So, let me go back. Mr. Horn, the new Chief
603 Executive, Volkswagen, Mr. Mueller, has been quoted in media
604 reports this morning saying that only a few people were involved
605 with the deception. Now I have to say that I don't take much
606 comfort in that, especially knowing that Volkswagen has been know
607 for superb engineers and mechanics, who I wonder shouldn't they
608 have picked up on this. But isn't it true that the technology
609 was installed in the automobiles at least initially because the
610 cars could not meet the new, more stringent emissions standards
611 for diesel engines?

612 Mr. Horn. Yes, to your last question, this appears to be
613 this way, and to newspaper articles about possible quotes of Mr.
614 Mueller, I don't want to quote this.

615 As I said, also, the investigations are preliminary. One
616 week our group revision did the investigation from September 22nd
617 to October 1st. And then, the entire investigations on this
618 matter is turned over to an external agency, a law firm called
619 Jones Day, an American company, which is now going through the
620 systems, outside advice, outside counsel.

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621 Mr. Murphy. I think what we find amazing is that West
622 Virginia University discovered this, and your army of brilliant
623 engineers and talented mechanics didn't know something was amiss.
624 And I am sure we will have more questions about that.

625 But I want to ask you this: in terms of VW's status for
626 remedying these defeat devices, who is responsible for developing
627 and testing the solution?

628 Mr. Horn. The responsibility for developing and testing the
629 engine and drivetrain software lies within the Engine and
630 Drivetrain Division in Germany, in Wolfsburg, for the
631 two-cylinder, for the four-cylinder TDI engines.

632 Mr. Murphy. Now will this require a software patch or
633 changes to the actual vehicle's architecture and hardware?

634 Mr. McKinley. Yes, thank you for this question. I think
635 we have to do a different change now into the three groups of cars.
636 You've mentioned that roughly 500,000 cars are affected. Out of
637 those, round about 430,000 cars are the Gen 1 vehicles, which were
638 the very early vehicles, started here in 2009. For those cars,
639 we believe that a software-only solution will not be possible
640 because, also, to be quite frank and logic, you know, if it would
641 have been possible, they would have done it in the first place.

642 So, for those cars, we are working on both software and
643 hardware solutions, and there are different strategies about an

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644 additional NOx catalytic converter as well as an SCR Urea Tank.
645 But this is something which is hardware engineering, which is a
646 little bit -- it's complex and it takes time to develop and to
647 test this. This is one of the strategies.

648 The Generation 2 vehicles, which is just the Passat model,
649 I feel there are 90,000 cars here in the U.S. This will be most
650 probably a software solution. This is tested now, and could
651 involve one or the other, let's say, sensor. But whatever I
652 explain to you now, anyway, this is being discussed in a timely
653 manner now in the next couple of weeks with the California Air
654 Resources Board and the CARB.

655 For the Generation 3 vehicles, so the actual --

656 Mr. Murphy. Can I ask, because I have gone way over time
657 --

658 Mr. Horn. Sure, sure.

659 Mr. Murphy. I am sure other colleagues are going to be
660 asking some more detailed questions that we will get today.

661 Mr. Horn. Okay.

662 Mr. Murphy. But I now need to yield five minutes. I
663 recognize Ms. DeGette for five minutes.

664 Ms. DeGette. Thank you, Mr. Chairman.

665 Now, Mr. Horn, your company acknowledged that it installed
666 these defeat devices on a number of models dating back to 2009,

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667 correct?

668 Mr. Horn. Sorry, I have a problem understanding with all
669 this noise stuff.

670 Ms. DeGette. Oh, Mr. Chairman, Mr. Chairman, can you please
671 have quiet in the room, so Mr. Horn can understand me?

672 Mr. Murphy. Yes. Thank you.

673 The room will please be quiet, especially upfront. Thank
674 you. So, you are not distracted. Thank you.

675 Ms. DeGette. All right. I will ask that again. And if I
676 can have the clock reset to five minutes?

677 Mr. Horn, your company has acknowledged that it installed
678 these defeat devices on a number of models back to 2009, yes or
679 no?

680 Mr. Horn. Yes.

681 Ms. DeGette. And do you know how the various defeat devices
682 installed in the cars actually work at this point?

683 Mr. Horn. Personally, no, I'm not an engineer.

684 Ms. DeGette. Does someone at VW know how these defeat
685 devices work?

686 Mr. Horn. I believe this is also within the investigations,
687 and I believe that --

688 Ms. DeGette. Can you please give us the information when
689 you find out?

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690 Mr. Horn. We will. We will if we have it.

691 Ms. DeGette. Thank you very much.

692 Now you mentioned this West Virginia University study that
693 was conducted in May of 2014 which found that there real NOx
694 submissions on several Volkswagen vehicles exceeded EPA standards
695 by as much as 35 times. Following publication of that study, VW
696 represented to the California Air Resources Board, or CARB, and
697 to the EPA that the increased emissions were due to technical
698 issues and unexpected in-use conditions. Correct?

699 Mr. Horn. I'm sorry, you guys cough here all the time, and
700 I have trouble --

701 Ms. DeGette. All right. I will ask the question again.

702 Mr. Horn. Thank you.

703 Ms. DeGette. After that study by West Virginia University,
704 isn't it true that VW told the EPA and the California Board that
705 the increased emissions were due to technical issues and
706 unexpected --

707 Mr. Horn. Yes.

708 Ms. DeGette. -- in-use conditions?

709 Mr. Horn. Yes.

710 Ms. DeGette. Yes.

711 Mr. Horn. True.

712 Ms. DeGette. And those representations at that time were,

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713 in fact, incorrect and false, weren't they, sir?

714 Mr. Horn. Yes.

715 Ms. DeGette. Yes, they were.

716 Now, to your knowledge, did anybody at the Volkswagen Group
717 of America know at that time that, in fact, those discrepancies
718 were due to these defeat devices when they made those
719 representations to the regulators?

720 Mr. Horn. To my knowledge at this point of time, no.

721 Ms. DeGette. No one in the U.S. did?

722 Mr. Horn. No.

723 Ms. DeGette. Okay. Now, in December 2014, VW proposed a
724 recall of 500,000 vehicles to resolve the, quote, "technical
725 issues". Is that correct?

726 Mr. Horn. Uh-hum.

727 Ms. DeGette. And, in fact, a number of those vehicles were
728 recalled. Is that correct?

729 Mr. Horn. Yes, most of them.

730 Ms. DeGette. But, after they were recalled, the California
731 regulator still said that that fix did not work, isn't that
732 correct?

733 Mr. Horn. That is correct.

734 Ms. DeGette. Now, to your knowledge, did anyone at the
735 Volkswagen Group of America know about the existence of these

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736 defeat devices when the company announced that recall in December
737 of 2014?

738 Mr. Horn. To my best knowledge today, no.

739 Ms. DeGette. Mr. Horn, when did you personally learn of the
740 defeat device and under what circumstances?

741 Mr. Horn. Around the meeting on September 3rd with CARB and
742 EPA.

743 Ms. DeGette. Okay. Now you talked, when the chairman asked
744 you about these cars -- I am concerned about what we are going
745 to do about the 500,000 cars we have on the road in the U.S. And
746 the first thing is, as you just testified, about 430,000 of those
747 cars cannot be fixed by a software-only solution. Is that
748 correct?

749 Mr. Horn. Yes.

750 Ms. DeGette. And that is because of the way that the engine
751 is designed in these vehicles. Correct?

752 Mr. Horn. I would say not the engine is designed, but all
753 the after-treatment systems.

754 Ms. DeGette. Right. And I have got to say, I have got to
755 acknowledge my wonderful dealer Fred Emich, who is here today.
756 And he let me come and talk to his wonderful mechanics on Monday.
757 They gave me this chart right here. I tried to take the card
758 itself, but it was too heavy and they told me I would have to

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759 probably pay them \$2,000 if I lost it. So, I decided to take the
760 chart instead.

761 This is the chart of the exhaust on these 430,000 cars. And
762 as I could clearly see, you can't do a minor little fix to fix
763 this problem. So, what is VW going to do for these 430,000 cars,
764 so that the users can use them and so that they can pass the
765 emissions test?

766 Mr. Horn. So, from this distance, I can't see the chart,
767 but I believe it is maybe something out of our service literature
768 or customer literature.

769 Ms. DeGette. It is the exhaust system for these cars.

770 Mr. Horn. Yes, but --

771 Ms. DeGette. What can be done to fix that?

772 Mr. Horn. There's two scenarios next to the software
773 adjustments and one scenario --

774 Ms. DeGette. But these are for the cars that can't have,
775 that the software adjustments will not work.

776 Mr. Horn. We are talking now about Generation 1 cars, the
777 430,000 cars.

778 Ms. DeGette. That's right.

779 Mr. Horn. The picture you have shown and the treatment,
780 software alone doesn't work because, otherwise, they would have
781 done it right in the first place.

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782 Ms. DeGette. Right. So, what are you going to do for those
783 cars?

784 Mr. Horn. Two technical scenarios. Either a Urea Tank, SCR
785 Tank, to put, add glue in there, or a specific catalyzer for the
786 NOx. Two technical scenarios.

787 Ms. DeGette. Okay, but those cars don't have the Urea Tank
788 right now?

789 Mr. Horn. No. That's why it has to --

790 Ms. DeGette. So, this would be a major fix, correct?

791 Mr. Horn. Yes, ma'am.

792 Ms. DeGette. Now what is the timeframe VW has set for that
793 fix?

794 Mr. Horn. We are still working on the timeframe, and it's
795 too early to say when this fix exactly is going to take place.

796 Ms. DeGette. When are these dealers going to be allowed to
797 sell these cars?

798 Mr. Horn. The dealers, the issue with the dealers, as Fred
799 Emich told you, is that we have not the model year '16 certified
800 and we have stopped sale on our own, on our own --

801 Ms. DeGette. Right. When is that going to be fixed?

802 Mr. Horn. The model year '15 --

803 Ms. DeGette. So you are going to be able to sell those cars?

804 Mr. Horn. There's two scenarios. A scenario, we are now

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805 trying to get a conditional approval with the EPA until we have
806 the final software fix beginning of next year.

807 Ms. DeGette. The beginning of next year? And in the
808 meantime, what are the dealers and the customers supposed to do,
809 the ones who have these cars?

810 Mr. Horn. Well, in the meantime, no customer can buy a car
811 because it's not available for them. And with the dealers, we
812 have very early started a program to work with them to also help
813 them financially and to communicate with them --

814 Ms. DeGette. Okay, but the 430,000 cars that are already
815 on the road, what are those customers supposed to do? Their cars
816 cannot pass the emissions test.

817 Mr. Horn. The EPA has said, and they have repeated this also
818 in their statement, that these cars are legal and safe to drive.

819 Mr. Murphy. Thank you.

820 Mr. Horn. Until now, there's no indication that they didn't
821 pass any emissions test.

822 Mr. Murphy. Thank you. The gentlelady's time has expired.

823 Now we need to recognize the chairman of the full committee,
824 Mr. Upton of Michigan, for five minutes.

825 The Chairman. Thank you, Mr. Chairman.

826 I want to go back to the specifics of the defeat device. So,
827 I live in Michigan. Where I live we don't need to test our cars

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828 for emissions on an annual basis, as many states require.

829 Certainly, in this region here in D.C. I know they do.

830 So, how is this defeat device actually set up, so that it
831 was different when an individual drove it down the road versus
832 taking it to a service station and getting the emissions sticker
833 that is often required in the states that require such?

834 Mr. Horn. So, I'm --

835 The Chairman. I've been told a couple of things, but I just
836 want to know if you can walk --

837 Mr. Horn. I can't tell you --

838 The Chairman. -- me through how that could change the
839 emissions system. What happens?

840 Mr. Horn. I can share my best knowledge, but I'm not an
841 engineer, neither, a software engineer.

842 The Chairman. Well, I --

843 Mr. Horn. But let me try to explain. Let me try to explain.
844 My understanding at this point of time is that the software was
845 designed that the vehicle or the software could detect whether
846 it was on a dyno, in a testing laboratory environment, or whether
847 it was on the street.

848 And one example of this, as experts have explained to me,
849 is that the software could detect whether the steering wheel made
850 an angle. So, there might have been and there will be other

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851 parameters, like maybe speed and, then, change of speed and those
852 things.

853 The Chairman. Maybe the weight of the driver in the driver's
854 seat?

855 Mr. Horn. I don't think so, but maybe. I don't know.

856 The Chairman. So, wouldn't it be easy to develop the
857 software that would just remove that?

858 Mr. Horn. Yes. This will be, this software will be ready
859 --

860 The Chairman. But, of course, when that happens, the car
861 isn't going to meet the emissions test.

862 Mr. Horn. Regarding the model year '16 and '15, which were
863 the Generation 3 cars, which we are discussing right now with the
864 agencies, the defeat device will be either switched off, and from
865 January onwards will be completely taken out of the car. And
866 those cars will pass the emissions test.

867 The Chairman. So, how many vehicles will not pass the
868 emissions test or the ones that you have identified?

869 Mr. Horn. Now, I mean, my question --

870 The Chairman. So, you will be able to do that with the later
871 versions, right?

872 Mr. Horn. We have --

873 The Chairman. But not the earlier versions of the vehicle?

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874 They won't be able to pass? By turning off the device, the defeat
875 device, there will be a number of cars that, in fact, will not
876 meet the current standards. And that is your big goal.

877 Mr. Horn. The burn standards, yes, you're right.

878 The Chairman. And how many of those vehicles are there on
879 the road?

880 Mr. Horn. Well, we have a total of 500,000; 430,000
881 Generation 1 vehicles, 95,000 Generation 2 vehicles, and then,
882 it's around 70,000 Generation 1 vehicles. And so, you know, all
883 of these cars are out of the legal compliance, clearly. But, as
884 EPA has said, all these cars are legal and safe to drive for the
885 owners. So, we are not selling the cars, but the owners can
886 legally drive and safely drive their cars.

887 The Chairman. So, your dealers across the country, they
888 have their finance plans, where they have quite an inventory, I
889 would guess, of cars that they are now unable to sell. They have
890 paid in advance for those under the financing plan that dealers
891 have, and they are not going to be able to sell them for a number
892 of months, perhaps even as long as six months at a minimum, until
893 the fixes can be done.

894 What type of remedies are you offering the dealers in terms
895 of financial incentives, knowing that they have paid for these
896 cars and, frankly, lost a boatload, I would imagine?

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897 Mr. Horn. Yes, and this is also --

898 The Chairman. That inventory has got to be a pretty big
899 loss.

900 Mr. Horn. This is also one of the things which troubles me
901 personally very much because the last one, yes, we've worked very
902 hard and we've brought profitability up and all of those things.

903 But I'll tell you exactly. On Friday, the 18th, the Notice
904 of Violation was communicated. We had a call with the National
905 Dealer Counsel. Some of the folks are sitting behind me. On
906 Monday, we issued our first financial relief aid. So, we put all
907 the TDIs, used cars, CPO cars, and new cars on free flooring. We
908 took all the bonus thresholds out for car sales. So, we paid
909 maximum bonus for each car sold, and we took also out the customer
910 satisfaction targets objectives and we paid maximum customer
911 satisfaction bonus on those cars. And this is more than \$1,000,
912 \$1,500 per car.

913 Coming towards October now, we provided every dealer around
914 the U.S. with a discretionary fund, with a discretionary fund
915 which was explained to them through the District Managers, the
916 Sales Operations Managers, and which was wired to the dealers on
917 October 1st.

918 I don't want to call out the number, but it is a significant
919 amount of money in order for them to have flexibility. So, no

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920 accountability towards us; flexibility to solve the most urgent
921 customer cases or to invest or to put the money where they think
922 it would be fit.

923 And now, when I come out of this congressional hearing, on
924 Friday we look at the next programs in order how can we help the
925 dealers with the cashflow of their cars, for the cash position.
926 Because one thing is very, very clear -- and I'm damned sincere
927 about this -- the dealer profitability of this country is my first
928 objective. And I said this on January 1st and I continue to say
929 this. So, this is one part.

930 And also, on Friday we look very intensively into the
931 customer remedies and what we need to do to the customers. And
932 there will be the first scenarios on the table.

933 Mr. Murphy. All right. Thank you. The gentleman's time
934 has expired.

935 I now recognize the ranking member of the full committee,
936 Mr. Pallone, for five minutes.

937 Mr. Pallone. Thank you, Mr. Chairman.

938 Mr. Horn, your statements so far don't give me much
939 confidence that we are ever going to see a fix for these vehicles
940 that are impacted. You know, you say that you can't be fixed by
941 a software-only solution. You don't have the necessary timetable
942 as to when the fix is going to begin.

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943 Have you been given enough information about how the defeat
944 device affects the engine to actually make informed judgments on
945 whether the fix will actually work? I mean, how do we know that
946 what you are proposing to do is actually going to work?

947 Mr. Horn. Whatever I tell you here today is agreed and is
948 coming from the Technical Engineering Department in Wolfsburg.
949 And alongside our actions in Europe, we have to have our actions
950 in the U.S. And the technical --

951 Mr. Pallone. No, I understand, but is it fair to say that
952 you really don't know whether you can fix these vehicles to achieve
953 the emissions standards?

954 Mr. Horn. We know that we can fix these vehicles to achieve
955 emission standards.

956 Mr. Pallone. All right. But, then, what happens with
957 regard to other things like fuel economy, engine performance?
958 You know, people bought these vehicles thinking that they were
959 going to meet the emissions standards. They were going to have
960 good fuel economy. They were going to have good engine
961 performance. Can you guarantee that any fix you make to the
962 vehicles doesn't affect fuel economy or engine performance or
963 both?

964 Mr. Horn. At this point of time, my understanding is, if
965 we correct the nitrogen oxide emissions to the emissions

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966 standards, the customer will get the MPG on the Monroney label.
967 That's my current understanding. Whether the full performance
968 of the car -- and this is something also our Chairman Matthias
969 Mueller or CEO Matthias Mueller said in Germany -- maybe on top
970 speed they might be, one or two miles per hour might be missing,
971 but this is, of course, something which we will share with the
972 agencies. But current understanding is that the customer will
973 keep the Monroney label miles per gallon.

974 Mr. Pallone. I mean, the concern I have is, you know, when
975 you buy one of these cars, you are relying on not only the emissions
976 standards, but the fuel economy is good and the performance is
977 good. I think you get to the issue of damages here. In other
978 words, if I am an owner and the fix doesn't achieve good
979 performance, good fuel mileage, then I am going to expect to be
980 compensated in some way if that is not the case.

981 And I just remain concerned that any fix is going to
982 substantially change the cars and that it is unfair to the
983 consumers who bought the cars and relied on them because they
984 expected them to perform a certain way. But you are telling me
985 that the fix will guarantee good performance and will guarantee
986 good fuel economy?

987 Mr. Horn. I said, to my current understanding, in achieving
988 the emissions standards, the Monroney label miles per gallon will

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989 be achieved. There might be a slight impact on the performance.
990 And this is naturally not only the discussions with the agencies,
991 but, of course, we will look into compensating our customers.
992 And, of course, if there would be significant differences, this
993 would be part of the discussion.

994 Mr. Pallone. Well, let me get to another issue. What about
995 the impact on clean air? I mean, we know that there's all kinds
996 of health impacts, asthma, other respiratory illnesses that can
997 seriously affect people, send them to the hospital that get sick
998 because of NOx and these other problems. I mean, you obviously
999 agree that NOx pollution can result in serious health and
1000 environmental effects. I would assume you would agree with that.

1001 Mr. Horn. I have also read the EPA statement, that in
1002 general, and not specifically to Volkswagen, they have indicated
1003 that there might be respiratory problems which could also lead
1004 -- I mean, I am quoting yesterday, basically -- to hospital visits.

1005 Mr. Pallone. Well, what are you going to do to rectify that?
1006 How do you plan to mitigate the harm caused by this excess
1007 pollution emitted into the air over the last seven years? My
1008 understanding is that the NOx emissions from the affected vehicles
1009 are up to 40 times the allowable limit. So, what are you going
1010 to do with regard to this excess pollution and the impact it may
1011 have had?

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1012 Mr. Horn. I think there's, first of all, many different
1013 studies. And so, I would like to go back to the EPA yesterday,
1014 of what they said. I think it will be part of the discussion.

1015 But I would also like to point out that, if you look at 100
1016 percent of nitrogen oxide emissions in the U.S., the car and truck
1017 industry is having 5 percent. Our group here in the U.S. has 4
1018 percent of the 5 percent, which is .2 percent. And of this, 20
1019 percent is TDI, which is .05. And now, we can multiply this, which
1020 is not belittling this and it's clearly unacceptable. But,
1021 within this context, clearly, the discussion will come up and
1022 needs to be addressed.

1023 Mr. Pallone. All right. Thank you.

1024 Thank you, Mr. Chairman.

1025 Mr. Murphy. I now recognize Ms. Blackburn for 5 minutes.

1026 Mrs. Blackburn. Thank you, Mr. Chairman.

1027 Mr. Horn, you said profitability is your top priority when
1028 you were speaking of the dealers and --

1029 Mr. Horn. For the dealers, yes.

1030 Mrs. Blackburn. Yes. I would hope that safety, quality,
1031 integrity are top priorities, and profitability comes along there
1032 as a part of that picture.

1033 Let me ask you about this. Are you going to buy back the
1034 inventory that the dealers have?

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1035 Mr. Horn. No, our plan is not to buy back --

1036 Mrs. Blackburn. No?

1037 Mr. Horn. -- the inventory.

1038 Mrs. Blackburn. Not to buy back? Okay.

1039 Mr. Horn. Our plan is to fix the cars.

1040 Mrs. Blackburn. Okay. Let me move on with you. Have you
1041 identified the individual or group of individuals that are
1042 responsible for the defeat device?

1043 Mr. Horn. These investigations are ongoing.

1044 Mrs. Blackburn. You have known about this since the spring
1045 of 2014, a year and a half.

1046 Mr. Horn. We know about this since September 3rd, that the
1047 violation is there. And since this time and since the September
1048 18th Notice of Violation, the Board has acted and has asked Jones
1049 Day to investigate.

1050 Mrs. Blackburn. But you have known that there was some
1051 activity around this defeat device since the spring of 2014,
1052 correct?

1053 Mr. Horn. No, I did not know. As I have said --

1054 Mrs. Blackburn. Okay. So, you did not know it in the spring
1055 --

1056 Mr. Horn. No.

1057 Mrs. Blackburn. -- of 2014?

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1058 Mr. Horn. No, again.

1059 Mrs. Blackburn. So, you just learned about it September
1060 3rd, 2015?

1061 Mr. Horn. Around the September 3rd events, yes.

1062 Mrs. Blackburn. Okay. All right. Let's go to your
1063 six-point remedy plan. You have talked some about point 3, which
1064 is that they are developing remedies. And I would assume, if this
1065 landed on your plate September 3rd, that you all have put all
1066 efforts and energy into this plan, correct, into the remedies?

1067 Mr. Horn. Yes, correct.

1068 Mrs. Blackburn. Very good.

1069 All right. Then, let's go to point No. 1. You state that
1070 Volkswagen will examine its compliance processes and standards
1071 and adopt measures to make certain that something like this cannot
1072 happen again.

1073 Mr. Horn. Uh-hum.

1074 Mrs. Blackburn. So, why don't you give us a little bit of
1075 specificity on that and what, if any, steps are currently underway
1076 to handle this compliance issues? What did you start as of
1077 September 3rd, 2015 and what is your timeline? How long is it
1078 going to take you to bring this into compliance?

1079 Mr. Horn. So, as I am the CEO of Volkswagen Group of America,
1080 I can only report to you on what is managed by Volkswagen

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1081 headquarters worldwide at this point of time. And as I've said,
1082 it's Jones Day. They manage all the investigations in terms of
1083 who did what, when, how, and why, and what do we need to do in
1084 order to rectify this for the future in terms of process
1085 adjustments and compliance adjustments.

1086 Mrs. Blackburn. So, then, you are saying that, as of now,
1087 you do not have a plan?

1088 Mr. Horn. As of now, we are still in the investigation
1089 phase.

1090 Mrs. Blackburn. Okay. When can we expect you to have a plan
1091 to handle compliance, to make the owners of your vehicles whole,
1092 if you will, to make the dealers that have trusted in you, to make
1093 them whole? Also, the individuals that are employed by your
1094 facilities, when are they going to have some certainty as it
1095 relates to the jobs?

1096 So, you all say you are still investigating. So, on your
1097 timeline, when do you expect that you are going to be able to say
1098 this is the way forward?

1099 Mr. Horn. You mentioned six points, and we started with the
1100 first point, compliance. I don't have a timeline for this yet.

1101 Mrs. Blackburn. Okay.

1102 Mr. Horn. We are working instantaneously with the dealers
1103 and developing plans by the week as we go, as we go. And you can

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1104 ask those folks behind me on whether this works or not.

1105 And for the customer, it depends on the technical remedies.
1106 So, again, this is Generation 3. January this year, January next
1107 year -- sorry -- we will start to give the software to the agencies.
1108 Generation 2, the middle of the year; most probably Generation
1109 3, due to the technical complexity, will be a little bit later.
1110 So, there's different timings, and I apologize not for having a
1111 full-fledged plan of the Board by Volkswagen company right now
1112 here in my pocket.

1113 Mrs. Blackburn. So, you are certain it is going to be a
1114 multi-year plan?

1115 Mr. Horn. Excuse me?

1116 Mrs. Blackburn. You are certain the remedy will end up being
1117 a multi-year approach?

1118 Mr. Horn. Yes. If you look alone at 430,000 cars and the
1119 repairs might take 5 to 10 hours even in order to fix this, you
1120 know, technical fixes, and if you look at your recall history in
1121 this market, also with NHTSA, then these actions take, you know,
1122 1 or 2 years minimum -- minimum -- when the fix is available for
1123 everybody, including parts and discussed with the agencies and
1124 agreed to.

1125 Mrs. Blackburn. Okay. Let's see, my time has expired.

1126 I do have one other question about point 2 in your remedy

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1127 plan. Mr. Chairman, I will submit that and yield back the time.

1128 Mr. Murphy. Thank you. Thank you very much.

1129 Now I recognize Ms. Castor for 5 minutes.

1130 Ms. Castor. Well, thank you, Mr. Chairman, for calling the
1131 hearing.

1132 Mr. Horn, according to reports, VW's defeat device is found
1133 in nearly 500,000 vehicles. Are you confident in that number?
1134 Could it be more? Could it be less?

1135 Mr. Horn. We are very confident in this number.

1136 Ms. Castor. Pardon me?

1137 Mr. Horn. We are very confident in this number.

1138 Ms. Castor. Okay. Have you calculated the loss in value
1139 to customers, car owners?

1140 Mr. Horn. No, not yet. That's a matter of not only the
1141 investigations, but the calculations are ongoing. And on Friday,
1142 we will look at the first scenarios.

1143 Ms. Castor. Okay. You have called your investigation
1144 preliminary, but you have known about this for a year and a half.
1145 The problems first came to light in May 2014, is that correct?

1146 Mr. Horn. No, this is not correct. As I explained, the
1147 study was published, and I had no reason to believe that there
1148 was a defeat device in those cars.

1149 Ms. Castor. Well, you found out, according to reports, in

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1150 2014 that there was an issue, isn't that correct?

1151 Mr. Horn. An emissions issue, yes, that's correct.

1152 Ms. Castor. So, what did you do at that point in time?

1153 Mr. Horn. At that point of time, a plan was asked for from
1154 the engineers. And in July 2014, middle of the year, they
1155 presented a plan to me which was -- and this is very important
1156 also -- which was agreed and discussed with the Product Safety
1157 Committee worldwide. And these are those guys who manage all the
1158 recalls, all the service actions worldwide, including technical,
1159 procurement, legal, service, and those things.

1160 They came back with a plan, first of all, acknowledging that
1161 those results were correct and, secondly, with a clear timing on
1162 when those cars would get a software fix, which was also mentioned
1163 in one of the opening statements, as of the end of last year.

1164 Ms. Castor. Do you feel like you have been personally
1165 deceived now, after you found out subsequently that the defeat
1166 devices --

1167 Mr. Horn. Yes. Yes, and --

1168 Ms. Castor. Explain that.

1169 Mr. Horn. Look, I worked 25 years for this company. And
1170 beyond my personal objective of dealer profitability, integrity,
1171 quality, you know, and not cheating, was always for me a given
1172 for this company.

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1173 Ms. Castor. And another --

1174 Mr. Horn. When I learned this, I am as touched and moved
1175 -- sorry -- as my employees and as my --

1176 Ms. Castor. Another group feeling the effects of the VW
1177 defeat device defrauding are the VW dealers and their hard-working
1178 employees all across this country, in addition to consumers. A
1179 recent Associated Press article noted that dealers are facing,
1180 quote, "a lot of angry calls, emails, et cetera, from Volkswagen
1181 owners" who feel betrayed because they believed they had bought
1182 a car that polluted less without sacrificing all the good gas
1183 mileage and the performance that comes with a diesel engine.

1184 Mr. Horn, how many VW dealerships are there in the U.S.?

1185 Mr. Horn. We have round about 650 VW dealers and 350 Audi
1186 dealers.

1187 Ms. Castor. And on average, how much of a VW's business do
1188 these diesel models --

1189 Mr. Horn. Twenty-five percent.

1190 Ms. Castor. And these dealers are now the frontline --

1191 Mr. Horn. Yes.

1192 Ms. Castor. -- for unhappy customers who feel betrayed by
1193 the Volkswagen brand. And a media account yesterday quoted one
1194 dealer as saying, "This is the biggest fraud I've ever seen."
1195 What do you have to say in response to that? What do you tell

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1196 these business owners and their employees whose livelihoods
1197 depend on --

1198 Mr. Horn. I went immediately out with the Dealer Counsel
1199 on a call. I made a dealer video which was sent out, and the
1200 dealers even showed it to their children, and their families, and
1201 their employees, because they said that's the right thing on what
1202 we are approaching this.

1203 Ms. Castor. So, detail for us how VW is informing dealers
1204 about the defeat devices and the solutions to fix cars that feature
1205 these defeat devices.

1206 Mr. Horn. As soon as we have the information necessary
1207 already and have discussed this with EPA and CARB about the timing
1208 or alongside, the dealers will be naturally informed.

1209 Ms. Castor. They are not getting any information right now?

1210 Mr. Horn. No, of course, they get information.

1211 Ms. Castor. So, detail that for us.

1212 Mr. Horn. First of all, they get the information that we
1213 financially help them through this crisis. Secondly, the first
1214 thing is we took the bonus thresholds out. They have free
1215 flooring. They got the discretionary fund. We have increased
1216 the incentives by \$2,000 for a loyal customer, for loyal
1217 Volkswagen customers, you know, a loyalty program.

1218 Ms. Castor. What does that mean?

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1219 Mr. Horn. That means we get them started and don't let them
1220 dry out in the field.

1221 Ms. Castor. Is that a direct payment to customers or to
1222 dealers?

1223 Mr. Horn. The first two points, the bonus payments and the
1224 floor plan, is directly to the dealers. The discretionary funds
1225 is directly to the dealers. And the incentives are, for them,
1226 this is a certain cash incentive that they can manage to bring
1227 loyal customers in, whether that is a TDI customer or a gas
1228 customer.

1229 Ms. Castor. So, is the intention there for the dealers,
1230 then, to contact customers who have purchased cars since the model
1231 year 2009?

1232 Mr. Horn. Yes, as one of the possibilities, sure, yes.

1233 Ms. Castor. Well, VW is not giving any direction to dealers
1234 and their employees on contacting customers at this point in time?

1235 Mr. Horn. No, of course, we are having -- we have set up
1236 frequently-asked questions. We are guiding the dealers with
1237 real-time the same information we have, and which goes to all call
1238 centers as well, because those, you know, I have visited the call
1239 center in Auburn Hills. Those people are also frontline. They
1240 need the same information, and as soon as we have it, the other
1241 people get it as well.

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1242 Ms. Castor. All right. What has VW told dealers about how
1243 existing Volkswagen models will be affected, cars that dealers
1244 have already sold and cars that are now sitting on the lots?

1245 Mr. Horn. We've informed the dealers directly on September
1246 18 in a call to the National Dealer Counsel. We followed up with
1247 letters and videos to do this.

1248 Mr. Murphy. Thank you.

1249 Ms. Castor. Okay, I am out of time.

1250 Mr. Murphy. The gentlelady's time has expired.

1251 I now recognize Mr. Barton for 5 minutes, from Texas.

1252 Mr. Barton. Thank you, Mr. Chairman. And thank you and Ms.
1253 DeGette for organizing this hearing.

1254 I am not a Registered Professional Engineer anymore, but at
1255 one time I was. I still am an engineer by training. My daughter
1256 drives a Volkswagen Beetle. My former stepdaughter drives a
1257 Volkswagen Jetta. I don't think they are diesel; I think they
1258 are gasoline-powered, but they are both Volkswagens.

1259 I have always had the highest respect for Volkswagen. I
1260 think it is a fine company engineering-wise, you know,
1261 product-wise. But I must tell you, sir, that it is extremely
1262 disappointing to look at the -- I don't know the right word to
1263 use -- immorality of the corporate decision to knowingly and
1264 willfully cheat on U.S. emissions standards.

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1265 I mean, Volkswagen is one of the premiere name brands of auto
1266 manufacturing in the world, and it is a reputation that has been
1267 gained over the last 50 or 60 years. And to have a company of
1268 your stature knowingly and willfully make a decision at the
1269 highest levels of the company to put a software program in your
1270 products that are meant intentionally to deceive or to cheat on
1271 U.S. emission standards, to me, I wouldn't have believed it if
1272 it wasn't factually proven.

1273 So, my first question to you is, I am told that this was a
1274 decision made in Germany at the corporate level. Is that correct?

1275 Mr. Horn. Two answers to this. First of all, the
1276 investigations are ongoing, but this was not a corporate decision,
1277 from my point of view. To my best knowledge today, the
1278 corporation in no Board meeting or no Supervisory Board meeting
1279 has authorized this, but this was a couple of software engineers
1280 who put this in, for whatever reasons. And I would also like to
1281 find out, and I fully agree to your other statement.

1282 Mr. Barton. And this is an oversight hearing, so I assume
1283 that you are testifying under oath, is that correct?

1284 Mr. Horn. I am under oath. I understand this, sir.

1285 Mr. Barton. Okay. So, what you are saying is that the
1286 senior, the president of Volkswagen International did not know
1287 about this when it happened?

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1288 Mr. Horn. What I said was, to my understanding, this was
1289 not a corporate decision. This was something individuals did.

1290 Mr. Barton. Okay. Now that is not what I was led to
1291 believe, but I take you at your word. So, I will ask the second
1292 question.

1293 When did senior management, i.e., the president of
1294 Volkswagen International, the executive vice present, whoever
1295 your senior day-to-day corporate officers are, when did they learn
1296 of this action?

1297 Mr. Horn. To my understanding, also around the September
1298 3rd notification of the agencies.

1299 Mr. Barton. But it occurred years ago.

1300 Mr. Horn. Yes, sir.

1301 Mr. Barton. Do you really believe, as good, as well-run as
1302 Volkswagen has always been reported to be, that senior-level
1303 corporate managers/administrators had no knowledge for years and
1304 years?

1305 Mr. Horn. I agree it's very hard to believe.

1306 Mr. Barton. Yes.

1307 Mr. Horn. And personally, I struggle as well, yes.

1308 Mr. Barton. That is an honest answer. I appreciate that.

1309 Well, I don't know what to do, but I do know that you can
1310 have an honorable disagreement about emissions standards, and we

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1311 have had that on this committee. But, as somebody who voted for
1312 the Clean Air Act Amendments and as a conservative who believes
1313 that, if it is the law, it should be implemented, and corporate,
1314 especially international corporations should honor those laws,
1315 your company has not. I don't know what the penalty should be,
1316 but it should be more than just a slap on the wrist.

1317 I mean, I am going to listen to the rest of the testimony
1318 and the questions and the staff recommendations, but in every
1319 other case since I have been a Congressman, when we have had
1320 problems with manufacturers, automobile manufacturers, in every
1321 case it has been something happened that was really a mistake,
1322 an accident, that they just didn't foresee it. That is not the
1323 case here.

1324 Mr. Horn. Yes.

1325 Mr. Barton. There was a knowingly and willful decision to
1326 deceive in one of the most important markets in the world, and
1327 that, sir, is just wrong.

1328 And with that, I --

1329 Mr. Horn. We agree.

1330 Mr. Barton. Thank you, sir.

1331 Mr. Murphy. Thank you.

1332 I now recognize Mr. Kennedy for 5 minutes.

1333 Mr. Kennedy. Thank you, Mr. Chairman.

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1334 Mr. Horn, thank you for being here today.

1335 I understand you have said several times your testimony is
1336 preliminary and there are investigations ongoing. So, I
1337 appreciate that and I recognize that.

1338 I do want to go back to what a number of my colleagues has
1339 gone to with regard to the timeline here. My understanding, and
1340 from your testimony, was that in the spring, I think specifically
1341 May of 2014, was when Volkswagen became aware that there was some
1342 issue with regard to emissions, is that right?

1343 Mr. Horn. Yes.

1344 Mr. Kennedy. And then, it was from May to December that CARB
1345 and EPA launched investigations into those, the emissions, and
1346 the company itself, VW, started an investigation as to what led
1347 to the oddities, if you will, with regard to the emissions testing,
1348 right?

1349 Mr. Horn. I can't answer this really. I mean, I know that
1350 the actions to remedy these findings were discussed with CARB and
1351 EPA. Whether they have undergone their own investigations
1352 between May 2014 and December 2014, I don't know. I know they
1353 did this afterwards, when we started to flesh the cars with the
1354 new software.

1355 Mr. Kennedy. So, okay. If I tell you that EPA and CARB
1356 continued an investigation after that preliminary report from May

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1357 and they continued their investigations, then December 2nd, 2014,
1358 VW shared test results with EPA and CARB and proposed a
1359 recalibration fix, is that accurate?

1360 Mr. Horn. Yes.

1361 Mr. Kennedy. And then, VW initiated a voluntary recall of
1362 approximately 500,000 vehicles to try to deal with that
1363 recalibration issue. In May, CARB commenced testing, May 6th,
1364 I believe, 2015, CARB commenced testing to discern whether the
1365 fix that VW had proposed adequately and accurately fixed the
1366 underlying issue.

1367 Mr. Horn. Uh-hum.

1368 Mr. Kennedy. May 6th through July 2015, CARB conducted
1369 laboratory and on-road testing to confirm the efficacy of the
1370 recall. What I am getting at here, sir, is July 8th CARB shared
1371 test results with VW and the EPA, prompting a series of technical
1372 meetings, from my understanding. And according to CARB, in the
1373 course of those meetings, VW disclosed that there were several
1374 issues, that Gen 1, Gen 2, and the 2015 model of the improved SCR
1375 vehicle known as Gen 3 had a second calibration intended to run
1376 only during confirmatory testing. So, there was some knowledge
1377 at least in July of this year that there was some manipulation
1378 of software code with regard to the testing, was there not?

1379 Mr. Horn. This meeting you're referring to, I don't know.

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1380 I can tell you that the first issue that got back to me and to
1381 my attention was on the 20th of July when my people of Product
1382 Marketing came to me and said we don't get the model year '16 diesel
1383 certified.

1384 And then, I immediately wrote a letter or an email to Dr.
1385 Jakob Neusser, the EDP for Research and Engineering in Wolfsburg,
1386 and I escalated this. And the explanation was twofold. (A)
1387 There was new systems, and I don't know whether this is rights,
1388 and (B) there is still information missing. So, also my teams in
1389 Herndon with the National Science Company did not have this
1390 information. And then, only in the weeks afterwards it started
1391 to unfold.

1392 Mr. Kennedy. And so, sir, if I am understanding kind of the
1393 broad aspects of your testimony correctly, this is something --
1394 as you have said a number of times, this was not a company decision;
1395 this was a decision made by a number of individuals yet to be
1396 ascertained underneath at some other levels of the company that
1397 does not affect a corporate decision by the Board, by yourself.
1398 Is that accurate?

1399 Mr. Horn. That's my understanding, yes.

1400 Mr. Kennedy. So, as of now, at least according to press
1401 reports as of this morning, there's four individuals that have
1402 been suspended. Is that right?

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1403 Mr. Horn. I don't know. This is press reports.

1404 Mr. Kennedy. To your knowledge, has anybody been suspended
1405 to this point?

1406 Mr. Horn. I can't share names with you. There is no
1407 information --

1408 Mr. Kennedy. I am not asking for names. Has there been
1409 anybody that has been suspended at this point? Has anybody, as
1410 of now, after Volkswagen, for knowing at least of some
1411 inconsistencies with test reports for the past 18 months, has
1412 anybody been suspended or lost their job?

1413 Mr. Horn. To my understanding, there have been three people
1414 suspended, but I cannot share the names here, due to German law.

1415 Mr. Kennedy. And I am not asking for the names, sir.

1416 You mentioned the figures, roughly, that this would take one
1417 to two years, 5 to 10 hours per car, in roughly 430,000 cars. Do
1418 you have any estimate at this point as to what the direct losses
1419 for Volkswagen would be because of this incident?

1420 Mr. Horn. I think the losses are depending (A) on the fines
1421 we will get and we will have to pay, and then, also, (B), on how
1422 much money it takes to fix those cars, and (C) on how much money
1423 we will have to pay to compensate the customers for what we did.
1424 And this is a whole lot of money, I'm quite sure.

1425 Mr. Kennedy. And so, sir, I think the overall question that

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1426 you are sensing from myself and colleagues is that I understand
1427 that this was a decision that you are indicating was made by people
1428 underneath you. It does get to the overall corporate integrity
1429 of the company. And so, what, if you can say, is going to be done
1430 to restore faith in the overall corporate structure of Volkswagen?

1431 Mr. Horn. First, a very important clarification. It was
1432 not done by people under me. I'm the CEO, president and CEO of
1433 Volkswagen Group of America. And those things have been
1434 developed in the relevant software departments in Germany, which
1435 is totally out of my jurisdiction or steering.

1436 And the second, to get your answer hopefully in the right
1437 way, with the compliance investigations, we have to streamline
1438 our processes and this company has to bloody learn and use this
1439 opportunity in order to get their act together. And 600,000
1440 people worldwide have to be managed in a different way. This is
1441 very, very clear.

1442 Mr. Kennedy. Thank you, sir.

1443 Mr. Murphy. I recognize the vice chair of the full
1444 committee, Mr. McKinley, for 5 minutes.

1445 Mr. McKinley. Well, thank you, Mr. Chairman.

1446 Several things. First, you opted not to challenge the WVU
1447 decision, the research that was done. So, you have not challenged
1448 the research that was done. Everyone has recognized you did

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1449 knowingly, then, violate, is that correct?

1450 Mr. Horn. I don't understand this question, sir. I'm
1451 sorry.

1452 Mr. McKinley. You opted not to challenge or appeal the
1453 findings from the WVU. So, does that mean --

1454 Mr. Horn. From?

1455 Mr. McKinley. -- that you knowingly violated?

1456 Mr. Horn. No. No, sir.

1457 Mr. McKinley. You did challenge and appeal the WVU
1458 findings?

1459 Mr. Horn. I did not challenge because software actions,
1460 recalls, service complaints, in the millions for this company,
1461 is normally doing business. I was worldwide Service and Parts
1462 executive for Volkswagen worldwide. I've been to the Product
1463 Safety Committee. I know how the system is working with all the
1464 experts and that we got a seal of approval onto those actions,
1465 and I'm not the technical experts.

1466 Mr. McKinley. Okay.

1467 Mr. Horn. It has enough people in the system --

1468 Mr. McKinley. Let me get to the crux more of my question.
1469 I know the EPA fines. We just had a situation where a small
1470 poultry farm was fined \$17,000 a day because they were allowing
1471 dust to come out of their chicken house out into the neighbor.

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1472 And we have seen steel mills being fined \$3, \$5, \$7 million daily
1473 until they clean up their discharge into a river. We have seen
1474 coal mines and other operations.

1475 So, there has to be, I think you can understand there ought
1476 to be consequences for this violation. So, I am curious, I assume
1477 you are accruing something on your financial sheets for what could
1478 be a fair, what could be an expected penalty for having violated
1479 the laws here of the United States. Can you share with us or will
1480 you share with us what you are accruing on your balance sheet for
1481 penalties, expected penalties?

1482 Mr. Horn. Yes, yes. For the time being, I mean, there an
1483 official information that the company has accrued directly 6.5
1484 billion euros in the first step in this year. Maybe this is
1485 enough; maybe this is not enough. I don't know. And the rest
1486 will have to be worked out with the specific experts, as we have
1487 hired enough experts, I can tell you.

1488 Mr. McKinley. Thank you.

1489 Now, when you import your vehicles in, you have to provide
1490 a Certificate of Conformity with the EPA standards. And from what
1491 I understand, the defeat device was not included in that
1492 Certificate of Conformity, is that correct?

1493 Mr. Horn. That's my understanding, yes, sir.

1494 Mr. McKinley. Can you share with us why someone tried to

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1495 deceive the American Government, why that wasn't included in the
1496 application of conformity?

1497 Mr. Horn. Because those people who did the applications
1498 most probably did not know, did not know that it was in there.

1499 Mr. McKinley. Can you share with us who is responsible for
1500 this failure to include a description? Is this limited to one,
1501 two people?

1502 Mr. Horn. We have an office which is called EEO in Auburn
1503 Hills which is directly linked to the German Research and
1504 Development Department. They work together. They get all the
1505 informations, all the results testing things, technical
1506 specifications, and then, they file the applications for
1507 conformity and all those.

1508 Mr. McKinley. Mr. Horn, thank you for testifying before us.

1509 Just one question is, we have all, many of us have been
1510 talking about this defeat device. For the American public to
1511 understand what this is, can you explain what this defeat device
1512 is and how it functions?

1513 Mr. Horn. Yes. To my understanding, the defeat device is
1514 not a device, but it's a software code in the engine and exhaust
1515 system management which detects, this software detects whether
1516 a car is on the dyno testing environment or whether the car is
1517 on the road being driven.

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1518 And one example, for instance, is the steering wheel angle
1519 and how many times it has been changed. Because once a car is
1520 on the dyno, it is on the dyno; nothing changes. And if the car
1521 is on the street, the steering wheel changes. And that since
1522 there's so many sensors in there, these are one of the examples
1523 people gave me on how this device, which is a software code again,
1524 worked, but hidden in million of software codes. So, if you don't
1525 know this, it is very difficult to detect, from my limited
1526 technical understanding.

1527 Mr. McKinley. Thank you. I yield back my time.

1528 Mr. Murphy. Thank you. The gentleman yields back.

1529 I now recognize Ms. Schakowsky for 5 minutes.

1530 Ms. Schakowsky. Thank you, Mr. Chairman.

1531 I have in my hand a letter from Volkswagen that was sent to
1532 one of my senior staff because she is an owner of your car. I
1533 remember when she bought the car and how excited she was about
1534 the clean diesel.

1535 The letter says, "Your vehicle remains both safe to drive
1536 and legal to drive. You do not need to take any action at this
1537 time. All we ask is for your patience."

1538 I have to tell you, if I were a driver of one of these vehicles
1539 that is contributing up to 40 times the amount of emissions, I
1540 would want that addressed right away. I have a son and a

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1541 grandchild who regularly uses an inhaler. I am not excited about
1542 contributing to or driving a car that has that kind of emissions.

1543 So, how much patience is my staff supposed to have? What
1544 is the timeline here? What is the best scenario and the worst
1545 scenario in terms of timeline for fixing this?

1546 Mr. Horn. For the Generation 3 cars, this is model years
1547 '16 and '15, the timeline is beginning of next year a complete
1548 fix. For the Generation 2 cars, it's still under development.
1549 This won't start, from my judgment, before the middle of next year.
1550 And for the Generation 1 cars, which is the biggest feat, I cannot
1551 give you a date right now, but within the next couple of weeks
1552 we will start discussing those scenarios with EPA and CARB, and
1553 alongside the development guys will have to do that --

1554 Ms. Schakowsky. So, these cars unfixed could be on the road
1555 for more than a year, let's say?

1556 Mr. Horn. Yes.

1557 Ms. Schakowsky. Or two years?

1558 Mr. Horn. More than a year, definitely.

1559 Ms. Schakowsky. I wanted to follow up on a question that
1560 Mr. Pallone asked. It sounded like you were saying that the fix
1561 could manage fuel economy, engine performance, and emissions,
1562 that all of that could be fixed. If that is so, why didn't
1563 Volkswagen do that initially? Why wouldn't you make a car that

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1564 would achieve those goals?

1565 Mr. Horn. I think it's a great question.

1566 Ms. Schakowsky. I mean, I can only assume that maybe
1567 cheating was cheaper?

1568 Mr. Horn. To my understanding, what I've learned, some
1569 people have made the wrong decisions in order to get away with
1570 something which will have to be found out.

1571 Ms. Schakowsky. Let me ask you this: have you considered
1572 financial compensation; for example, allowing customers to
1573 actually return the car for what they paid for it?

1574 Mr. Horn. This is one of the areas we're looking into right
1575 now in terms of how to compensate our customers, yes.

1576 Ms. Schakowsky. Providing rebate for lost value of the car?

1577 Mr. Horn. Sure.

1578 Ms. Schakowsky. And what about right now, if I had one of
1579 those cars and I wanted a loaner, would you compensate the dealer
1580 to give me a loaner instead of having to drive that polluting car?

1581 Mr. Horn. We would have to discuss and consider this.
1582 Right now, I would say no, honestly, because the EPA has said these
1583 cars are legal and safe to drive.

1584 Ms. Schakowsky. And so, even you know that there is up to
1585 40 times more pollution, if I went to my dealer, who might because
1586 they are in a fix right now say, "Okay, well, we will give you

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1587 a loaner," the company would not do anything to make ultimately
1588 your customer happy?

1589 Mr. Horn. So, there's a general policy, and this is exactly
1590 the reason why we gave the dealers the discretionary funds which
1591 they could use at their discretion in order to help customers,
1592 very significant cases. And whether they do a loaner car program
1593 for the specific customer or whether they take them out of the
1594 car, or whatever they think is best in this specific customer's
1595 situation, they can do it with this money. No questions asked,
1596 yes.

1597 Ms. Schakowsky. But there is no policy that dealers could
1598 say that loaners would be available? I realize 500,000 loaners
1599 would be probably a hard thing to do.

1600 Mr. Horn. Right.

1601 Ms. Schakowsky. But you see how that would be a desirable
1602 remedy for many people?

1603 Mr. Horn. I understand your point, yes.

1604 Ms. Schakowsky. Yes. Well, I just want to tell you, as a
1605 consumer advocate all of my life, this is pretty shocking for
1606 people to find out that a company -- we have had a number of
1607 recalls. I have had a recall on one of my cars. But to find out
1608 that a company has deliberately cheated, it seems to me that asking
1609 customers for patience is just really not sufficient.

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1610 I heard people on the radio who were repeatedly saying, "I
1611 just want you to take back my car and give me the amount of money
1612 that I paid for it. I don't want that car. I don't want a fix
1613 because it may not provide exactly what I thought I was buying
1614 in the first place." I would hope that your company would
1615 consider that as a primary remedy.

1616 And I yield back.

1617 Mr. Murphy. Thank you.

1618 The Chair recognizes Dr. Burgess for his 5 minutes of
1619 questioning.

1620 Mr. Burgess. Thank you, Mr. Chairman.

1621 And let me just stress that I am as far ideologically from
1622 Jan Schakowsky as possible, and I am not here to provide you
1623 advice, but I think she is giving you good advice. I have been
1624 on this subcommittee for over 10 years.

1625 I have been through Toyota. I have been through General
1626 Motors. And now, we are doing this investigation. And let me
1627 just suggest to you, and let me just suggest to your corporate
1628 structure in Germany, that being dismissive and minimizing the
1629 problem that is faced by consumers, dealers, suppliers is not in
1630 your best interest and it will hurt you. So, I would be
1631 aggressively compliant and aggressively trying to make it right
1632 for your customers, dealers, and suppliers because in the grand

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1633 scheme of things I actually believe that will be less costly in
1634 terms of dollars, in terms of reputation, and just in terms of
1635 the endurance of the brand in the United States, which you have
1636 already heard from members of this committee is significant. Our
1637 histories with your company all are significant. They go back
1638 a significant way.

1639 Now that I have gotten that off my chest, let me just ask
1640 you once again -- you have been asked before -- but are these
1641 vehicles safe to drive?

1642 Mr. Horn. Yes. Yes, the EPA has said these vehicles are
1643 safe to drive.

1644 Mr. Burgess. So, this is unlike some of the other recalls
1645 that we have talked about in this subcommittee, problems with
1646 airbags, problems with electronic throttle controls. These do
1647 not pose an immediate jeopardy to the life of the driver or the
1648 passengers?

1649 Mr. Horn. I trust the judgment of the EPA, yes.

1650 Mr. Burgess. Now, trusting judgment, that is what we are
1651 doing here today, is we are talking that trust factor has been
1652 eroded.

1653 Let me just ask you, when you stress that you are the CEO
1654 for Volkswagen of America, is that correct?

1655 Mr. Horn. Yes, sir.

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1656 Mr. Burgess. But do you travel back and forth to Germany
1657 from time to time?

1658 Mr. Horn. Too often right now not much.

1659 Mr. Burgess. Yes, well, have you been in the month of
1660 September?

1661 Mr. Horn. Yes, usually once a month, yes.

1662 Mr. Burgess. Usually once a month? So, as this problem has
1663 evolved or the information about this problem, have you gone to
1664 the engineers over in Germany and said, "Guys, what's up here?
1665 How did this happen?" Have you looked at any lines of software
1666 code where someone has identified for you this has happened or
1667 have you held in your hand a defeat device that was added to an
1668 automobile?

1669 Mr. Horn. Personally, I have taken out Mr. Mueller of
1670 conference rooms, Dr. Diess out of conference rooms, and
1671 personally talking intensively to the engineers on how we make
1672 this right. And to other questions, you know, "How is this
1673 possible?", "Who has done what?", they said, "We didn't know
1674 ourselves."

1675 Mr. Burgess. Yes, but do you understand how that just defies
1676 credulity? I mean, here is a software program --

1677 Mr. Horn. Yes.

1678 Mr. Burgess. -- that wasn't just written, I mean, I am

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1679 suggesting here it was written by one person in their basement
1680 in the dark of night. I mean, this had to be a team of people
1681 who were working on this.

1682 You have got these rascals over here at the EPA in the United
1683 States, and they are just hard to deal. So, we want to do
1684 something that we will be able to sell our cars and we will just
1685 trick them. We will just trick them. And then, somehow you are
1686 going to integrate that into the supply chain of a multinational
1687 corporation and nobody knows a darn thing about it? I mean, that
1688 is what you are asking us to believe. And you understand why,
1689 and you have heard it from a number of members, the incredulity
1690 that that could, in fact, happen in a large multinational
1691 corporation.

1692 Mr. Horn. I fully agree, sir.

1693 Mr. Burgess. Have you asked that question to the people --

1694 Mr. Horn. Yes.

1695 Mr. Burgess. -- who are superior to you at Volkswagen in
1696 Germany?

1697 Mr. Horn. Who was superior to me, the guy is not onboard
1698 any longer. He is called Christian Klingler. He resigned due
1699 to other reasons.

1700 Mr. Burgess. Well, I almost just don't know what to say.
1701 Apparently, in the public domain in the early or middle part of

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1702 the last decade there was some suggestion that Volkswagen, in an
1703 effort to try to sell its diesel high-mileage vehicles in this
1704 country, was in the process of leasing software to deal with this
1705 emissions problem from another company, is that correct? Blue
1706 Tech Software I believe is the name that is used.

1707 Mr. Horn. I have read this in the newspapers, yes.

1708 Mr. Burgess. Okay. So, it is in the newspapers. Have you,
1709 yourself, looked at why did they look at this and, then, stop those
1710 negotiations for those leases? What changed? Did we develop
1711 some technology at Volkswagen? Did we develop a defeat device
1712 at Volkswagen? I mean, these are some of the questions that are
1713 just going have to be answered.

1714 Mr. Chairman, let me just say that I recognize and I
1715 appreciate Mr. Horn being here. I think that we are doing this
1716 hearing prior to the time that your document production deadline
1717 expired. So, we recognize that you are here voluntarily and it
1718 is your sincere effort to comply with the wishes of the committee.

1719 But let me just say, all of us represent dealers, consumers,
1720 suppliers, and their lives and livelihoods are extremely
1721 important to us. And that is what we have got to keep first and
1722 foremost.

1723 I yield back, Mr. Chairman.

1724 Mr. Murphy. Thank you.

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1725 And the Chair recognizes the gentleman from Texas, Mr. Green,
1726 for 5 minutes.

1727 Mr. Green. Thank you, Mr. Chairman.

1728 And for our witness, we have other subcommittees going on.
1729 So, you will see members come in and out during the day.

1730 When I first heard about it, I was amazed that a company that
1731 is as great as Volkswagen could let this happen, and even to the
1732 executives maybe who didn't know, because the image of the
1733 company, not only in our country, but in Europe and around the
1734 world, is so great.

1735 Our committee wants to get some answers, and I would like
1736 to understand more about Volkswagen's own investigations in your
1737 efforts to find the cause of the debacle. News reports discuss
1738 several internal and external investigations initiated by
1739 Volkswagen. Mr. Horn, please explain Volkswagen's own
1740 investigations into this incident and how they are different from
1741 each other.

1742 Mr. Horn. The investigations started -- I talked yesterday
1743 to our head of Group Revision -- on September 22nd, this year,
1744 went on with our own Group Revision Department, Group Compliance
1745 Audit Department until September 29th, for one week. And then,
1746 all the documents, all the preliminary documents were turned over
1747 to the American law firm JonesDay, who is investigating this on

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1748 behalf of our Supervisory Board.

1749 Mr. Green. Okay. News reports have discussed several
1750 internal and external investigations. So, that was the only one
1751 you had, that was the auditors from September the 22nd to the 29th?
1752 Are there any other investigations Volkswagen is conducting?

1753 Mr. Horn. To my understanding, after the Notice of
1754 Violation, and from September 18th, from CARB and EPA, these
1755 investigations have started right away. And this is what I have
1756 told you, to my best knowledge. I don't know of any other
1757 investigations.

1758 Mr. Green. Do you know if the actions are in the United
1759 States or Germany or in both or everywhere where Volkswagen has
1760 sold these vehicles?

1761 Mr. Horn. Worldwide.

1762 Mr. Green. Okay. Would you commit to sharing these
1763 investigations with the committee, the results of these
1764 investigations?

1765 Mr. Horn. I commit to get as much information as possible
1766 to this committee, yes.

1767 Mr. Green. Okay. Thank you.

1768 Last week one news outlet reported that, quote, "The Steering
1769 Committee of the carmaker's Supervisory Board met last Wednesday
1770 to discuss the preliminary findings of the probe into the scam."

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1771 And that is a quote. What were these preliminary findings that
1772 were revealed last Wednesday?

1773 Mr. Horn. Sorry, I'm still a little bit confused by those
1774 folks here down there clicking all the time. Could you please
1775 repeat your question, please?

1776 Mr. Green. Okay. There is a quote, "The Steering Committee
1777 of the carmaker's Supervisory Board met last Wednesday to discuss
1778 preliminary findings of an internal probe into the scam." What
1779 were these preliminary findings that were released last
1780 Wednesday?

1781 Mr. Horn. Our own Supervisory Board of Volkswagen AG. I
1782 don't have access to these preliminary findings.

1783 Mr. Green. Can you get a copy of it and share it with our
1784 committee?

1785 Mr. Horn. I can definitely try, sir.

1786 Mr. Green. Pardon?

1787 Mr. Horn. I can try, sir.

1788 Mr. Green. Okay. You are the CEO.

1789 Mr. Horn. I am the CEO of this company, and then, there's
1790 the Supervisory Board and there's a group of people who are quite
1791 above me in Germany, and the Supervisory Board has to make this
1792 decision.

1793 And I think, you know, with the commitment that our company

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1794 has, there is a very good chance that the company will provide
1795 at one point of time the necessary documents to provide more
1796 clarity into these facts here and to this issue.

1797 Mr. Green. Again, like my colleague, I appreciate you being
1798 here voluntarily, but it would be great if we could actually get
1799 that in our committee for our investigations.

1800 According to a September 30th news report, Volkswagen's
1801 Supervisory Board member Olaf Lies said, quote, "These people who
1802 allowed to this happen or who made the decision and saw this offer,
1803 they're acting criminally. They must take personal
1804 responsibility." Mr. Horn, do you agree with that?

1805 Mr. Horn. Yes, sir.

1806 Mr. Green. Okay. Do I have your commitment to full
1807 cooperation in finding and addressing the roots of the deception?

1808 Mr. Horn. Sure. Yes, sir.

1809 Mr. Green. And again, our committee is ongoing, our
1810 investigation. And I appreciate your being here.

1811 Mr. Chairman, I will yield back my time.

1812 Mr. Murphy. Thank you. Thank you.

1813 For the rest of the members with questions, I know we have
1814 got a break here in 20 minutes, but we have got seven people that
1815 want to speak. So, we are going to be very short on the timeframe
1816 with this.

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1817 But the Chair recognizes Mr. Griffith for a short list of
1818 questions.

1819 Mr. Griffith. Thank you. I appreciate it.

1820 As you have heard from others who have owned cars and learned
1821 to drive, I am one of those as well. My mother was able to afford
1822 her first new car, which was a Volkswagen Squareback. And that
1823 is what I learned to drive on. It was a manual. I have inherited
1824 my grandmother's 1972 Super Beetle, which I still have.

1825 In the eighties I drove a Rabbit. In the nineties, I bought
1826 a gas-powered Jetta. When it got close to 200,000 miles, my
1827 mother convinced me that even Volkswagens couldn't go on forever.
1828 She might have been wrong. I sold that car and bought a 2003
1829 gas-powered Passat, which I drove until this summer and got
1830 376,225 miles. And the people who bought it from me are going
1831 to tell me when it crosses 400,000. They think that there won't
1832 be any problem in doing that.

1833 As a backup to my 2003 Passat that was going and going and
1834 going like the Energizer rabbit or bunny, I bought a 2012
1835 Volkswagen diesel. So, everybody else is talking about what are
1836 consumers thinking. You are looking at him. I am your consumer.
1837 I am your Volkswagen driver who has always trusted your company,
1838 and I am very disappointed.

1839 So, what are we going to do? First, you have indicated --

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1840 and there could be some differences in understanding in language
1841 -- you have indicated that you have notified the customer. I have
1842 checked with the previous owner. I bought the car from a friend.
1843 They have not received any notice that this 2012 diesel Passat
1844 is affected. When you go to the website, it says that you all
1845 received notice from the EPA that some of your two-liter,
1846 four-cylinder TDI vehicles don't comply, and among the included
1847 vehicles, of course, is the 2012.

1848 Because I am not skilled like Chairman Murphy, I am not
1849 skilled and I couldn't take a car apart. I had a hard enough time
1850 figuring out how to get the top off, the plastic lid off of the
1851 engine to try to take a look at it.

1852 But, when you see that and it says some of the cars are
1853 affected, and here's one, and the original articles referenced
1854 the '14s and '15s, but didn't say anything about the '12s and the
1855 '13s, and then, you see a Volkswagen document that says
1856 discrepancies relate to vehicles with Type EA 189 engine, and I
1857 am looking in my manual and I am looking at things on the engine
1858 block, and it doesn't say anything about an EA 189 engine.

1859 Now the team on the committee here and, then, my staff have
1860 figured out I am affected. We know that. But this was done at
1861 great trouble. I have received no letter. I can't tell for sure.

1862 And I will tell you what was interesting was we found that

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1863 there was actually a site in the UK -- and I know you are just
1864 America and I am just talking about America -- where you can
1865 actually plug in your VIN number and it will tell you if you are
1866 affected. I would encourage you to consider that because, while
1867 you may think you have notified everybody, not everybody is
1868 capable of taking apart the engine and figuring out if they are
1869 an EA 189.

1870 And then, the other big question is, am I Generation 1 or
1871 Generation 2? They tell me I am Generation 2, which I found
1872 surprising based on the numbers that you have testified here
1873 today. Can you confirm that I am a Generation 2?

1874 Mr. Horn. If you have 2012 Passat, I would think so now,
1875 right.

1876 Mr. Griffith. Okay.

1877 Mr. Horn. Yes.

1878 Mr. Griffith. And so, this is something else that you might
1879 want to put into your -- it is a pretty simple website that takes
1880 the VIN numbers that are affected and says you are Generation 1,
1881 you are Generation 2. Because it sounds like the fix, as I am
1882 listening today, the fix to the Generation 2 is more simple than
1883 the fix to the Generation 1. Am I correct in hearing that today?
1884 It is a simpler fix for Generation 2 than for 1?

1885 Mr. Horn. Yes.

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1886 Mr. Griffith. And then, I would have to echo what
1887 Representative Schakowsky and Dr. Burgess had to say. You know,
1888 when you buy a vehicle, even if you bought it used, and you are
1889 looking in the manual and it says, "Under Federal Emissions
1890 Control System Defect Warranty, was designed, built, and equipped
1891 so as to conform at the time of sale with all applicable
1892 regulations of the United States Environmental Protection Agency
1893 (EPA), and is free from defects in material," et cetera, I believe
1894 that I was sold something that was different than what it was
1895 purported to be.

1896 And my friend didn't do the defrauding. It was the
1897 Volkswagen company. I think you are much better off to come up
1898 with a program that buys these cars back because, you know, I
1899 understand it wasn't your folks in Chattanooga that made this
1900 mistake; it was the folks in Germany. But you have got to restore
1901 trust, and one of the ways to do that is to stand behind your
1902 vehicle.

1903 One of the reasons that I have liked the company is that on
1904 my 1990s version something was wrong with the paint. No questions
1905 asked. When I took it into First Team Auto Mall in Roanoke, they
1906 said, "Not a problem. We'll take care of it." And it was done.
1907 Never had another problem.

1908 This is a much bigger problem, but Volkswagen needs to stand

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1909 up and say, "Okay, we understand. We will buy your car back at
1910 what the fair market value of that vehicle was prior to this notice
1911 coming out."

1912 With that, I see my time is up and I yield back.

1913 But thank you for being here.

1914 Mr. Murphy. Again, thank you again. We have now 12
1915 minutes. So, I am asking those again, please, to keep their
1916 questions short.

1917 The Chair recognizes Mr. Yarmuth from Kentucky.

1918 Mr. Yarmuth. Thank you, Mr. Chairman.

1919 Thank you for appearing, Mr. Horn.

1920 I suspect that I should be feeling a sense of schadenfreude
1921 here today because Ford Escapes and Lincoln MKCs are made in my
1922 district, and presumably, we will be selling some more of those
1923 while you are out of the marketplace. But I am not really taking
1924 any joy in any of this.

1925 I just have a couple of quick questions. The article I read
1926 said that there were about 11 million vehicles worldwide affected
1927 by this.

1928 Mr. Horn. Yes.

1929 Mr. Yarmuth. So, they contain the defeat device. I guess
1930 there is no added cost to put it in since it is just a line of
1931 computer code. Would that be right?

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1932 Mr. Horn. It seems very logic, sir, yes.

1933 Mr. Yarmuth. Yes. So, my question is, how many countries
1934 that these 11 million vehicles were sold in have emission
1935 standards that would have been defeated by this device? I mean,
1936 if the United States we are talking about a half a million cars,
1937 roughly, out of 11 million, what are Germany's emission standards,
1938 for stance? Are they stricter than the United States?

1939 Mr. Horn. I mean, there's many countries affected. All the
1940 countries in Europe are affected. The emission standards for
1941 diesel cars in Europe are different to the U.S. You have
1942 currently the E05 and going into E06 here. You have been 5.

1943 And there's two differences. First of all, nitrogen oxides
1944 are much more stringent here. It's 5 grams, I think, per mile,
1945 or whatever. And in Europe it is now 32 to 40. So, this is quite
1946 -- it is higher. It is higher in Europe, but in Europe what is
1947 stricter is the diesel part of the particle filter emissions.
1948 There are these little diesel particle filters coming out. On
1949 that, the European laws are much stricter than the U.S.

1950 Mr. Yarmuth. My question is, would this defeat device that
1951 is 11 million vehicles have helped deceive the European countries'
1952 standards as well?

1953 Mr. Horn. I can only give you my understanding at this point
1954 of time. But, as you know, there's lots of European countries investigating this, and we are

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1955 working with those agencies; also, with the German KBA, which is the responsible agency. People had to
1956 report there, and this is being investigated.

1957 Since the standards are different, my understanding is that the defeat device is in those cars as well ,
1958 but to what degree it is really affecting the emission laws, I
1959 don't know.

1960 Mr. Yarmuth. Okay. I appreciate that answer.

1961 And I just want to say before closing that it is very
1962 refreshing to hear my colleagues from the other side defend the
1963 Clean Air Act and talk about emissions. I appreciate that. It
1964 is a rare occurrence.

1965 I yield back.

1966 Mr. Murphy. Mr. Collins is recognized for 5 minutes.

1967 Mr. Collins. Thank you, Mr. Chairman.

1968 Since I am always, and again this time, one of the last to
1969 question you, I guess what I have picked up here, and I hope you
1970 can relay back to your Board, the folks running Volkswagen back
1971 in Germany, is that the response so far is inadequate.

1972 I would tell you from my perspective it is a sign of
1973 arrogance. It is a sign of not admitting yet the severity of your
1974 problem.

1975 I will tell you I am an engineer and I have a way of thinking.
1976 And I cannot accept VW's portrayal of this as something by a couple
1977 of rogue software engineers.

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1978 I would begin by saying, isn't intellectual property and
1979 patented work a very important part of what makes VW VW? You are
1980 constantly looking for breakthrough technology that you can
1981 patent? That is a big part of your company, isn't it? You pride
1982 yourself on that engineering.

1983 So, you are having us believe -- and I think this is the way
1984 an engineer's mind works -- back in 2009 you were trying to figure
1985 out a way to have clean diesel, top performance, and your engineers
1986 got stumped. The NOx emissions were not even close. Would that
1987 be true?

1988 Mr. Horn. What is stumped?

1989 Mr. Collins. Stumped, confused. They couldn't get through
1990 it. It was an insurmountable roadblock. They couldn't give
1991 performance and emission control at the same time. They were 40
1992 times over the NOx emissions.

1993 Mr. Horn. It seems to be logic, what you are saying --

1994 Mr. Collins. Right.

1995 Mr. Horn. -- but I don't know.

1996 Mr. Collins. So, then, if I am working in VW engineering
1997 and I am always looking for intellectual property that I can patent
1998 and give me a competitive advantage -- and I know this is a problem,
1999 and I have to tell you this problem was going way up the chain.
2000 "We can't do it. The NOx standards in the U.S. are not what they

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2001 need to be. We can't do it."

2002 "Well, go work harder. Go find a solution."

2003 People are coming back. "We still can't find a solution."

2004 The Engineering Manager, "We can't find a solution."

2005 And then, all of a sudden, two software engineers, like they
2006 found pixie dust, come in and say, "We found a solution. We've
2007 got it. We fixed it."

2008 Now you are telling me these two engineers snuck that
2009 computer code into the software and no one said, "This is
2010 breakthrough technology. I think we need to run this up the
2011 ladder with our attorneys and our engineers. We need to patent
2012 this. This is intellectual property that is going to give us an
2013 advantage. We can meet the NOx standards and the performance
2014 standards, and we had a breakthrough. We went from 40 times the
2015 emissions to we met the emissions"?

2016 And VW is trying to get the United States of America to
2017 believe these are a couple of rogue engineers? I categorically
2018 reject that. Either your entire organization is incompetent when
2019 it comes to trying to come up with intellectual property -- and
2020 I don't believe that for a second -- or they are complicit at the
2021 highest levels in a massive coverup that continues today.

2022 Because just the very 5 minutes that I have been here, and
2023 as an engineer, and I am not a PhD, my mind immediately jumped

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2024 to, with this being true, why didn't we look for patents? Why
2025 didn't we ask the questions what the pixie dust was? They have
2026 fixed this thing miraculously. This didn't happen in one day.
2027 This didn't happen in one month. Your engineers were looking at
2028 this, I can tell you, for many months. They were stumped. They
2029 couldn't come up with it.

2030 And then, all of a sudden, the solution is there, and VW is
2031 trying to tell us in the United States of America, in this
2032 Congress, that it was a couple of rogue engineers. Well, if that
2033 is true, then your entire Patent Department should be terminated
2034 because this would have been massive breakthrough technology that
2035 would have given VW a true advantage, not by cheating, but a true
2036 advantage in clean diesel technology.

2037 I would like you to take that back to your Board and have
2038 them ask that question: what was going on in the patent world?
2039 What was going on in the engineering world? Because I can tell
2040 you personally I categorically reject everything that VW is saying
2041 about a couple of rogue engineers. And I can tell you that
2042 suspending three folks, it goes way, way higher than that.

2043 And what I would like to conclude with, sir -- again, I am
2044 also a financial guy; I am an entrepreneur -- I would suggest that
2045 you be honest to your shareholders. Six point five billion euros
2046 is off by an order of magnitude. Five hundred thousand vehicles

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2047 at \$40,000 apiece, if you were to buy those back -- and I would
2048 suggest you start doing that tomorrow -- that is 20 billion there.
2049 I would suggest you are off by an order of magnitude. And if you
2050 had told us today you had set aside 68 billion, I would say you
2051 are probably in the ballpark. Six point eight, not even close.

2052 With that, Mr. Chairman, I yield back.

2053 Mr. Murphy. The gentleman yields back.

2054 I now recognize Mr. Welch for 5 minutes.

2055 Mr. Welch. Thank you very much.

2056 Sir, thank you for coming in. But I just want to express
2057 to you some of the things that I have been hearing from Vermonters.

2058 First of all, we have got VW customers, we have got VW dealers
2059 in red states and in blue states, and they are mad as hell. Some
2060 of the questions that came to me from Vermonters, and I want to
2061 submit this to the record and ask you, VW, to answer these
2062 questions from Vermonters.

2063 Mr. Welch. But let me just give a reflection of what these
2064 say.

2065 No. 1, "What will you, VW, be reading when you are in jail?"

2066 No. 2, "I just wonder what the hell you were thinking."

2067 Three, "How can we help out Vermonters who got these lemons?"

2068 Four, "Why should the U.S. allow you to sell vehicles in this
2069 country?"

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2070 Five, "VW is the Lance Armstrong of the industry."

2071 These questions go on and on and reflect the white-heat anger
2072 that folks have about the deception.

2073 One last question, "How do you sleep at night? How do you
2074 call yourself a member of the human race when you knowingly
2075 poisoned the planet?"

2076 And then, I talked to some of our VW dealers. They care about
2077 their customers, and I know you individually do as well. And one
2078 of the dealers said this is on the scale of Enron and Bernie Madoff.
2079 That is how deceitful and unnecessary and willful it was.

2080 They will stand by their employees, our VW dealers, but this
2081 is going to be an expense to them because they are not selling
2082 cars that are bringing in profits. So, they are going to have
2083 to pay out of their own pocket, and they will do that because they
2084 are loyal to their employees.

2085 But I have one major question. Just last week, BP reached
2086 a settlement with the Justice Department over the massive 2010
2087 Gulf oil spill that killed 11 workers and devastated the
2088 environment and the economy of the Gulf Coast. That settlement
2089 allowed BP to shift more than half of its \$21 billion fine to the
2090 American taxpayer by taking advantage of a loophole in the U.S.
2091 Tax Code. In my view, that is wrong. The wrongdoer, not the
2092 taxpayer, should pay all of the settlement.

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2093 And the question I have is this: will you commit here today
2094 under oath that VW will not use this loophole to write off any
2095 future settlement payments related to the fraudulent and
2096 deceptive activity to which VW has already admitted, sir?

2097 Mr. Horn. If you want a clear answer under oath, I would
2098 have to really understand these tax loopholes, and I don't
2099 understand them. But I --

2100 Mr. Welch. Let me explain it very simply. BP got to write
2101 off about half of the cost of that, and that shifts the burden
2102 to the taxpayer instead of their shareholders.

2103 Mr. Horn. My understanding is that we will work very hard
2104 in order to get this right and that there should not be a burden
2105 to the taxpayers -- should not be.

2106 Mr. Welch. Thank you.

2107 Another question, taking up where Mr. Collins was, I know
2108 you individually are appalled at what happened at VW, and you have
2109 asked your question, "How did it happen?" Someone somewhere made
2110 a decision to make it happen.

2111 Mr. Horn. Uh-hum.

2112 Mr. Welch. Someone somewhere implemented that decision.
2113 You have asked yourself how that happened, correct?

2114 Mr. Horn. Yes, sir.

2115 Mr. Welch. And your answer to yourself is what?

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2116 Mr. Horn. My answer to myself is that I do everything, and
2117 I don't sleep at night, to help our dealers, to help our customers,
2118 and to be there for my company and my employees to get us through
2119 this crisis here in the U.S.

2120 Mr. Welch. I appreciate that and I know that is true. You
2121 individually have a very good reputation, sir.

2122 Mr. Horn. Thank you.

2123 Mr. Welch. But I asked you another question. You know the
2124 company. You have asked yourself who and how. And in your own
2125 mind, I am asking you to share with us your own view about who
2126 and what, that it could happen in the corporate structure of VW.

2127 Mr. Horn. I think this is a speculation if I would start
2128 now. But, you know, I'm reading newspapers as well, and there's
2129 been lots of articles around there. And from my personal feeling,
2130 this was pressure in the system to get resolutions and, also, in
2131 conjunction with cost pressure as well. This was discussed
2132 already here in one of the other instances.

2133 And I think it is dead wrong if you put corporate profits
2134 before people, and I think we have to get to the point that we
2135 put people first and not the pressure and corporate profits.

2136 Mr. Murphy. Thank you.

2137 Mr. Welch. What people in what department -- my time is up?

2138 Mr. Murphy. Yes, your time is up.

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2139 Mr. Welch. I yield back.

2140 Mr. Murphy. Thank you.

2141 I now recognize the gentleman from Texas, Mr. Flores, for
2142 5 minutes.

2143 Mr. Flores. Thank you, Mr. Chairman.

2144 Mr. Horn, thank you for joining us today in an obviously tough
2145 situation for your company.

2146 VW's actions damaged the trust of the American people as well
2147 as the environment for billions around the globe. They have also
2148 economically damaged their customers, their dealers, and their
2149 shareholders. And I hope that VW will continue to work on the
2150 correct and fair resolution of those issues.

2151 I want to get more in the weeds now to try to go through and
2152 fill in the blanks in the record on some dates and the who, what,
2153 where, when, as we have talked about before.

2154 In May of 2014, independent researchers published a report
2155 that first identified higher-than-expected on-road emissions in
2156 VW vehicles, which prompted the investigations by CARB and the
2157 EPA.

2158 So, question No. 1 is, when did VW first become aware of this
2159 research?

2160 Mr. Horn. The end of April when it was published. To my knowledge, it was published the
2161 end of April. Mid-May I got information about this.

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2162 Mr. Flores. Okay. What steps did VW take to evaluate the conclusions of the research at that time?

2163 Mr. Horn. First of all, to acknowledge that emission violations or higher emissions are not legal.

2164 Secondly, the engineering departments were supposed to recheck those testing results on our own equipment in
2165 order to validate this. And then, thirdly, to correct this with respect to software actions which have
2166 been implemented in the end of last year.

2167 Mr. Flores. Okay. Now where was this done? Was this done
2168 Volkswagen Germany or Volkswagen U.S.? And who did that? Who
2169 was responsible for that?

2170 Mr. Horn. The software applications management for the
2171 engines and, also, for the exhaust systems are being done in
2172 Germany at the Engine and Drivetrain Department within the
2173 Research and Development Division.

2174 Mr. Flores. Okay. The EPA and CARB both described a series
2175 of presentations or discussions with VW in the wake of the research
2176 in May of 2014. Who for VW was interacting with EPA and CARB?
2177 Were those individuals part of VW America or VW AG or both?

2178 Mr. Horn. That's something I would have to check, and maybe
2179 this is also in the records provided to you next week.

2180 Mr. Flores. Okay. Great.

2181 What did VW America understand about the cause of the higher
2182 on-road emissions between May of 2014 and the voluntary recall
2183 in December 2014? In other words, what did you and your team at
2184 VW America know what was going on? What had VW Germany told you?

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2185 Mr. Horn. That they have, to my understanding, validated
2186 those test results and developing software fixes in order to get
2187 this back in line, and three different tech talk versions which
2188 I didn't understand, to be also very honest, in order to bring
2189 this in the car.

2190 But, also, as I said, all these things are vetted through
2191 this Product Safety Committee which is worldwide responsible for
2192 this and which is also looking at the track, for instance. And
2193 in this context, I trusted those guys and those processes, that
2194 everything was according to the book 100 percent.

2195 Mr. Flores. Okay. So, at that time, nobody in VW America
2196 knew that there was cheating going on in the software design?

2197 Mr. Horn. To my understanding, no.

2198 Mr. Flores. Okay. Then, in December of 2014, VW conducted
2199 a voluntary recall that, at least in part, sought to address the
2200 higher on-road emissions in the model year 2009 through model year
2201 2014 vehicles that were subject to the allegations. Would you
2202 explain what you understand this recall was intended to do?

2203 Mr. Horn. To correct the studies of the University, I think
2204 the results of the study of the University of West Virginia, our
2205 retesting to bring the cars, all the cars, back into compliance.

2206 Mr. Flores. Okay. But that fix to the emissions problems
2207 that was implemented as part of that recall didn't resolve the

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2208 issue of higher on-road emissions. So, the question is, who was
2209 responsible for developing that technical solution that was
2210 implemented in December of 2014?

2211 Mr. Horn. The same Engine and Drivetrain Division within
2212 the Engineering and Development Department or Division in
2213 Germany.

2214 Mr. Flores. The folks in Germany? Okay.

2215 And so, what role did VW of America have in developing or
2216 validating that solution?

2217 Mr. Horn. We just have this office in Auburn Hills who do
2218 the applications. There's also a testing facility in Oxnard in
2219 California who also had those folks in testing, but, to my
2220 understanding, dyno testing, as far as the legal situation was
2221 concerned.

2222 Mr. Flores. Okay. So, just to be clear, VW America did not
2223 develop the solution or played no part in development of the
2224 solution?

2225 Mr. Horn. No.

2226 Mr. Flores. Okay. It may have helped validate the
2227 solution?

2228 Mr. Horn. I don't think so.

2229 Mr. Flores. Okay. You don't think so? Okay.

2230 And at that time, did you or anyone in VW of America have

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2231 any knowledge of the alleged defeat device?

2232 Mr. Horn. At which point of time?

2233 Mr. Flores. At the time, December of 2014 --

2234 Mr. Horn. No.

2235 Mr. Flores. -- when you were beginning to roll out the
2236 recall solution, did you have any knowledge of the --

2237 Mr. Horn. No.

2238 Mr. Flores. Anybody in VW America, to the best of your
2239 knowledge?

2240 Mr. Horn. To my understanding, not, because, otherwise, I
2241 would have hoped that they would inform me about this.

2242 Mr. Flores. Thank you. I yield back.

2243 Mr. Murphy. Thank you.

2244 I now recognize Ms. Clarke of New York for 5 minutes.

2245 Ms. Clarke. Thank you, Mr. Chairman.

2246 And I would like to thank you, Mr. Horn, for taking the time
2247 and giving us as much background and as much knowledge of what
2248 has taken place, to the best of your ability.

2249 I have heard a couple of my colleagues on the other side of
2250 the aisle refer to what has occurred as cheating, but I would like
2251 to say to you that I believe it was an intentional deception. And
2252 I think we need to say it as it is. This wasn't a game. This
2253 was an intentional deception to bring something on the market that

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2254 did not meet standards.

2255 I want to go back to something my colleague just raised about
2256 your testing center at Oxnard. I understand that, for the better
2257 part of the past year, VW was interacting with CARB about
2258 discrepancies related to the high emissions that were discovered
2259 in 2014 involving your vehicles. What is the purpose of the
2260 Oxnard facility? And is it, as the article suggests, developed
2261 to help Volkswagen meet emission standards?

2262 Mr. Horn. To my understanding, yes, and it's directly
2263 connected to the Research and Development Department in Germany
2264 to help them to get the cars into legal compliance and to the U.S.
2265 standards.

2266 Ms. Clarke. How many employees are there?

2267 Mr. Horn. Oh, I would have to guess this number.

2268 Ms. Clarke. Okay. If you could just provide us with that?

2269 Mr. Horn. Just everything --

2270 Ms. Clarke. What was the role of the Oxnard facility in
2271 understanding the test results presented by CARB showing
2272 unexpectedly high on-road emissions? What was its role once it
2273 had that information?

2274 Mr. Horn. At this point of time, I can't answer this. I
2275 don't have the understanding. I only know that our Department
2276 in Auburn Hills was interfacing with CARB and EPA for the

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2277 compliance, for the applications and everything.

2278 Ms. Clarke. So, as you have mentioned Auburn Hills, what
2279 is the role of that office?

2280 Mr. Horn. Excuse me?

2281 Ms. Clarke. What is the role of the Auburn Hills office?

2282 Mr. Horn. And to do the compliance and the application for
2283 certification with the U.S. authorities, and they work directly
2284 on a working level, on a management level, on a daily basis with
2285 EPA and CARB.

2286 Ms. Clarke. And so, do the Oxnard and Auburn Hills
2287 facilities work together?

2288 Mr. Horn. Now, yes, there's a structural change in terms
2289 of --

2290 Ms. Clarke. So, prior to the unveiling of this deception,
2291 they were separate entities? They didn't interface?

2292 Mr. Horn. Well, I think they worked together. My
2293 explanation is about the structure of the situation of these
2294 facilities. And they are now under one roof.

2295 Ms. Clarke. Okay, but they collaborate?

2296 Mr. Horn. I hope so.

2297 Ms. Clarke. They are collaborators? Because, you know, my
2298 concern is that, if we have these facilities designed specifically
2299 to address the issues of emissions, of testing, and they failed,

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2300 that speaks to a whole other level of perhaps collusion with
2301 respect to this whole software debacle.

2302 Have you looked at or done any internal investigation with
2303 respect to these facilities?

2304 Mr. Horn. That's part of the internal investigation, but
2305 my understanding is they're just testing on the basis of the legal
2306 test requirements.

2307 Ms. Clarke. So, the engineers would not have known software
2308 code? Is that what you are saying?

2309 Mr. Horn. I think that they have tested the dyno situation
2310 for the cars and they didn't do independent road tests. That's
2311 what I allude to.

2312 Ms. Clarke. Okay. Let me jump to the whole idea of the
2313 environmental impact. How seriously does Volkswagen take its
2314 commitment to the environmental responsibility?

2315 Mr. Horn. This is deeply -- also, maybe it's difficult to
2316 understand now in this context -- but it is deeply embedded in
2317 our corporate culture. We have three values which is innovative,
2318 valuable, and responsible, and responsible towards our employees
2319 and the environment.

2320 Our plant in Tennessee is a Platinum LEED certification.
2321 This is the most clean and energy-efficient plant in the world.
2322 And all of our plants have a commitment to reduce carbon footprint

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2323 by 25 percent in 2018. And whether these plants are in India,
2324 newly built, or in China, they are always up really to the highest
2325 Volkswagen standards, which go beyond sometimes conventional
2326 standards.

2327 Ms. Clarke. So, if this is part of the corporate culture
2328 --

2329 Mr. Horn. Yes.

2330 Ms. Clarke. -- I am assuming that that is throughout,
2331 including your engineers and scientists, that this is sort of a
2332 part of the ethos. How do you explain this deviation, a massive
2333 deviation?

2334 Mr. Horn. Myself and the majority of all Volkswagen
2335 employees, which is 600,000, asked the same question, the same
2336 question, and it's a relevant question. And I hope that these
2337 investigations will definitely find out what drove those people,
2338 beyond newspaper articles and what we read out there, what drove
2339 those people into these decisions, into these actions.

2340 Ms. Clarke. Hope it won't be profits.

2341 I yield back, Mr. Chairman.

2342 Mr. Murphy. Mr. Tonko is recognized for 5 minutes.

2343 Mr. Tonko. Thank you, Mr. Chairman.

2344 Mr. Horn, these vehicles promised unrivaled fuel economy and
2345 performance without the NOx emissions usually associated with

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2346 diesel. I know other members have asked about how Volkswagen
2347 intends to make consumers whole, and I do want to lend my voice
2348 to that briefly.

2349 Because consumers, including people in my district,
2350 purchased a car believing it would be a clean,
2351 environmentally-friendly choice, they have every right to feel
2352 defrauded. Consumers were sold a bill of goods that simply does
2353 not exist.

2354 And I think it is likely that whatever fixes to comply with
2355 emissions standards will hurt the vehicles' performance in other
2356 ways. This is not what consumers thought they were buying, and
2357 it is not what dealers thought they were selling. Worse still,
2358 the resell value on these vehicles, which I am sure was a selling
2359 point, has certainly been destroyed. So, Volkswagen has a lot
2360 to think about, I believe, in terms of how it intends to make right
2361 by consumers.

2362 Now let me ask, typically, when deciding whether to issue
2363 a recall and develop a solution, does Volkswagen conduct its own
2364 emissions testing?

2365 Mr. Horn. Yes.

2366 Mr. Tonko. And did you try to recreate or confirm the
2367 results of the ICCT study from May of 2014?

2368 Mr. Horn. I can't speak to this, what they specifically

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2369 tested. In July 2014, I was informed that they have basically
2370 acknowledged the testing results and were developing those fixes
2371 in order to bring those cars back into compliance.

2372 Mr. Tonko. Now a lot was said about defeat devices, and we
2373 are talking about a defeat device here. Has the Volkswagen
2374 operations been impacted by defeat devices in the past?

2375 Mr. Horn. I have, in the context after September 3rd,
2376 understood that there was an issue, for instance, here in 1974,
2377 yes. That's what I understand.

2378 Mr. Tonko. And so, what measures were taken by the company
2379 to make certain that there was better scrutiny, better oversight
2380 of the potential for defeat device application?

2381 Mr. Horn. At that point of time, that's a great question,
2382 and I can't get you the answer now.

2383 Mr. Tonko. But was something done?

2384 Mr. Horn. In 1974, I was 12 years old. I don't know.

2385 Mr. Tonko. Well, history is history. We missed some of
2386 that. So, we reach to the books and read about it. What was done,
2387 if anything --

2388 Mr. Horn. Yes.

2389 Mr. Tonko. -- to address defeat device application?

2390 Mr. Horn. And I think the investigations will go back into
2391 this time and --

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2392 Mr. Tonko. Well, I don't think we need to investigate that.
2393 Did a corporate measure get put into play to address defeat
2394 devices?

2395 Mr. Horn. Back then, I don't know the answer, no, sir.

2396 Mr. Tonko. I would hope you could provide that to the
2397 committee. I am certain the record will be open.

2398 Mr. Tonko. And if I could just confirm some of the
2399 information we have received, Volkswagen initiated a voluntary
2400 recall in December of 2014 that was intended, in part, to address
2401 the issue of excess NOx emissions, is that correct?

2402 Mr. Horn. Excuse me. Could you repeat the question,
2403 please?

2404 Mr. Tonko. Right. Volkswagen initiated a voluntary recall
2405 --

2406 Mr. Horn. Yes.

2407 Mr. Tonko. -- in December of 2014?

2408 Mr. Horn. That's correct, yes.

2409 Mr. Tonko. That's correct? Who at Volkswagen proposed the
2410 recall?

2411 Mr. Horn. The Technical Engineering Department in
2412 conjunction with the Product Safety Committee worldwide, which
2413 is steering all the recalls campaigns and voluntary recall actions
2414 out of Wolfsburg essentially for all the markets.

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2415 Mr. Tonko. And what explanation was given to consumers
2416 about why that December 2014 recall was necessary?

2417 Mr. Horn. I would have to look into the document on what
2418 we wrote to those consumers. I don't know now.

2419 Mr. Tonko. You will provide that to the committee, please?

2420 Mr. Horn. Definitely. It's public. It's public anyhow.

2421 Mr. Tonko. And what explanation was given to regulators
2422 about why that December 2014 recall was necessary?

2423 Mr. Horn. That's also something we will have to provide in
2424 the document, with the documents.

2425 Mr. Tonko. And what fix did the Volkswagen organization
2426 implement for cars brought in under that recall?

2427 Mr. Horn. All have been software fixes. New software
2428 versions have been fleshed into the specific onboard steering
2429 units.

2430 Mr. Tonko. And who at Volkswagen developed that fix?

2431 Mr. Horn. The Engine and Drivetrain Development, Software
2432 After-Treatment Departments in Germany, Wolfsburg.

2433 Mr. Tonko. And did they know at the time that it would not
2434 work?

2435 Mr. Horn. I don't know that. My understanding was that it
2436 would work and, otherwise, also the work by the Product Safety
2437 Committee wouldn't have released this version for application in

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2438 the markets.

2439 Mr. Tonko. Well, I thank you for your responses. I look
2440 forward to the additional information you owe to the committee.

2441 And again, I would say on behalf of the consumers of the 20th
2442 Congressional District of New York, those of the country, and
2443 around the world impacted by this, they deserve a sound
2444 explanation and a fix that will respond to the environmental
2445 damage done here and the consumer fraud.

2446 Mr. Horn. Yes, sir. Thank you.

2447 Mr. Murphy. Thank you.

2448 Ms. DeGette has one final question real quick, and then, we
2449 have got to leave.

2450 Ms. DeGette. First, Mr. Chairman, I ask unanimous consent
2451 to put Mr. Welch's document into the record.

2452 Mr. Murphy. So ordered.

2453 Ms. DeGette. I just have on last question, Mr. Horn, because
2454 you told a whole bunch of us on this committee that, after that
2455 West Virginia University study in May of 2014, everybody was
2456 running around trying to figure out what was going on with these
2457 cars and why there was a discrepancy between the tasks; that your
2458 engineers didn't know the answer. But, in fact, the discrepancy
2459 was because of a willful act of some engineers in Germany in the
2460 first place, correct?

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2461 Mr. Horn. That's my understanding, yes.

2462 Ms. DeGette. And those people, that information about that
2463 discrepancy never made it to Germany, so they could tell your
2464 people what was wrong? Is that what you are testifying to here
2465 today?

2466 Mr. Horn. I don't understand what you're trying to say.

2467 Ms. DeGette. Well, you said your people were trying to
2468 figure out why there was a discrepancy.

2469 Mr. Horn. Right.

2470 Ms. DeGette. But there were some people who knew, and those
2471 were the people who wrote that deceptive code in the first place.
2472 Are you telling me that they never told your U.S. people what the
2473 problem was and why there was a discrepancy?

2474 Mr. Horn. The people who investigated the study in detail,
2475 the study and developed those software fixes were also the
2476 colleagues in Germany. Of course, they were informing their U.S.
2477 colleagues in Auburn Hills.

2478 Ms. DeGette. So, did they tell the U.S. colleagues that
2479 there was this deceptive code and that was what was causing the
2480 discrepancy, yes or no?

2481 Mr. Horn. I don't think so. I don't think so.

2482 Ms. DeGette. Thank you.

2483 Mr. Horn. Otherwise, we would be much earlier here.

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2484 Mr. Murphy. Thank you.

2485 Mr. Horn, that concludes our questioning for now. This
2486 hearing is not over, but we would appreciate -- more questions
2487 will be coming from committee members -- we would appreciate a
2488 quick and honest response to those as well.

2489 Mr. Murphy. This hearing is going to adjourn for a couple
2490 of hours, to recess -- excuse me -- for a couple of hours while
2491 the Republican Conference is meeting. We will reconvene about
2492 15 minutes after the call of the Chair after that meeting.

2493 Thank you much. We will be back.

2494 Mr. Horn. Thank you.

2495 Mr. Murphy. And thank you.

2496 [Whereupon, at 12:18 p.m., the subcommittee recessed, to
2497 reconvene at 1:39 p.m., the same day.]

2498 Mr. Murphy. All right, we reconvene this Subcommittee of
2499 Oversight and Investigations hearing on Volkswagen's Emissions
2500 Cheating Allegations: Initial Questions.

2501 We have Mr. Grundler and Mr. Brooks here as witnesses.

2502 And let me just go into this, as we reconvene this hearing.

2503 You are aware that the committee is holding an investigative
2504 hearing, and when doing so, has the practice of taking testimony
2505 under oath. Do you have any objections to testifying under oath?

2506 Mr. Brooks. No.

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2507 Mr. Grundler. No.

2508 Mr. Murphy. Both witnesses say no.

2509 The Chair then advises you that, under the rules of the House
2510 and the rules of the committee, you are entitled to be advised
2511 by counsel. Do either of you desire to be advised by counsel
2512 during your testimony today?

2513 Mr. Brooks. No.

2514 Mr. Grundler. No.

2515 Mr. Murphy. Both witnesses indicate no.

2516 In that case, would you please rise and raise your right hand,
2517 and I will swear you in?

2518 [Witnesses sworn.]

2519 Mr. Murphy. Thank you.

2520 For the record, both witnesses have indicated yes. You are
2521 now under oath and subject to the penalties set forth in Title
2522 18, Section 1001, of the United States Code.

2523 We will now allow you each to give a 5-minute summary of your
2524 opening statement.

2525 Mr. Grundler, you may begin.

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2526 JOINT STATEMENT OF CHRISTOPHER GRUNDLER, DIRECTOR, OFFICE OF
2527 TRANSPORTATION AND AIR QUALITY, OFFICE OF AIR AND RADIATION, U.S.
2528 ENVIRONMENTAL PROTECTION AGENCY, AND PHILLIP BROOKS, DIRECTOR,
2529 OFFICE OF CIVIL ENFORCEMENT, AIR ENFORCEMENT DIVISION, OFFICE OF
2530 ENFORCEMENT AND COMPLIANCE ASSURANCE, U.S. ENVIRONMENTAL
2531 PROTECTION AGENCY

2532

2533 Mr. Grundler. Chairman Murphy, Ranking Member DeGette, and
2534 other members of the subcommittee, we appreciate the opportunity
2535 to testify on the matter of the Environmental Protection Agency's
2536 Notice of Violation issued to Volkswagen.

2537 I am Chris Grundler and I direct the EPA's Office of
2538 Transportation and Air Quality, which is responsible for EPA's
2539 Air Pollution Compliance Program for all mobile sources,
2540 vehicles, engines, and equipment, including cars, trucks, and
2541 fuels.

2542 I am joined today by my colleague Phil Brooks, Director of
2543 the Office of Civil Enforcement's Air Enforcement Division.
2544 EPA's Civil Enforcement Program develops and prosecutes civil
2545 administrative and judicial cases.

2546 On September 18th, 2015, EPA sent a Notice of Violation, an
2547 NOV, of the Clean Air Act to Volkswagen, including Volkswagen AG,
2548 Audi AG, and Volkswagen Group of America, alleging that

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2549 four-cylinder Volkswagen and Audi diesel cars sold in the U.S.
2550 for model years 2009 to 2015 include software that circumvents
2551 EPA's emissions standards. Volkswagen manufactured and
2552 installed software in the electronic control module of these
2553 vehicles that sensed when the vehicle was being tested for
2554 compliance with EPA emissions standards. Put simply, these cars
2555 contain software that turns off or significantly reduces the
2556 effectiveness of emissions controls when driving normally and
2557 turns them on when the car is undergoing an official emissions
2558 test.

2559 This is known as a defeat device. This design feature
2560 results in the car's emitting up to 40 times the emissions that
2561 are allowed to ensure public health is protected. These devices
2562 contain essentially a switch that senses whether the vehicle is
2563 being tested or not based on various inputs, including the
2564 position of the steering wheel, vehicle speed, the duration of
2565 the engine's operation, and barometric pressure. The NOV that
2566 EPA issued covers roughly 482,000 diesel cars.

2567 All new cars sold in the United States must have an EPA-issued
2568 Certificate of Conformity demonstrating that the car meets
2569 applicable federal emissions standards to control air pollution.
2570 By making and selling vehicles with defeat devices that allow for
2571 higher levels of air emissions than were certified to EPA, VW

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2572 violated multiple important Clean Air Act provisions. These
2573 violations are very serious not only because the illegal defeat
2574 device results in excess emissions many times the allowable
2575 standard, but also because, after the high emissions were
2576 discovered, VW concealed the facts from EPA, the State of
2577 California, and from consumers.

2578 These vehicles are emitting more nitrogen oxides, or NOx,
2579 than regulations allow. NOx pollution contributes to
2580 ground-level ozone and particulate matter. We know that exposure
2581 to these pollutants has been linked with a range of serious health
2582 effects, including increased asthma attacks and other respiratory
2583 illnesses that can be serious enough to send people to the
2584 hospital.

2585 We are in the midst of an ongoing investigation into VW's
2586 actions. We will be working closely with the U.S. Department of
2587 Justice throughout this investigation, and determinations
2588 regarding potential penalties and other remedies will be assessed
2589 as part of the investigation. However, at this point we are unable
2590 to provide further details of the investigation because the
2591 release of such information could jeopardize this ongoing
2592 enforcement investigation.

2593 EPA will continue to work closely with the California Air
2594 Resources Board during the investigation. CARB led and

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2595 contributed much of the effort to get us to this point. Our
2596 agencies work very closely together on the implementation and
2597 oversight of the Vehicle Emissions Program.

2598 As part of the investigation, we intend to assess the scope
2599 of VW's liability under the Clean Air Act and whether there are
2600 additional vehicles with defeat devices. We also intend to
2601 assess the economic benefit to VW of a non-compliance and pursue
2602 appropriate penalties, as well as to assess the excess pollution
2603 from VW's violations and the appropriate ways to mitigate them.

2604 While our enforcement authority concerns air pollution, we
2605 are acutely aware of the impact of these violations on consumers,
2606 and we have provided frequently-asked questions and answers for
2607 consumers on our website, such as whether the cars are safe to
2608 drive and whether EPA is officially recalling the vehicles at this
2609 point.

2610 On September 25th, my office sent a letter to all auto
2611 manufacturers notifying them that we are stepping up our testing
2612 activities in response to these alleged violations. Over the
2613 40-plus-year history of our program, we have continuously updated
2614 and adapted our approaches to compliance oversight as
2615 technologies and situations have changed. We take very seriously
2616 our responsibility to oversee the implementation and enforcement
2617 of our regulations.

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2618 It is this oversight that ensures the benefits of clean air
2619 emissions standards are realized and that the industry is
2620 competing on a level playing field, and the consumers are getting
2621 what they pay for.

2622 Again, thank you for the opportunity to appear as witnesses
2623 this morning. We welcome your questions.

2624 [The prepared statement of Mr. Grundler and Mr. Brooks
2625 follows:]

2626

2627 ***** INSERT 2*****

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2628 Mr. Murphy. Thank you.

2629 Mr. Brooks, you don't have a statement? You issued a joint
2630 statement, correct?

2631 Mr. Brooks. That is correct.

2632 Mr. Murphy. Okay. Thank you.

2633 Now I am going to recognize myself for 5 minutes.

2634 When you speak, just make sure you turn the mic on and bring
2635 it as close to your mouth as possible.

2636 So, Mr. Grundler, in December of 2014, VW conducted a
2637 voluntary recall to address the on-road emissions, as you know.
2638 What information did VW convey to you about the cause and the
2639 proposed solution for the higher emissions in advance of that
2640 recall?

2641 Mr. Grundler. Thank you, Mr. Chairman.

2642 Throughout the 2014, once California and EPA learned of these
2643 excess emissions, there were numerous technical conversations
2644 between the California Air Resources Board and Volkswagen.
2645 California took the lead on exploring what the problem was with
2646 these vehicles, and my understanding is that they received
2647 multiple different stories, plausible reasons why these vehicles
2648 may not be performing as they are supposed to, chemical-based
2649 reasons, physical-based reasons.

2650 At the end, the remedy that was proposed was described to

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2651 fix a problem with the vehicle concerning how it is operated under
2652 different temperatures, what kind of dosing sensors were used to
2653 make the emissions control, the system work properly, and that
2654 they were confident in the fix.

2655 At the time, they were told by the State of California to
2656 proceed, but that California was going to test these vehicles to
2657 make sure that the fix was effective. And it was not effective,
2658 based on the subsequent testing by the California Air Resources
2659 Board.

2660 Mr. Murphy. Thank you.

2661 Did you conduct any further evaluation of their conclusions
2662 and proposed solutions in advance of the recall? So, what was
2663 the operational process you had in interacting with them,
2664 discussions/conversations that go back and forth?

2665 Mr. Grundler. So, EPA and California have a very strong
2666 partnership when it comes to oversight and compliance. Sometimes
2667 California takes the lead on these matters. Sometimes EPA takes
2668 the lead on these matters. For example, last year we had the lead
2669 with respect to the Hyundai/Kia investigation and subsequent
2670 action. California volunteered to take the lead on this matter.

2671 And what happened during 2014 is essentially what is
2672 happening right now as we speak, which is trying to determine what
2673 is the right recall solution to address these excess emissions.

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2674 It was VW's responsibility to identify what was wrong and to
2675 propose a fix. They did so. That fix did not work.

2676 So, most of these interactions were between California and
2677 the company. EPA, my team, participated in some of them. We
2678 became much more actively involved in 2015, when California
2679 produced their test results on the supposed fix of these vehicles
2680 and that data showed that there still remained very high and
2681 unexplained excess emissions.

2682 Mr. Murphy. Who did you have these conversations with, with
2683 VW, going back and forth, communicating while they are working
2684 or they are talking to you about these results? Do you recall
2685 who that was?

2686 Mr. Grundler. So, I want to be clear. I was not part of
2687 those conversations. It was my team and the California
2688 counterparts. My understanding is those conversations included
2689 both officials from VW of America as well as officials from
2690 Germany.

2691 Mr. Murphy. Do you know their names for the record?

2692 Mr. Grundler. I do not.

2693 Mr. Murphy. Can you identify those? Are those things you
2694 could get for us?

2695 Mr. Grundler. Yes.

2696 Mr. Murphy. Would you please do so? That would be

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2697 important.

2698 Mr. Murphy. Now I have a technical question. I am not sure
2699 if either of you can answer this. So, here is this switch that,
2700 when it is in one position for an emissions test, it made a change
2701 in how this was operational, so the emissions would be lower; in
2702 the other position, the emissions were quite high. Is it possible
2703 to just keep that switch in the position of low emissions, and
2704 then, they could be in compliance or does that damage the engine
2705 or reduce power significantly? Do you have any idea?

2706 Mr. Grundler. Well, those are exactly the same kind of
2707 questions we are asking Volkswagen right now. It's not actually
2708 a switch, sir. It is what we call a dual-calibration strategy.
2709 So, the vehicle is programmed to work two different ways. And
2710 when the vehicle senses when it's on a test, it very quickly goes
2711 into clean mode, and when it does not sense the very specific
2712 parameters that are specified in our federal test procedures, it
2713 goes into a high-pollution mode.

2714 So, I think what you're asking is --

2715 Mr. Murphy. Yes, that's what we --

2716 Mr. Grundler. -- can you just take this software and will
2717 the vehicle operate normally? And we don't know yet. We're
2718 asking those questions. And the answers will depend, as you heard
2719 this morning, on which generation of diesel engines we're talking

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2720 about. We believe that the newer generation, the so-called
2721 Generation 3 engines, will be much easier to fix than the older
2722 versions.

2723 Mr. Murphy. Thank you. I am out of time now.

2724 Ms. DeGette, 5 minutes.

2725 Ms. DeGette. Thanks.

2726 Just to continue along, the newer versions, they have these
2727 Urea Tanks.

2728 Mr. Grundler. Right.

2729 Ms. DeGette. And so, it is a system that you can both adjust
2730 the NOx filters and the Urea Tanks? And in fact, the VW dealer,
2731 the dealer in Denver and also their mechanics told me they feel
2732 like it would be a pretty easy adjustment, even just in the codes,
2733 to fix it in the 2015 and 2016 models. Is that your understanding,
2734 Mr. Grundler?

2735 Mr. Grundler. I don't want to speculate that.

2736 Ms. DeGette. Yes.

2737 Mr. Grundler. That seems logical to us.

2738 Ms. DeGette. Right.

2739 Mr. Grundler. We want to see the software. We want to test
2740 the vehicle before --

2741 Ms. DeGette. Obviously, yes.

2742 Mr. Grundler. -- any further action is taken.

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2743 Ms. DeGette. Yes, obviously.

2744 Mr. Grundler. You can imagine that we're skeptical.

2745 Ms. DeGette. But it is the agency's position that these
2746 vehicles do need to be fixed, right?

2747 Mr. Grundler. Absolutely.

2748 Ms. DeGette. I mean, they are non-compliant under both
2749 federal law and California State law?

2750 Mr. Grundler. That is correct.

2751 Ms. DeGette. You know, I think some of the impressions given
2752 by Volkswagen is, well, you know, they are safe to drive. They
2753 might be safe to drive, but they don't comply with the emissions
2754 standards, right?

2755 Mr. Grundler. That's right.

2756 Ms. DeGette. So, for the cars between 2009 and 2014, the
2757 fix is a bigger problem because they don't have the Urea
2758 Containers. And so, it is harder to see how, without major
2759 structural changes to these cars, how they could be brought into
2760 compliance? Is that your understanding?

2761 Mr. Grundler. That is correct. They will require a more
2762 substantial engineering solution.

2763 Ms. DeGette. They are either going to require installation
2764 of a Urea System or different NOx filters or both. So, that is
2765 going to be quite elaborate. I am not a mechanic, and I don't

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2766 pretend to be one, but I went over and looked at this. And it
2767 looked like a very knotty problem to me.

2768 Mr. Grundler. What California and EPA have directed
2769 Volkswagen to do is to present more than one option on how to
2770 address these excess emissions. And we want to look at these
2771 options very carefully, particularly with respect to what impacts
2772 they will have on the owners.

2773 Ms. DeGette. Right. And have you given VW any kind of a
2774 deadline for coming up with that fix or have they indicated to
2775 you when they might be able to come up with this? This is
2776 something that really concerned the panel in the earlier
2777 conversations today.

2778 Mr. Grundler. I can assure you we have a very strong sense
2779 of urgency. We are pressing Volkswagen for that plan and for
2780 those solutions. We're meeting with them on practically a daily
2781 basis. We hope to get a proposal very, very soon. But we want
2782 to make sure that it's effective. So, there's some risk in
2783 rushing, but we expect to see something as early as next week with
2784 respect to the Generation 2 vehicles.

2785 Ms. DeGette. And has the company told you that they believe
2786 they can fix the affected vehicles without affecting fuel economy,
2787 engine performance, or both?

2788 Mr. Grundler. They have not said so.

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2789 Ms. DeGette. Okay. So, I just want to say one last thing,
2790 which is oftentimes we have the EPA in here, and sometimes it is
2791 not the most pleasurable experience testifying. But in this case
2792 the Director of the International Council on Clean
2793 Transportation, which was the organization that commissioned the
2794 West Virginia study, said, quote, "This is a powerful affirmation
2795 of U.S. federal and California vehicle emissions regulations and
2796 of the agencies. Clear protocols, in-use requirements for the
2797 useful life of vehicles, clear enforcement follow-through, the
2798 authority to fine and force recalls, these are the best practices
2799 that regulations worldwide should incorporate, and today's
2800 announcement shows why." End quote.

2801 So, thank you and your agency for your efforts here.

2802 I want to ask you, Mr. Grundler, in light of VW's deception,
2803 are you adjusting testing going forward?

2804 Mr. Grundler. Yes, and we already have.

2805 Ms. DeGette. And what have you done?

2806 Mr. Grundler. Well, we have learned from this episode for
2807 sure. We wish we had found it sooner. As soon as we learned of
2808 this data, CARB and EPA focused --

2809 Ms. DeGette. So, how are you adjusting the testing going
2810 forward?

2811 Mr. Grundler. The bottom line, madam, is that we are going

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2812 to be unpredictable. What is required for a robust compliance
2813 and oversight program is both testing of new vehicles in the lab,
2814 testing of what we call in-use vehicles in the lab as on-road
2815 measurements.

2816 Ms. DeGette. Thanks. I don't have much time.

2817 Mr. Brooks, are you adjusting enforcement efforts going
2818 forward and, if so, how?

2819 Mr. Brooks. Thank you for the question. The answer is yes,
2820 although I think the prosecution, the investigation of this matter
2821 will proceed along our normal path. I think what we will see is
2822 we will be getting a lot more phone calls from people. And so,
2823 in that way, it will change. We will have more to respond to.

2824 Ms. DeGette. Thank you.

2825 Thank you very much, Mr. Chairman.

2826 Mr. Murphy. I think Mr. Griffith is next. Mr. Griffith,
2827 you are next for 5 minutes.

2828 Mr. Griffith. Thank you very much, Mr. Chairman.

2829 And I appreciate you all being here and appreciate the
2830 questions that have already been asked.

2831 Obviously, there are a number of us, if you were listening
2832 to the previous testimony, you know I am one of the people who
2833 owns one of the diesel Volkswagens. And so, I have some questions
2834 in that regard.

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2835 I think it is important that you change your testing methods.
2836 The first question I am going to ask you is, do you think it might
2837 be helpful in doing your job if we passed some legislation that
2838 would allow a portion of the fine money in a fraud case like this
2839 to go to the university that discovered it? I mean, WVU
2840 discovered the problem. You all didn't.

2841 Believe it or not, I don't think the EPA can and should do
2842 everything, and that this might be of some assistance. Just like
2843 we do with certain bad actors in other criminal-type settings who
2844 are committing fraud on consumers or selling drugs, we take some
2845 of their ill-gained goods. We take it away from them, and the
2846 government gives it back to some of the folks who helped discover
2847 it, law enforcement and prosecutors. Do you think that might be
2848 a helpful piece of legislation for us to take a look at? Either
2849 one of you, or both.

2850 Mr. Brooks. Well, I don't think I could comment on what
2851 legislative changes might be necessary. I do understand that in
2852 the criminal context those kinds of remedies have been imposed
2853 before.

2854 Mr. Griffith. So, the question is, if you have that power
2855 now, please tell us.

2856 Mr. Murphy. Excuse me one second.

2857 Could you speak close to the mic? None of us can hear you.

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2858 You are going to have to sit forward and into the mic.

2859 Mr. Griffith. If you currently have that power, then let
2860 me know that. But, if you don't have that power, in other words,
2861 whenever you come up with the fine that is appropriate for
2862 Volkswagen, it would seem to me -- and I don't know that you have
2863 that authority now -- to give WVU, West Virginia University, that
2864 uncovered this problem part of the fine to help them continue their
2865 research. I mean, that is what we do with prosecutors. We do
2866 that with law enforcement agencies who uncover crime. We do that
2867 in some securities cases. There are different ways that is done.

2868 Do you all think that would be an authority that would be
2869 helpful for the people of the United States of America?

2870 Mr. Brooks. Well, I can take that back and we can respond
2871 in writing.

2872 Mr. Griffith. All right.

2873 Mr. Griffith. It sounds like a good idea to me, I will just
2874 tell you.

2875 It is interesting that WVU found it and that you all did not,
2876 but I understand you can't do everything. And you have answered
2877 some questions about how you are going to go forward.

2878 Let's go to the other side of this. Now I will, whatever
2879 you all come up with and whatever Volkswagen comes up with, I will
2880 get my car fixed. Or, if they do a buy-back program, I will have

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2881 to debate whether it is better to fix it or to sell it back to
2882 the company because it is not doing what it is supposed to.

2883 But I am just curious, at some point -- and right now, I
2884 understand you are not doing that -- but, at some point, am I going
2885 to be subject, or other consumers in my shoes, are they going to
2886 be subject to penalties from the EPA for driving a vehicle that
2887 doesn't meet the standards that were supposed to be in place when
2888 they bought the vehicle?

2889 Mr. Grundler. That question depends on where the particular
2890 owner of a Volkswagen, of one of these vehicles, lives. If you
2891 live in an area that does regular emissions tests, that the State
2892 conducts these inspections, emissions inspections, some states
2893 require that, in order to re-register the vehicle, if it is subject
2894 to a recall, to show that the fix has been made. Other states
2895 do not have that requirement. It depends on where you're living.

2896 Mr. Griffith. Okay. So, for some people who may not be
2897 paying attention to whatever notices they might get or, for
2898 whatever reason, aren't following the news -- and believe it or
2899 not, there's a whole bunch of those folks out there who don't
2900 follow day-to-day news -- they could actually end up with some
2901 kind of a penalty from their state. But, currently, there is
2902 nothing nationally?

2903 Mr. Grundler. That's right.

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2904 Mr. Griffith. Would you anticipate that the EPA would go
2905 in the direction of some kind of a national program if enough of
2906 the cars did not get bought back or fixed after a certain number
2907 of months?

2908 Mr. Grundler. We certainly will be encouraging consumers
2909 to --

2910 Mr. Griffith. I understand that. You are going to get the
2911 word out as best you can?

2912 Mr. Grundler. That's right, but --

2913 Mr. Griffith. But they don't get the message; there's still
2914 a million cars or 100,000 cars, I think.

2915 Mr. Grundler. I would not anticipate --

2916 Mr. Griffith. You would not anticipate that?

2917 Mr. Grundler. -- EPA going after individuals.

2918 Mr. Griffith. But it is a possibility?

2919 Mr. Grundler. I don't think that's a possibility under the
2920 Clean Air Act.

2921 Mr. Griffith. Because let me tell you one of my concerns
2922 is -- and it doesn't have anything to do with you all, and it is
2923 a rhetorical question, so you don't have to answer it. I will
2924 tell you that upfront. But yesterday we had an EPA official in
2925 and we were talking about the Clean Power Plan and the
2926 cap-and-trade scheme, which they didn't call it the cap-and-trade

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2927 scheme; they kept resisting that. But it talks about putting a
2928 limit on emissions and, then, being able to make trades. So, it
2929 sounds like cap-and-trade.

2930 And what was interesting about it was that I had a list of
2931 quotes from Lisa Jackson in 2011; Gina McCarthy, 2011, Gina
2932 McCarthy, 2013; Gina McCarthy, 2014, that said they were never
2933 going to consider, and, in fact, it wasn't allowed under the law,
2934 to do a cap-and-trade scheme. And then, I am looking at some
2935 cap-and-trade scheme.

2936 So, I am a little concerned, not for me. I am going to do
2937 what I need to do to make my car right or get rid of it. But there
2938 are going to be a lot of folks out there who may be caught, and
2939 I just want to make sure that the EPA isn't doubling down on their
2940 damages, because every one of us that bought one of these vehicles
2941 is damaged in some form or another.

2942 So, I appreciate you listening to that. If you want to
2943 answer, I will give you a chance to answer. Mr. Brooks looks like
2944 he wants to answer.

2945 Mr. Brooks. I will assure you that I am aware of absolutely
2946 no provision of the Clean Air Act which would allow a prosecution
2947 for the things that you are talking about.

2948 Mr. Griffith. And that is exactly what Lisa Jackson told
2949 us two or three years ago, but that is okay. We will move on.

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2950 You know, last but not least --

2951 Mr. Brooks. I'll say it won't happen.

2952 Mr. Griffith. Yes. On Gen 1 cars, I have read somewhere
2953 that it is going to take -- it is a more complicated fix, we heard
2954 this morning, but it is also going to take up some of the space
2955 probably in the trunk area of the vehicle. Have you all heard
2956 that?

2957 Mr. Grundler. Sir, that would depend completely on what the
2958 remedy would be. And as I said earlier, we are going to take a
2959 very careful look at what impact this is going to have on owners
2960 and consumers. That will be central to how we review the options
2961 that Volkswagen comes forward to. So, we don't know that yet.

2962 Mr. Griffith. All right. I appreciate it very much.
2963 Thank you all for being here.

2964 I yield back.

2965 Mr. Murphy. The gentleman yields back, and I recognize Mr.
2966 Pallone for 5 minutes.

2967 Mr. Pallone. Thank you.

2968 Mr. Grundler, one of the concerns that I raised with Mr. Horn
2969 earlier was this concern about whether we might find these defeat
2970 devices or similar problems with other cars. So, I wanted to ask
2971 the question, do you have the tools and authority you need to ensure
2972 there are no other cheaters out there?

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2973 Mr. Grundler. Yes, we do.

2974 Mr. Pallone. But I am also concerned about -- and maybe this
2975 is for Mr. Brooks -- about the comments that Mr. Horn made where
2976 he suggested, you know, there were a couple of rogue engineers
2977 that may have done this, but suggested that there was no corporate
2978 responsibility.

2979 Is it the EPA or is it the AG? Who goes after the
2980 individuals, corporate or otherwise, that might be responsible
2981 for this? Or do you at some point envision even bringing charges,
2982 you know, like criminal charges against the corporation itself
2983 for this intentional deceit?

2984 Mr. Brooks. Thank you for the question. I can't speculate
2985 now as to exactly what course all the enforcement actions will
2986 take. I can tell you that my office has already taken the initial
2987 enforcement action, and I can tell you that we are working with the Department of Justice on these matters.

2988 Mr. Pallone. But I guess what I am asking -- and I won't keep repeating, but one more time -- you
2989 know, we keep talking about the fines because of what happened. But does this rise to individual
2990 responsibility for those responsible? And is there such a thing as criminal action against the corporation? I
2991 mean, I know I am speculating, but are those possibilities?

2992 Mr. Brooks. Let me be careful in answering that. First of all, I think that the concern that has been
2993 expressed here by members is exactly our concern. Who, what, when, where, why, how? And so, I'm quite
2994 certain that the investigations that are ongoing and that will be begun will get into exactly that.

2995 I think it would be unfair for me to say much more about what the end result might be.

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2996 Mr. Pallone. But it is a possibility?

2997 Mr. Brooks. Certainly it is a possibility.

2998 Mr. Pallone. Okay. You know, I was glad that Mr. Horn actually said that he understood the
2999 impact of these emissions and they could have health and safety impacts. I mean, he did say that.

3000 But does it go beyond that? I mean, in other words, you know, he is admitting that this took place
3001 and that there could be some health and safety impacts because of the increased emissions. How does the
3002 EPA hold Volkswagen responsible for the environmental effects of their decision to evade emissions standards?
3003 In other words, does the EPA consider, is it possible that they could be held responsible for the impact on
3004 essentially dirtier air, not just fix the cars, but that there might be some damages or some kind of payment that
3005 would have to be made because the air was made dirtier or that people's health and safety were impacted?

3006 Mr. Brooks. Thank you for that question. The answer to that is yes. While it may go by different
3007 names, we tend to talk about it in terms of mitigation, but the concept there is exactly what you articulated.
3008 We're looking for the opportunities, the ways in which the damage that has been done to the environment, and
3009 which consequently has impacts on public health, can be addressed.

3010 Obviously, we can't go back in time and take that pollution back out of the air, but many of our
3011 settlements look forward and ask the question, how is it that we can make air quality better than what the law
3012 minimally requires in any given instance? And that additional reduction in pollution is what we refer to as
3013 mitigation, and we have many, many consent decrees that go about doing that in many different ways.

3014 Mr. Pallone. So, for example, you could impose some
3015 penalties that might be used to mitigate air pollution in other
3016 ways possibly, not by VW, but, you know, that the EPA would use
3017 that money somehow to mitigate air pollution in some other way?
3018 Just give me an example, and then, I will stop asking, because

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3019 my time is almost up anyway.

3020 Mr. Brooks. Okay. A lot of the power plant cases we have
3021 had projects, for example, where the company has had to go out
3022 and find a third party to implement a wood stove changeout program,
3023 so that cleaner burning stoves, more efficient wood stoves are
3024 substituted for dirtier stoves. And that has a direct impact on
3025 air quality in communities because there are lots of communities
3026 out there, as I'm sure you know, that rely very heavily on
3027 wood-burning devices. So, that's one example.

3028 Mr. Pallone. All right. Thank you very much.

3029 Thank you, Mr. Chairman.

3030 Mr. Murphy. The gentleman yields back.

3031 I recognize Dr. Burgess for 5 minutes.

3032 Mr. Burgess. Thank you, Mr. Chairman, and I apologize for
3033 being out of the room for part of the hearing. So, I am going
3034 to ask a couple of questions. If they have been asked before,
3035 please bear with me and try to give an answer that is consistent
3036 with how you answered previously.

3037 First off, what is the budget for the EPA currently?

3038 Mr. Grundler. I don't have the budget for the entire EPA.
3039 I can give you the budget for my organization.

3040 Mr. Burgess. Sure, we will take that.

3041 Mr. Grundler. So, it's roughly \$100 million a year and 340

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3042 full-time people that work in my organization.

3043 Mr. Burgess. The overall budget for the EPA -- and I am just
3044 relying on memory, which is dangerous -- but I think it is close
3045 to \$15 billion. So, the EPA has resources available. It has
3046 funding available.

3047 Mr. Grundler. I do want to correct that. I think EPA's
3048 budget is around \$7 billion and about 15,000 people, roughly.

3049 Mr. Burgess. Nevertheless, West Virginia University had a
3050 budget for this research project, my understanding is, around \$50,
3051 \$60, \$70 thousand, is that correct?

3052 Mr. Grundler. We are extraordinarily grateful for the work
3053 that West Virginia University and the ICCT did. And I am not going
3054 to blame our budget for the fact that we missed this cheating.

3055 I do think we do a very good job of setting priorities at
3056 EPA. Once we learned of this excess emissions, we focused on it.
3057 We didn't ignore it. And then, we have also immediately changed
3058 how we are doing our testing regime to be more unpredictable, so
3059 this doesn't happen again in the future.

3060 Mr. Burgess. Well, with all due respect, just looking at
3061 the situation, I think the American people ought to ask that we
3062 fire you and hire West Virginia University to do our work. They
3063 certainly are much more cost-effective than this part of the
3064 federal agency.

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3065 Let me ask you this: I sit on another subcommittee. We have
3066 jurisdiction over the National Highway Traffic Safety
3067 Administration. So, I am familiar with safety recalls, but we
3068 heard Mr. Horn testify earlier today that this is not a safety
3069 issue with these cars as they are driven. There are emissions
3070 issues, but there are not safety issues. Is that correct?

3071 Mr. Grundler. That's correct.

3072 Mr. Burgess. So, does EPA do its own kind of recall that
3073 is separate and apart from the National Highway Traffic Safety
3074 Administration?

3075 Mr. Grundler. We do.

3076 Mr. Burgess. And would this be www.recalls.gov that is the
3077 website that consumers can go to, to find out information about
3078 the recall or the possible recall on their vehicle?

3079 Mr. Grundler. We have not ordered a recall yet. When we
3080 do, we will provide that information for sure.

3081 Mr. Burgess. That information will be on your website?

3082 Mr. Grundler. Yes.

3083 Mr. Burgess. So, I went to the website. In truthfulness,
3084 staff went to the website. They printed it off for me. I am very
3085 grateful for that.

3086 You can get information about pesticides, pesticide
3087 websites, EPA emissions recalls where I assume this would fall.

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3088 Is that correct?

3089 Mr. Grundler. Yes.

3090 Mr. Burgess. When you click on that link, you get a "Page
3091 not found. Website improvements underway." So, can you let
3092 consumers know when they are likely to be able to get that
3093 information off of your website?

3094 Mr. Grundler. Again, sir, we have not ordered a recall.
3095 So, there is no recall information. We have information on our
3096 website that talks about our Notice of Violation, what vehicles
3097 are covered, and what consumers need to know today, which is that
3098 they can drive these cars. These cars are safe to drive. They
3099 will not be held responsible for any repairs. That would be the
3100 responsibility of the company.

3101 Mr. Burgess. Let me ask you this because Mr. Pallone was
3102 asking you things about payment and damages, and because of the
3103 issue that the air was dirtier and health and safety have been
3104 impacted. So, it is, in all likelihood, Volkswagen of America
3105 is going to face some significant fines and penalties by the
3106 Environmental Protection Agency, are they not?

3107 Mr. Grundler. I think that's very likely.

3108 Mr. Burgess. And you heard my admonition to the CEO of
3109 Volkswagen of America: don't be dismissive. Don't run from the
3110 fact that this has happened. You need to be aggressively

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3111 compliant. And I hope they will be.

3112 But I have got to tell you, this summer I went to Silverton,
3113 Colorado on my own dime and looked at what had happened to the
3114 Animas River, went to the Gold King Mine. And that was entirely created
3115 and caused by the Environmental Protection Agency.

3116 So, I have had a lot of people ask me, that if a private company had done that and turned the Animas
3117 River yellow, they would be held -- the same thing we are talking about here -- there would be fines; there would
3118 be mitigation costs. Does the EPA hold itself to the same standard to which it holds private corporations and,
3119 if not, why not?

3120 Mr. Grundler. Are you asking me to testify about the Gold
3121 King Mine situation?

3122 Mr. Burgess. Just in general. The EPA causes a problem.
3123 Should they be held to the same standards? And, no, I am not
3124 asking you to testify.

3125 In fact, Mr. Chairman, I think we should have a hearing on
3126 that as a separate issue.

3127 But just answer the question. Should EPA be held to the same
3128 standards to which you are going to hold a private corporation?

3129 Mr. Grundler. All I can say, sir, because I'm not familiar
3130 with all the details, is I certainly have seen and read that the
3131 Administrator has taken full responsibility for that situation
3132 and we're acting accordingly.

3133 Mr. Burgess. It looked like a scene out of Ghostbusters.

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3134 I will just tell you that.

3135 Thank you, Mr. Chairman. I will yield back.

3136 Mr. Murphy. I do want to acknowledge that the gentleman from
3137 Virginia and the gentleman from Texas are both touting my
3138 neighboring state, West Virginia University, a rival of Pitt, but
3139 it is nice to see them get the accolades for doing such good work.

3140 I now recognize Ms. Castor for 5 minutes.

3141 Ms. Castor. Thank you, Mr. Chairman.

3142 Gentlemen, on September 18th, the EPA issued a Notice of
3143 Violation against Volkswagen. The notice alleges that certain
3144 Volkswagen and Audi diesel cars for model years 2009 to 2015
3145 include software that circumvents EPA emissions standards for
3146 certain air pollutants. According to EPA, the software produced
3147 by Volkswagen is a defeat device, as defined by the Clean Air Act.

3148 Mr. Grundler, I understand that VW admitted in August to
3149 installing defeat devices on their vehicles. That is correct?
3150 Correct? It is accurate?

3151 Mr. Grundler. I would describe it in mid-to-late August
3152 California and we got a heads-up that they had, in fact, installed
3153 a defeat device, and we were officially notified on September 3rd.

3154 Ms. Castor. From Volkswagen?

3155 Mr. Grundler. Correct.

3156 Ms. Castor. And what specifically did VW tell EPA they had

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3157 done to the engines to circumvent emissions standards?

3158 Mr. Grundler. We were informed that the vehicles had a
3159 dual-calibration strategy on their engine control units which
3160 allowed the vehicle to operate one way when it sensed it was being
3161 tested by the EPA and in a completely different way when the
3162 vehicle was on the road.

3163 Ms. Castor. And has VW provided EPA with an engine map that
3164 shows specifically how the defeat device works for each model car
3165 in which it was installed?

3166 Mr. Grundler. That is my understanding, but I would like
3167 to double-check that for you.

3168 Ms. Castor. Okay. I understand the affected vehicles fall
3169 into three generations based on the model and the year. The
3170 defeat devices may work differently for each of these generations
3171 of vehicles.

3172 Mr. Grundler, at this point, does the EPA have a full
3173 understanding of how the defeat devices work in each of these
3174 generations of vehicles?

3175 Mr. Grundler. We do not. We still have many questions for
3176 Volkswagen to answer.

3177 Ms. Castor. Okay. So, what else do you need and has VW been
3178 helpful? What else do they need to provide EPA to give you the
3179 information that you need?

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3180 Mr. Grundler. The information that we're focused on now
3181 like a laser is what are they going to do to address these excess
3182 emissions and take this software off these vehicles, so that they
3183 comply. We don't need to know specifically how they cheated with
3184 each line of code. We have got some information on that, but I
3185 think the most important thing going forward is that those defeat
3186 devices are removed, that these vehicles are addressed in a way
3187 that will work for consumers and the environment.

3188 Ms. Castor. But you have said you have learned some lessons
3189 here.

3190 Mr. Grundler. We have.

3191 Ms. Castor. Does EPA have the expertise right now in-house
3192 or do you hire consultants that --

3193 Mr. Grundler. We do. We don't need to unpack 100 million
3194 lines of code to find these defeat devices. The bottom line is
3195 testing them in unpredictable ways, so that we activate these
3196 devices. That's the bottom line, is what's coming out of the
3197 tailpipe and does it meet our standard?

3198 Ms. Castor. Are you taking broader action now that you have
3199 learned these lessons about how software code can be deceptively
3200 used to avoid emissions standards? Do you have the expertise now
3201 to go and look at other code in other automobiles and trucks?

3202 Mr. Grundler. Yes, we do.

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3203 Ms. Castor. Are you going to do that?

3204 Mr. Grundler. We are.

3205 Ms. Castor. Can you explain that a little bit further?

3206 Mr. Grundler. Yes. So, we have a number of different kinds
3207 of testing we do. So, we test every new model of vehicle. I'm
3208 sorry. We require the manufacturers to test every new model of
3209 vehicle and submit that data to us, which we review along with
3210 design. We audit a certain percentage of those by testing them
3211 in our laboratory on prescribed test cycles. And we also audit
3212 by measuring real-world emissions using these mobile devices.
3213 And it is going to be, going forward, a combination of both
3214 laboratory testing, activity testing -- we know how to download
3215 this software -- as well as this real-world monitoring.

3216 Ms. Castor. And back to VW, does EPA know yet whether VW
3217 can successfully fix the cars here in the U.S.?

3218 Mr. Grundler. We don't know that yet.

3219 Ms. Castor. Okay. And VW has a number of ongoing internal
3220 and external investigations. Has Volkswagen committed to
3221 sharing the results of those investigations with EPA?

3222 Mr. Grundler. They have not.

3223 Ms. Castor. Have you asked them --

3224 Mr. Grundler. Let me defer to my colleague here to confirm
3225 that.

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3226 Ms. Castor. Okay. So, have you asked them for that
3227 information?

3228 Mr. Grundler. They have not agreed at this time.

3229 Ms. Castor. Don't you think that would be a good -- have
3230 you asked them whether or not they would share that information
3231 with EPA?

3232 Mr. Brooks. We have outstanding official document
3233 requests, and we will be promulgating more of those. Today we
3234 learned from this morning's session about one particular
3235 investigation, and that is certainly one that we --

3236 Ms. Castor. Okay. Will you let the committee know if VW
3237 does not provide the results of their internal investigation?

3238 Mr. Brooks. Yes, we will.

3239 Ms. Castor. Thanks.

3240 And to Representative DeGette and Representative --

3241 Mr. Murphy. I'm sorry, we have a vote coming up, although
3242 if you have another question --

3243 Ms. Castor. I just wanted to make one point here and submit
3244 this with unanimous consent. Drew Kojak, the executive director
3245 from the International Council on Clean Transportation, the
3246 nonprofit that discovered the issue, said the easiest solution
3247 is to give EPA more resources, so it can perform the real-world
3248 testing, which may be more expensive, but he said you don't want

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3249 to rely on the happenstance investigation of a small NGO to trigger
3250 one of the largest global recalls around. So, that is the last
3251 thing for all of us.

3252 Mr. Murphy. Without objection.

3253 Mr. Murphy. We have got three members who need to ask
3254 questions. I have got eight minutes and 50 seconds. Let's do
3255 it. So, if you can shorten your questions out of respect for the
3256 other members, please do. So, that takes us down to zero.

3257 How many votes do we have?

3258 Ms. DeGette. Two votes.

3259 Mr. Murphy. Two votes?

3260 All right. Dr. Bucshon?

3261 Mr. Bucshon. Yes, on September 25th, 2015, the agency
3262 announced that it would be conducting additional testing to
3263 evaluate use of defeat devices in all vehicles. What is the
3264 current status of the testing?

3265 Mr. Grundler. Thank you for that question. Our first
3266 priority is to test all light-duty diesel vehicles. We are in
3267 the midst of that testing. We have teamed up with California and
3268 Environment Canada, both who have the capabilities, as we do.

3269 Mr. Bucshon. And how many vehicles have you tested so far?
3270 Do you know?

3271 Mr. Grundler. We are still testing the first batch of

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3272 vehicles.

3273 Mr. Bucshon. Okay. What are you seeing so far?

3274 Mr. Grundler. I have not seen any data yet, sir.

3275 Mr. Bucshon. Okay. And what criteria are you using and
3276 what is the procedure for implementing the testing, this testing?

3277 Mr. Grundler. We're being careful not to share with the
3278 automakers how we're going to do this new testing because we want
3279 to be unpredictable. But it will be a combination of both these
3280 five cycles that we test on today, what we call off-cycle dyno
3281 testing as well as this real-world onboard monitoring.

3282 Mr. Bucshon. And does this include all light-duty vehicles
3283 or just diesel technology?

3284 Mr. Grundler. We're starting with diesels.

3285 Mr. Bucshon. And then, would you be willing to commit to
3286 keeping the committee informed of your progress and provide us
3287 associated details regarding the testing procedures, data, and
3288 results?

3289 Mr. Grundler. Yes.

3290 Mr. Bucshon. And do you think that this is an isolated
3291 incident or do you have concerns with diesel technology in
3292 general?

3293 Mr. Grundler. I don't have concerns with diesel technology
3294 in general. I don't expect to find widespread problems, but we

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3295 are going to be taking a very close look.

3296 Mr. Bucshon. Okay. I yield back, Mr. Chairman.

3297 Mr. Murphy. Ms. Schakowsky is next, yes.

3298 Ms. Schakowsky. Thank you.

3299 Mr. Murphy. And we had asked members if you don't have a
3300 lot of questions to ask because we only have six minutes to get
3301 to the Floor.

3302 Ms. Schakowsky. Okay.

3303 Mr. Murphy. Thank you.

3304 Ms. Schakowsky. Mr. Grundler, whose job is it to make
3305 consumers whole?

3306 Mr. Grundler. We are not the Consumer Protection Agency.
3307 There are other federal agencies and state agencies that have that
3308 responsibility. But, as I testified earlier, the consumer is
3309 going to be central to how we are reviewing the options to address
3310 these excess emissions.

3311 Ms. Schakowsky. So, let me ask you about the excess
3312 emissions now are violating the EPA standards, right?

3313 Mr. Grundler. Correct.

3314 Ms. Schakowsky. But we just heard testimony from
3315 Volkswagen, and I have a letter sent to owners that says you can
3316 still drive them. So, under what authority, then, does the EPA
3317 say that these cars that are emitting 10 to 40 times the allowed

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3318 amount to continue to be on the road?

3319 Mr. Grundler. Well, the responsibility and the liability
3320 for those excess emissions lies with Volkswagen, and that's why
3321 we're conducting this investigation and learning what the remedy
3322 is, and then, pursuing mitigation to address the environmental
3323 harm.

3324 Ms. Schakowsky. But you already said that some states, if
3325 they were to bring their car in and for some reason that defeat
3326 device were not on, then the consumer actually could be
3327 responsible for the increased emissions. Is that right?

3328 Mr. Grundler. It's our understanding and belief that this
3329 defeat device will also defeat those state inspections. So, we
3330 do not expect these vehicles, were they to be called in for an
3331 annual or biannual inspection, to fail.

3332 Ms. Schakowsky. So, in the meantime, though, there are half
3333 a million cars running around that are emitting greater emissions.

3334 Mr. Grundler. Yes.

3335 Ms. Schakowsky. So, what, then, does the EPA do? We heard
3336 it could be for a year, maybe more than a year, before there is
3337 any real fix.

3338 Mr. Grundler. So, I don't know how long it is going to take
3339 to get the real fix, but the goal of our enforcement action will
3340 certainly be to make the environment whole. That is our job.

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3341 Ms. Schakowsky. Okay. So, you know already that there are
3342 half a million cars --

3343 Mr. Grundler. Yes.

3344 Ms. Schakowsky. -- that consumers are told they can
3345 legally drive that are emitting more than your rules say?

3346 Mr. Grundler. Right.

3347 Ms. Schakowsky. So, what is happening now to hold them
3348 accountable for that? You don't have to test them. You know that
3349 they are already over the line.

3350 Mr. Grundler. The owners of these vehicles are innocent in
3351 this matter.

3352 Ms. Schakowsky. Right.

3353 Mr. Grundler. And we are working intently with California
3354 and the company to identify how to make these vehicles compliant.
3355 Once we are confident that we have the right remedy, we will order
3356 those recalls, and it will be the company's responsibility to fix
3357 those vehicles.

3358 Ms. Schakowsky. And in the meantime, will they be penalized
3359 for having these non-compliant cars?

3360 Mr. Grundler. The consumers?

3361 Ms. Schakowsky. No.

3362 Mr. Grundler. The company?

3363 Ms. Schakowsky. The company.

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3364 Mr. Grundler. No. No, that will be the result of our
3365 ongoing investigation. That's what will be determined by the
3366 ongoing investigation.

3367 Ms. Schakowsky. What part of this don't you know already?
3368 What part don't you know already? You know that all those cars
3369 are exceeding your rules. I don't get it.

3370 Mr. Grundler. Well, there are many things we don't know.
3371 We don't know the why, the what, the where, who was responsible.

3372 Ms. Schakowsky. No, you know the fact of it, though.

3373 Mr. Grundler. But we know the fact. The fact is that
3374 Volkswagen designed and installed illegal software on --

3375 Ms. Schakowsky. And the consequence you know, that they are
3376 emitting all these extra emissions?

3377 Mr. Grundler. We have not done that calculation yet, but
3378 we know that they can be anywhere from 10 to 40 times.

3379 Ms. Schakowsky. Right.

3380 Mr. Grundler. We have not done the math to figure out what
3381 those excess tons are and how we are going to mitigate them.

3382 Ms. Schakowsky. I yield back.

3383 Mr. Murphy. The gentlewoman yields.

3384 Right now, Ms. Clarke, you are recognized for 5 minutes.

3385 Ms. Clarke. Thank you, Mr. Chairman.

3386 Gentlemen, I would like to pick up on the point just raised

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3387 by my colleague Ms. Schakowsky with respect to the emissions
3388 testing. New York State is one of those states that requires
3389 emissions testing. And typically, if your vehicle fails an
3390 emissions test, you can be fined, right? So, we know that,
3391 because of the defeat device, most likely those vehicles would
3392 not be detected?

3393 Mr. Grundler. Correct.

3394 Ms. Clarke. However, that doesn't change the fact that
3395 under normal circumstances these vehicles would not be permitted
3396 on the road. So, to have your agency say, "Well, because it's
3397 not your fault, you can continue to drive," doesn't it sort of
3398 undermine the state's requirement for certain emissions levels
3399 to be contained? For you to then undermine that with the ability
3400 for people, notwithstanding the fact that it is not their fault,
3401 most people, when their vehicle has an emissions problem don't
3402 recognize it and don't typically think it is their fault, either.
3403 However, we have to remedy it before we can take our vehicles on
3404 the road. Otherwise, we are fined. We receive stickers, and
3405 those stickers indicate whether our vehicles are in compliance.

3406 Here we have these stealth vehicles running around in certain
3407 jurisdictions that do fail that, that would fail that under normal
3408 circumstances. How do you reconcile that?

3409 Mr. Grundler. The fines are a matter of state law.

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3410 Ms. Clarke. Right.

3411 Mr. Grundler. The way to reconcile that is to identify an
3412 effective remedy, and once that remedy is fixed, those vehicles
3413 will pass those state inspections and those owners will not be
3414 subject to fines.

3415 Ms. Clarke. The challenge is the fact that this has been
3416 happening with vehicles since 2009. We have no idea when this
3417 remedy is going to be cooked up. We don't know whether the remedy
3418 is going to be hard and fast, something that we can rely on. We
3419 are hoping, but there is going to be testing. There is going to
3420 be concerns going forward because of the deception of how all of
3421 this occurred. I mean, we are talking about software here, right?

3422 Mr. Grundler. That's right.

3423 Ms. Clarke. How do we reconcile that? And let me ask, in
3424 addition to that, are we able to determine those states that do
3425 require -- we know California, for instance. There are probably
3426 other states with emissions testing. How many vehicles, how many
3427 of the 500,000 vehicles are resident within those states, and what
3428 the effect or the immediate impact would be to the environment
3429 of the people that reside in those states? Have we been able to
3430 get a sense of that?

3431 Mr. Grundler. That's all going to be determined as a result
3432 of our investigation. It is knowable where these vehicles are

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3433 registered --

3434 Ms. Clarke. Yes.

3435 Mr. Grundler. -- and where they reside. It is not
3436 knowable yet how it is going to be fixed. We want to have the
3437 confidence that it will be effective, but that will require some
3438 time.

3439 Ms. Clarke. Do you anticipate that you will be hearing from
3440 states' attorneys general and other concerned entities within
3441 these states, probably their own environmental protection
3442 organizations at the state level, to try to get a handle around
3443 this? Because, you know, there are certain areas where this type
3444 of emission exacerbates already-troubled circumstances for
3445 individuals who have health compromised. I mean, do we see a
3446 sense of urgency for really dealing with this?

3447 Mr. Grundler. We've already heard from both state attorneys
3448 general and state environmental --

3449 Ms. Clarke. I'm sure.

3450 Mr. Grundler. I met with all the state environmental
3451 directors just this week in New Orleans. The air directors, they
3452 are concerned. They want to help and they are very anxious, as
3453 are we, to identify how these excess tons, this excess air
3454 pollution will be mitigated. And that will all go into part of
3455 how we are going to resolve this once and for all. We want to

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3456 get to the bottom of it.

3457 Ms. Clarke. In closing, Mr. Chairman, when you have been
3458 able to complete your analysis, if you can get to this committee
3459 a breakdown by state, that would be very helpful. We may have
3460 seen spikes in public health issues that have been exacerbated
3461 in some form or fashion based on clusters and where these cars
3462 reside. And we would like to be able to attribute that in some
3463 form or fashion to maybe the changes that occurred in the
3464 atmosphere as a result of maybe a cluster of ownership in a
3465 particular jurisdiction. I think that is going to be very
3466 important for us to know.

3467 Mr. Grundler. I understand, and we will do whatever we can
3468 to serve the committee's work here.

3469 Ms. Clarke. Very well.

3470 I yield back, Mr. Chairman.

3471 Mr. Murphy. Thank you.

3472 I just want to add, on top of the questions Ms. Clarke just
3473 gave, if you gather information with regard to state rules, with
3474 regard to anti-tampering laws, fines, and also whether it is
3475 criminal penalties and other aspects along those lines, we would
3476 appreciate that, as you are gathering this information for us.
3477 This would be helpful for the committee.

3478 I want to say I ask unanimous consent that the contents of

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3479 the documents to be introduced into the record and authorize staff
3480 to make any appropriate redactions. So, without objection, the
3481 documents will be entered into the record, and any redactions that
3482 staff determines are appropriate.

3483 Mr. Murphy. And I want to thank the witnesses for coming
3484 today. We appreciate your time and your attention in this
3485 difficult matter, but it is important to us. And thank you for
3486 the testimony and to the members for their devotion to this hearing
3487 today.

3488 The committee rules provide that members have 10 days to
3489 submit additional questions to the record to the witnesses, and
3490 we hope you will respond promptly to that.

3491 With that, this hearing is adjourned.

3492 [Whereupon, at 2:32 p.m., the subcommittee was adjourned.]