

**Opening Statement of the Honorable Tim Murphy
Subcommittee on Oversight and Investigations
Hearing on “Volkswagen’s Emissions Cheating Settlement:
Questions Concerning ZEV Program Implementation”
December 6, 2016**

Today the Subcommittee will hear testimony from the Environmental Protection Agency to address significant questions the Oversight Subcommittee has about a two-billion-dollar investment program embedded in a recently-approved partial Consent Decree to settle numerous claims against Volkswagen.

Just over a year ago VW admitted to federal authorities, as well as this Subcommittee, it had been thwarting federal emissions tests for years. VW willfully and knowingly cheated, having installed engine software in 480,000 diesel vehicles to defeat emissions tests. That is a clear violation of federal law.

The reasons for VW’s nefarious actions are now clear: despite having committed to producing “clean diesel” cars, it couldn’t meet the Clean Air Act standards without installing the software to cheat testing machines and ultimately hundreds of thousands of consumers.

It is also clear that VW deserved to be held to account for their illegal actions, for the harm to consumers and the environment, and this violation of the public trust.

In January, the United States sued VW for violations under the Clean Air Act. Hundreds of other parties brought actions, the cases were consolidated and settlement talks commenced and eventually reached an agreement.

In late October, a U.S. District Court approved a 15-billion-dollar Partial Consent Decree resolving many claims concerning the 2.0 liter engines—and including buyback and modification provisions to address the economic harm to VW customers.

Yet a piece of this settlement raises the potential that VW’s penalty for bad behavior may not be entirely without benefit for VW’s own future operations. The settlement requires VW to invest a substantial amount of money in infrastructure and education to expand the market for zero-emission-vehicles, such as plug-in electric cars—coincidentally, just as VW is launching a new strategy to enter and grow its share in the electric vehicle market.

Under this so-called ZEV investment commitment in the Partial Consent Decree, VW must spend \$800 million over the next ten years into infrastructure and market development in California, to be overseen by the State of California, and \$1.2 billion over the same time period in the rest of the nation, to be overseen by EPA.

This works out to VW having to invest nearly \$500 million every 30 months. To put this in perspective, the total market for U.S. electric charging infrastructure (including installation) has been estimated by industry to be up to \$800 million over the next 30 months. So VW has agreed to spend at a rate that would nearly double the size of this market.

Think about the regulatory and oversight considerations if this massive influx of infrastructure investment was government spending, like a stimulus package. The pace and scale of such investment would be of great interest to pre-existing market players who would stand either to

benefit from an enlarged market or to suffer from public money that would crowd out competition.

In many respects, VW's mandated investment threatens a similar situation, but the ZEV investment oversight provisions appear pretty thin, especially at the federal level. Most notably, VW will apparently have sole discretion for how it will invest these sums in the billion-dollar-national program overseen by EPA—creating opportunity for VW to gain an enormous competitive advantage.

We are not here today to ask EPA to renegotiate the agreement, but now that it is final, we need to understand how it will work, how it will affect businesses already in the zero-emission-vehicle marketplace and what EPA's role is in administering this huge financial commitment.

We wish there were more time, but EPA must make some decisions even as we speak, and the big decision on VW's plan for spending the first \$300 million will come early next year. It is against this backdrop that we wrote EPA in early November and we asked EPA here today to help us build a record on the issues surrounding ZEV program implementation and the measures necessary to protect market competition as investment plans developed.

I'm expecting to hear what EPA's oversight role will be, and given the enormous amount of money to be invested, how it will impact the policymaking landscape. I also want to hear what actions EPA will make to ensure programs like this do not encroach on Congressional interests.

VW betrayed the public trust with its cheating scandal. We are here this morning to ensure the agencies responsible for developing and agreeing to this deal will ensure the public interest is protected.

###