State of California
AIR RESOURCES BOARD

UPDATE ON VW ZEV INVESTMENT PLAN

Resolution 17 -11

March 24, 2017

Agenda Item No.: 17-3-9

WHEREAS, California has taken a leadership role in addressing the harmful effects of motor vehicle air pollution on public health by establishing and expanding ambitious criteria pollutant emission standards, renewable energy procurement goals, and initiatives to advance transportation electrification throughout the state;

WHEREAS, California has recognized that a state-wide fleet transition to zero-emission vehicles can improve the health and welfare of all residents;

WHEREAS, California has brought together diverse communities, leaders and California businesses to innovate, create jobs, economic development, and reduce carbon pollution for the benefit of all Californians, and California businesses stand to benefit from increased deployment of zero-emission vehicles through reduced fuel expenditures and reduced pollution exposure to workers and communities;

WHEREAS, California attracts over half of the nation's venture capital for clean technology and ranks high among the states in the number of workers and facilities supporting the clean vehicle and electric vehicle industries;

WHEREAS, California has recognized that widespread transportation electrification requires increased access to zero-emission vehicles (ZEVs) in disadvantaged, low-income, and moderate-income communities, and has established the Charge Ahead California Initiative and other programs to make clean transportation options available to all Californians;

WHEREAS, recognizing that the transportation sector is the largest contributor to greenhouse gas emissions in California, the Air Resources Board (ARB or Board) has developed a comprehensive strategy for reducing transportation sector emissions, including initiatives supporting the expanded use of ZEVs;

WHEREAS, meeting California's ambitious goals for widespread transportation electrification and a sustainable low-carbon future requires policies that encourage private capital investments, competition, innovation and job creation by established and

emerging companies designing, marketing and selling electric vehicle (EV) charging equipment, networks and services;

WHEREAS, customer choice in ZEV charging equipment and services drives continued technological innovation and creation of transformational business models, technologies and services that will benefit the state's economy, consumers, and electric grid management and fuel a multi-billion-dollar electric vehicle market producing thousands of new jobs;

WHEREAS, California should encourage the development and success of zero-emission vehicles and the necessary supporting technology to protect the environment, stimulate economic growth and improve the quality of life in the State;

WHEREAS, California has set a goal to establish a self-sustaining zero-emission and near-zero-emission vehicle market in which zero-emission vehicles are a viable mainstream option for individual vehicle purchasers, businesses, and public fleets;

WHEREAS, Executive Order B-16-12 sets goals that, by 2020, zero-emission vehicles be accessible to mainstream consumers and the private sector's role in the supply chain for zero-emission vehicle component development and manufacturing will be expanding, and that, by 2025, over 1.5 million zero-emission vehicles will be on California roads, Californians will have easy access to zero-emission vehicle infrastructure, and the zero-emission vehicle industry will be a strong and sustainable part of California's economy, and California's needs to meet these goals are still tremendous;

WHEREAS, in Assembly Concurrent Resolution No. 112, the California State Legislature recognized California Air Resources Board staff for demonstrating its unwavering diligence and dedication to preserving the air quality in the State through its exemplary work and tenacity in uncovering Volkswagen's violations of law;

WHEREAS, Volkswagen's violations of law negatively impacted the zero-emission vehicle market;

WHEREAS, on October 25, 2016, the United States District Court for the Northern District of California signed an order approving the First Partial Consent Decree, consisting of 4 parts, resolving claims brought by the United States Department of Justice, the United States Environmental Protection Agency, and the State of California, by and through ARB and the Attorney General of the State of California, against Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, Volkswagen) for violations of federal and state laws and regulations, including California Health and Safety Code sections 43151, 43152, 43153, 43205, 43211, and 43212 and California Business and Professions Code sections 17200, 17500, and 17580.5 (United States of America v. Volkswagen AG et al., Case No. 16-cv-295, N.D. Cal) concerning the 2.0-liter TDI diesel engine vehicles;

WHEREAS, Appendices A and B of the 2.0 liter Partial Consent Decree together describe the procedures that Volkswagen will use to offer its affected consumers the option of either: (1) a buyback or lease termination, or (2) the option of an emissions modification in accordance with the technical specifications prescribed in Appendix B;

WHEREAS, Appendix C of the 2.0 liter Partial Consent Decree calls for Volkswagen to spend $800 million in California, over 10 years in four 30-month cycles, on eligible ZEV Investments approved by ARB in four 30-month California ZEV Investment Plans, consistent with the goals and terms of the consent decree;

WHEREAS, Appendix C is intended to mitigate the negative impacts on the zero-emission vehicle market of Volkswagen's violations of law;

WHEREAS, Appendix D of the 2.0 liter Partial Consent Decree requires VW to pay money into a trust to mitigate the excess oxides of nitrogen emissions caused by the 2.0-liter vehicles, about $381 million of which will go to California to be spent by California on replacing older, dirtier heavy-duty vehicles and equipment with cleaner vehicles and equipment;

WHEREAS, on December 20, 2016, California filed for approval by the United States District Court for the Northern District of California a Second California Partial Consent Decree, and the United States and California lodged a Second Partial Consent Decree, consisting of three parts, resolving claims brought by the State of California, by and through ARB and the Attorney General of the State of California, against Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, Volkswagen) for violations of federal and state laws and regulations, including California Health and Safety Code sections 43151, 43152, 43153, 43205, 43211, and 43212 and California Business and Professions Code sections 17200, 17500, and 17580.5 (United States of America v. Volkswagen AG et al., Case No. 16-cv-295, N.D. Cal) concerning the 3.0-liter TDI diesel engine vehicles;

WHEREAS, the Second California Partial Consent Decree, if approved, would require Volkswagen, to further mitigate its negative impacts on the zero-emission vehicle market, and complete two Green City initiatives in California as part of the ZEV investments required by Appendix C to the First Partial Consent Decree, and requires the second Green City to be in a city with a population of approximately 500,000 that predominately consists of Disadvantaged Communities as identified by the California Office of Environmental Health Hazard Assessment's CalEnviroScreen mapping tool;

WHEREAS, the Second California Partial Consent Decree, if approved, would also require Volkswagen to introduce three additional Battery Electric Vehicle models in California from 2019-2025 according to a schedule specified in the decree;

WHEREAS, the Second California Partial Consent Decree, if approved, would also require Volkswagen to pay ARB $25 million to support ZEV-related aspects of ARB's

EFMP Plus Up program or ZEV-related aspects of similar vehicle replacement programs in California in 2017 or later;

WHEREAS, the Second Partial Consent Decree, if approved, would require VW to pay money into the trust established under the 2.0 liter Partial Consent Decree to mitigate the excess oxides of nitrogen emissions caused by the 3.0-liter vehicles, about $41 million of which will go to California to be spent by California on replacing older, dirtier heavy-duty vehicles and equipment with cleaner vehicles and equipment;

WHEREAS, Volkswagen has also agreed to pay about $153 million in civil penalties to California and perform other injunctive relief; and

WHEREAS, the State of California continues to have authority to take future action to ensure that Volkswagen does not violate the law again in the future, including unfair business practices.

NOW, THEREFORE, BE IT RESOLVED, that the Board directs staff to ensure that the ZEV Investments made under Appendix C include programs that:

Increase access to ZEVs and mobility benefits, and that are likely to provide high-quality jobs or other economic benefits, for disadvantaged, low-income, and moderate-income communities and consumers via investments in electric transportation systems such as zero-emission vehicle car-sharing programs that serve these communities;

Support transportation electrification and expansion of infrastructure to support zero-emission vehicles and to promote brand neutral ZEV awareness generally that will promote competition in markets for EV charging equipment, networks, and services, including markets that serve disadvantaged communities; and

Promote and advance the use of zero-emission vehicles in California by all Californians, including disadvantaged communities.

BE IT FURTHER RESOLVED, that the Board directs staff to strive to ensure that:

All ZEV Investment activities approved by ARB are complementary and additional to investments by government and the private sector in California;

All ZEV Investment activities approved by ARB add to and increase overall market support to accelerate ZEV deployment in markets for ZEVs and ZEV infrastructure;

All ZEV Investment activities approved by ARB do not unduly interfere with or undermine established and emerging businesses, and that each promotes innovation, competition and customer choice in ZEVs, including but not limited to charging equipment, networks, services, and business models;

Participate in a planning partnership with Electrify America in coordination with relevant state agencies (e.g., CEC, CPUC) throughout the implementation of the plan to assist with identifying project site opportunities consistent with CARB's guiding principles with participation by CARB's Assistant Executive Officer for Environmental Justice;

Any expenditures made on ZEV Investment activities which are not approved by ARB are not credited toward Volkswagen's $800 million obligation; and

If Volkswagen wholly fails to propose in its draft ZEV Investment Plans and implement any ZEV activities which promote and advance the use of ZEV technology by all Californians, including disadvantaged communities, ARB shall take appropriate action available to ARB under the consent decree.

I hereby certify that the above is a true and correct copy of Resolution 17-11 as adopted by the Air Resources Board.

Rana McReynolds

Rana McReynolds, Clerk of the Board