

June 16, 2020

Third Annual Report

By the Independent Compliance Auditor
for the VW Defendants

Larry D. Thompson, LLC

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Appendix – Table of Consent Decree Obligations

Independent Compliance Auditor for the VW Defendants

Third Annual Report

A. INTRODUCTION

Larry D. Thompson, LLC submits this report pursuant to (1) the Third Partial Consent Decree between the United States and six Volkswagen entities, entered on April 13, 2017 and modified on June 1, 2018 (“U.S. Consent Decree” or “U.S. CD”) and (2) the Third California Partial Consent Decree between the State of California and the same Volkswagen entities, entered on July 21, 2017 and modified on August 30, 2018 (“California Consent Decree” or “Cal. CD”). Together, the U.S. Consent Decree and the California Consent Decree are referred to as the “Consent Decrees.” The Consent Decrees were entered by the United States District Court in San Francisco in the case *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Product Liability Litigation*, No. 3:15-md-02672-CRB (N.D. Cal.).

This is the third and final annual report (“Third Annual Report”) by Mr. Thompson as part of his three-year assignment as Independent Compliance Auditor (together with the professionals assisting him, “ICA”) under the Consent Decrees.

B. THE VW DEFENDANTS’ COMPLIANCE WITH THE CONSENT DECREES

Based on the work performed by the ICA, and subject to the audit scope, approach, and other limitations described below in Section F, Volkswagen AG, AUDI AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (the “VW Defendants”) have complied with their obligations in Section V of the Consent Decrees, except for the two violations from 2017 described in the ICA’s First Annual Report and Section G below. Those two violations, for which corrective actions were taken, involved a failure to include required questions in an employee survey managers’ guide and a lack of written notice to CARB before commencing PEMS testing. In addition, several of the VW Defendants’ obligations in Section V of the Consent Decrees follow the submission of this report and the end of the ICA’s term – including the public posting of this report, a final annual meeting with DOJ and the California authorities, and the remainder of the implementation timeframe identified in paragraph 26 of the U.S. Consent Decree and paragraph 25 of the California Consent Decree – and are therefore not subject to ICA review.

C. THE ICA’S FIRST AND SECOND ANNUAL REPORTS

The ICA’s First Annual Report was submitted on August 17, 2018. It covered the one-year period of April 14, 2017 through April 13, 2018, and contained seven Recommended Actions to Achieve Compliance with the Consent Decrees. As required by the Consent Decrees, the VW Defendants publicly published it in English and German. The English version can be found online at <https://www.vwcourtsettlement.com/wp-content/uploads/2018/08/ICAR-Aug2018-English.pdf>.

The ICA’s Second Annual Report was submitted on August 16, 2019. It was also publicly published in English and German; the English version can be found online at <https://www.vwcourtsettlement.com/wp-content/uploads/2019/09/Independent-Compliance-Auditor-Report-August-2019-English.pdf>. The Second Annual Report covered the one-year period of April 14, 2018 through April 13, 2019.

The Second Annual Report set forth five additional Recommended Actions. Two of the five were designed to follow-up on Recommended Actions from the First Annual Report. As with the Recommended Actions from the First Annual Report, the Recommended Actions from the Second Annual Report did not indicate violations of the Consent Decrees, and were not intended to be final assessments of compliance by the ICA; rather, they were intended to promote prospective compliance by the VW Defendants. Section I of this report summarizes the VW Defendants’ responses to the five Recommended Actions from the Second Annual Report and provides the ICA’s evaluation of those responses.

D. THE U.S. AND CALIFORNIA CONSENT DECREES

Background information concerning the Consent Decrees can be found in the First Annual Report, which, along with the Second Annual Report, is incorporated by reference here. The specific obligations imposed on the four VW Defendants by the Consent Decrees are described in full in the First Annual Report, and the relevant provisions of the Consent Decrees are included here in Appendix A.

The U.S. Consent Decree emphasized requirements related to U.S. environmental laws, while the California Consent Decree emphasized requirements related to California’s environmental laws. In this report, unless otherwise stated, references to “U.S.” laws, regulations, and requirements include California laws, regulations, and requirements.

E. THE MONITOR’S MANDATE AND REPORTING UNDER THE PLEA AGREEMENT

In addition to serving as the ICA, Larry D. Thompson, LLC serves as the Independent Compliance Monitor (“Monitor”) under the plea agreement (“Plea Agreement”) in the criminal case *United States v. Volkswagen AG*, No. 16-CR-20394-SFC (E.D. Mich.). The U.S. Consent Decree expressly provided for this dual role for the ICA. As described in the First Annual Report, there are significant differences between the role of the ICA and Monitor, and between the related reporting obligations.

F. AUDIT PLANNING AND METHODOLOGY

1. Audit Plan

The U.S. Consent Decree required that the ICA submit an audit plan to the U.S. Department of Justice (“DOJ”) describing the activities planned by the ICA for each of the three one-year time periods covered. Pursuant to the U.S. Consent Decree, the ICA’s

audit plan for the period covered by this report included “a checklist of relevant compliance requirements, procedures for the exchange of any documents and information that the Independent Compliance Auditor needs to perform its duties, and any other terms that the Independent Compliance Auditor may deem necessary to effectuate its duties.”

2. Audit Scope

As described in the First Annual Report, the ICA was tasked with evaluating the efforts of the four VW Defendants to comply with their injunctive relief obligations in the Consent Decrees. The ICA’s duties, and this Third Annual Report, relate only to the four VW Defendants. The ICA was not assigned oversight of the two additional parties to the Consent Decrees – Dr. Ing. h.c. F. Porsche AG and Porsche Cars North America.

The VW Defendants have different areas of responsibility. Volkswagen AG (“VW AG”) includes parent-company functions, referred to as “Group” functions, and functions for VW Passenger Cars, one of the Volkswagen “brands.” AUDI AG (“AUDI”) is a separate brand, and performs parent-company functions as well. Volkswagen Group of America, Inc. (“VW GOA”) houses the U.S. operations of VW AG, including the VW GOA subsidiary Volkswagen Group of America Chattanooga Operations, LLC (“GOA Chattanooga”), a manufacturing facility in Chattanooga, Tennessee.

As required by the Consent Decrees, on March 31, 2020, the ICA submitted a draft of this report to DOJ and the VW Defendants.

3. Approach

The ICA conducted oversight of the VW Defendants’ compliance with the Consent Decrees through a wide range of activities. These activities included, but were not limited to: reviewing documents, including meeting minutes, organizational charts, policies, procedures, statistical data, training materials, and work papers; examining industry best-practices and procedures; meeting with key Volkswagen personnel involved in implementing processes related to the VW Defendants’ obligations; observing audits and other activities; observing meetings and operations; independently analyzing and reviewing relevant data; and reviewing U.S. and international environmental laws and regulations. Where applicable, these activities concerned both the VW Defendants and third parties, such as the third-party emissions tester and EMS auditor required by the Consent Decrees. The ICA did not re-perform work conducted by third-parties.

In order to understand and evaluate compliance by the VW Defendants with their Consent Decree obligations, the ICA performed testing procedures, including, but not limited to: meetings with appropriate personnel; inspection of relevant documentation; observation of audit procedures; process walk-throughs; and re-performance of procedures.

In conducting his work, the ICA considered guidance concerning the maintenance of effective internal controls, including the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”) Internal Control Framework. In addition,

throughout the course of the planning and execution of his work, the ICA considered guidance issued by the Public Company Accounting Oversight Board, the American Institute of Certified Public Accountants, and the International Auditing and Assurance Standards Board.

4. Limitations

As noted above, the Consent Decrees established a three-year auditing term ending on June 16, 2020, and annual reporting during that term. The results of the ICA’s audit are reflected in the three annual reports, considered together.

Information required to complete this review was primarily obtained from the VW Defendants and, in certain circumstances, third parties. The ICA supplemented the review of that information with independent observation of the VW Defendants’ activities, consideration of industry best-practices, and the exercise of professional judgment.

In addition, certain provisions of the Consent Decrees were subject to interpretation, since definitions were not provided for all terms within the documents. In instances where the VW Defendants provided an interpretation of a term, the ICA reports that interpretation, along with any representations by the VW Defendants concerning the completion of the respective obligation.

G. THE VW DEFENDANTS’ REPORTING OF VIOLATIONS

The ICA’s First Annual Report described two violations of the Consent Decrees’ injunctive relief provisions by the VW Defendants, both of which had been reported by the VW Defendants to the relevant governmental authorities. During the period covered by the Second Annual Report, the VW Defendants did not identify or report any new violations. During the period covered by this report, the VW Defendants again did not identify or report any new violations.

1. Violations Described in the ICA’s First Annual Report

a) StiBa Managers’ Guide at VW GOA

The ICA reported that VW GOA had failed to include certain questions in its managers’ guide for the 2017 employee survey called the “*StiBa*,” short for *Stimmungsbarometer* or “mood barometer” (“*StiBa* Managers’ Guide”). The addition of this information, intended to assist with gauging compliance with U.S. environmental laws and regulations, was a requirement of the Consent Decrees.

The ICA’s Second Annual Report indicated that VW GOA’s *StiBa* Managers’ Guide for the 2018 employee survey included the required information. Likewise, for the 2019 *StiBa*, which took place during the period covered by this report, VW GOA’s *StiBa* Managers’ Guide included the required information.

b) Notice to CARB of Commencement of PEMS Testing

In the First Annual Report, the ICA reported that the VW Defendants had failed to provide written notice to the California Air Resources Board (“CARB”) 10 days before commencing Model Year 2017 Portable Emissions Measurement System (“PEMS”) testing, a requirement of the California Consent Decree. The VW Defendants provided CARB with timely written notice concerning Model Year 2018 and 2019 PEMS testing.

2. VW Defendants’ Semi-Annual Reports of Violations

As required by the Consent Decrees, during the period covered by this report the VW Defendants submitted two sets of semi-annual reports of violations. On July 31, 2019, the VW Defendants submitted their Fifth Semi-Annual Report of Violations under the U.S. Consent Decree, and Fourth Semi-Annual Report of Violations under the California Consent Decree, covering a reporting period of January 1, 2019 through June 30, 2019. On January 29, 2020, the VW Defendants submitted their Sixth Semi-Annual Report of Violations under the U.S. Consent Decree, and Fifth Semi-Annual Report of Violations under the California Consent Decree, covering a reporting period of July 1, 2019 through December 31, 2019. All of the reports stated that the VW Defendants had not identified any new Consent Decree violations.

H. GENERAL OBLIGATIONS UNDER THE CONSENT DECREES

1. VW Defendants’ Cooperation with the ICA (U.S. CD ¶ 28(b); Cal. CD ¶ 28(a))

The ICA deems the VW Defendants’ overall approach during the final one-year period covered by this report to have been cooperative.

2. Environmental Compliance Officer (U.S. CD ¶ 28(b))

The U.S. Consent Decree required that the VW Defendants “designate an Environmental Compliance Officer to liaise directly with the [ICA] regarding issues of information and access rights.” Dr. Thomas Meiers continued to hold this role during the period covered by this report.

3. Annual Report by VW Defendants (U.S. CD ¶ 19; Cal. CD ¶ 18)

As required by the Consent Decrees, the VW Defendants submitted their third annual report to DOJ and the California authorities (“Annual Report by VW Defendants”) on May 18, 2020.

The requirements for each Annual Report by VW Defendants are found in paragraphs 19, 21, 22, and 23 of the U.S. Consent Decree (18, 20, 21, and 22 of the California Consent Decree). According to paragraph 19 of the U.S. Consent Decree (“Paragraph 19”), in the second and third Annual Report by VW Defendants, the VW Defendants were required to provide information on two substantial aspects of their Consent Decree activities. First, the VW Defendants had to provide a description of the

measures they have taken to promote compliance with numerous specific obligations in the Consent Decrees, an assessment of the effectiveness of those measures in promoting compliance with U.S. environmental law, and the identification of any related corrective actions.

Second, the VW Defendants had to address in their reports: (1) all risks recorded as part of their annual Governance, Risk, and Compliance (“GRC”) process relating to compliance with U.S. and California environmental laws and regulations, or risks of rule violations in the product development process; (2) the countermeasures taken in response to those risks; and (3) management controls implemented relating to those risks.

The ICA’s review of the third Annual Report by VW Defendants concerning these two types of information is discussed below in Section O of this report.

I. RECOMMENDED ACTIONS FROM THE ICA’S SECOND ANNUAL REPORT

As noted above, in the Second Annual Report the ICA issued five Recommended Actions. The report emphasized that the Recommended Actions did not indicate violations of the Consent Decrees and were not intended as final assessments of compliance; rather, they were intended by the ICA to promote prospective compliance. The ICA has evaluated the VW Defendants’ efforts in response to the Recommended Actions contained in the Second Annual Report, as follows:

1. Recommended Action 2.1: Analysis of Golden Rules Implementation

In the draft of the ICA’s Second Annual Report dated May 17, 2019, the ICA noted that not all of the VW Defendants had completed updates to their November 2018 response to Recommended Action 2. As such, the draft included a Recommended Action that those entities deliver their updates no later than June 30, 2019. The ICA received the updates by that date, and will include an evaluation of the updates in the ICA’s Third Annual Report.

In the First Annual Report, the ICA issued Recommended Action 2, which required the VW Defendants to provide a “comprehensive written analysis of the implementation of the Golden Rules” – including each applicable minimum requirement – for relevant business units. In November 2018, the VW Defendants provided their initial response to this Recommended Action, with the deficiencies discussed in the ICA’s Second Annual Report. To address these deficiencies, the VW Defendants provided an updated response for VW Passenger Cars in March 2019, but did not provide updated responses for Group, AUDI, or VW GOA prior to the ICA’s submission of the draft Second Annual Report.

In the draft Second Annual Report, therefore, the ICA included Recommended Action 2.1 to ensure the VW Defendants provided updated and corrected responses for Group, AUDI, and VW GOA. The ICA received those updated responses on June 28, 2019.

a) Description of VW Defendants' Response

The updated responses clearly documented each entity's efforts to implement the Golden Rules. The updated response for Group stated that, in addition to its supervisory roles, Group was responsible for E.U. regulatory requirements, such as Conformity of Production (the subject of Golden Rule 10), as well as the function and operation of the Product Safety Committees (the subject of Golden Rules 11 through 13). With respect to AUDI, the updated responses described efforts to implement the Golden Rules across the applicable business units. Because of the nature of VW GOA's role in the product development process, the VW Defendants stated that VW GOA was only responsible for implementing two Golden Rule 9 minimum requirements governing vehicle emissions testing, both of which are IT tool requirements.

b) ICA Evaluation of Response

The VW Defendants' updated responses for Group, AUDI, and VW GOA, received by the ICA on June 28, 2019, addressed the deficiencies in the initial response. The updated responses were reviewed by the ICA as part of the ICA's evaluation of the VW Defendants' obligations related to implementation of the Golden Rules, which is discussed below in Section J.5.

2. Recommended Action 5.1: Process for Identification of Relevant Whistleblower Alerts

In connection with their third and final annual report, the VW Defendants should ensure that the recent actions they have undertaken to improve effectiveness in this area (as reported in their second Annual Report by VW Defendants) are sufficient, together with the process already in place, to identify and report all Whistleblower alerts relating to violations of U.S. and California environmental laws and regulations.

a) Description of VW Defendants' Response

In response to this Recommended Action, the VW Defendants continued the processes put in place following Recommended Action 5 from the First Annual Report, as well as implementing additional checks, such as supplemental quality reviews by management personnel, to ensure the processes were sufficient to identify and report all alerts relating to potential violations of U.S. environmental laws and regulations.

The updated processes are more fully described in Section K below.

b) ICA Evaluation of Response

The ICA met with VW Defendant personnel who had Whistleblower system responsibilities, inspected relevant documentation, and reviewed numerous Whistleblower alert descriptions in connection with the measures implemented in response to Recommended Action 5.1. The ICA additionally discussed a sample of Whistleblower alerts with Investigation Office personnel to ensure that alerts related to

U.S. environmental laws and regulations were provided to external counsel for possible inclusion in the third Annual Report by VW Defendants.

Prior to the filing of the third Annual Report by VW Defendants, and in response to an inquiry by the ICA, VW AG discovered that it had not reported four Whistleblower alerts in its second annual report that should have been reported there. Further, VW AG had not included the four alerts in a draft of the VW Defendants' third annual report provided to the ICA.

VW AG told the ICA that the mistake had occurred because the alerts had not been timely registered in VW AG's case management system. As a result, the alerts had not only not been included in the second annual report, but also, because the date the alerts had been first received was within the period covered by the second annual report, the alerts had not been included in the preparations for the third annual report either.

Following this discovery, the Central Investigation Office conducted an additional review to ensure that no other alerts related to U.S. environmental laws and regulations went unreported due to untimely registration. The VW Defendants revised their draft third annual report to include the four Whistleblower alerts, but did not make any changes related to their second annual report. In their final third annual report, the VW Defendants also disclosed the details of what had happened with the four alerts.

3. Recommended Action 8: Procedures to Facilitate ICA's Review of Annual Report by VW Defendants

The Annual Report by VW Defendants and the draft of this report are due on the same day, which increases the difficulty faced by the ICA in effectively commenting on the contents of VW Defendants' report. To facilitate the ICA's review of the Annual Report by VW Defendants prior to its submission to DOJ and the California authorities, the VW Defendants should implement procedures for periodically providing data and analysis of that data, including draft report content, compiled on a rolling basis, to the ICA during the period covered by the third and final Annual Report by VW Defendants. For example, regular reporting of data and analysis of Whistleblower system case-tracking of relevant alerts would aid the ICA's review. This is true of all areas in which reporting is required. These procedures should include determining and providing report content, data, and analysis on a regular basis, as prepared by the VW Defendants and requested by the ICA, rather than waiting until the period of time covered by the VW Defendants' report has ended.

After the ICA issued the draft Second Annual Report, the VW Defendants indicated that they intend to provide the ICA with regular updates reflecting available information, on at least three occasions: September 30, 2019, December 20, 2019, and February 14, 2020. The ICA will continue to track the VW Defendants' response to this Recommended Action, and will evaluate the VW Defendants' complete plan for the response when it is provided.

a) Description of VW Defendants' Response

On September 30, 2019, December 20, 2019, and February 14, 2020, the VW Defendants provided the ICA with submissions containing information relevant to the third Annual Report by VW Defendants. This information consisted mainly of updates regarding the various measures the VW Defendants had taken to comply with the Consent Decrees. In response to specific requests by the ICA, the VW Defendants also produced Whistleblower case information relevant to the third Annual Report by VW Defendants, and RICORS data that had been the basis for the statistics Group Risk Management included in the February 14 submission.

b) ICA Evaluation of Response

The VW Defendants' submissions in response to Recommended Action 8 contained extensive descriptions and updates regarding the companies' efforts to comply with their Consent Decree obligations. This information was linked to the VW Defendants' annual reporting – the subject of this Recommended Action – in the sense that it was reportable under Paragraph 19 as “measures . . . implemented to promote compliance” with the VW Defendants' injunctive relief obligations.

However, the more significant and positive aspect of the VW Defendants' Recommended Action 8 submissions to the ICA was the way in which the submissions process shed light on problems that could have impacted the quality and accuracy of the third Annual Report by VW Defendants, and done so in areas where the VW Defendants had previously encountered problems. For example, in the December 20, 2019 submission to the ICA, a description of the VW Defendants' approach to assessing effectiveness for purposes of Paragraph 19 led to ICA feedback that altered the VW Defendants' approach.

4. Recommended Action 9: Assessment of Effectiveness of Implemented Measures in Promoting Compliance with U.S. Environmental Law

In connection with their third and final annual report, the VW Defendants should develop a uniform approach to the assessments of effectiveness required by U.S. Consent Decree Paragraph 19. The approach should be consistent with the Paragraph 19 requirement, and should consider specific available evidence (such as the results of the VW Defendants' Governance, Risk, and Compliance (“GRC”) processes and results of any audits relevant to the assessment) related to the numerous measures taken by the VW Defendants to comply with their Consent Decree injunctive relief obligations.

After the ICA issued the draft Second Annual Report, the VW Defendants indicated that they are developing a process to address this concern, and intend to provide the ICA with regular updates reflecting available information, on at least three occasions: September 30, 2019, December 20, 2019, and February 14, 2020. The ICA will continue to track the VW Defendants' response to this Recommended Action,

and will evaluate the VW Defendants' complete plan for the response when it is provided.

a) Description of VW Defendants' Response

Group Risk Management (“GRM”) developed a uniform approach for the business units’ assessments of effectiveness conducted for purposes of Paragraph 19. The VW Defendants identified four information sources for conducting the assessments, as available: (1) relevant core task activities; (2) internal audit results related to the activities; (3) other relevant testing; and (4) follow-up measures and other assessments related to the core task activities, such as external audits.

The business units first defined what hypothetical “target evidence” would lead to a finding of effectiveness, and then determined whether there was actual evidence that satisfied this target evidence. The business units also considered relevant independent testing results.

After comparing the actual evidence to the target evidence, the business units identified any deviations, and whether the deviations had any impact on promoting compliance with U.S. environmental laws. The business units also determined which planned activities or corrective actions from independent assessments applied. The business units then made an overall assessment of effectiveness resulting in an “effective,” “mostly effective,” “limited effective;” or “not effective” rating.

After some of the business units performed what GRM considered to be unsatisfactory preliminary effectiveness assessments in November 2019, GRM conducted workshops to further explain the evidence needed to support the assessments. After the ICA provided feedback, GRM developed additional guidance for the business units, to include a definition of “effectiveness,” examples of sufficient evidence to determine effectiveness, and a method to identify and assess deviations and determine corrective actions. GRM also conducted a more robust quality control review of the business units’ effectiveness assessments than originally planned, based on the ICA’s feedback.

In May 2020, when the ICA learned that VW AG had not included four Whistleblower alerts in its second annual report or its draft third annual report, the ICA suggested that the Central Investigation Office review its effectiveness assessment, which had not accounted for the unreported alerts. As a result of its review, the CIO changed the rating for one measure to “not effective,” but the overall result for VW AG’s process for flagging cases for the VW Defendants’ annual report remained “mostly effective.” GRM conducted a quality control review of the CIO’s revised effectiveness assessment.

b) ICA Evaluation of Response

The ICA met with GRM on several occasions to understand and provide feedback on the uniform approach for the business units’ assessments of effectiveness and the results of the assessments. With the above processes put in place to perform the effectiveness assessments, as well as the quality control review by GRM, the VW

Defendants addressed and resolved the inconsistencies in approach that Recommended Action 9 was intended to remedy.

5. Recommended Action 10: Process for Reporting Certain Recorded Risks

In connection with the third and final Annual Report by VW Defendants, and specifically the process for reporting certain recorded risks in that report as required by U.S. Consent Decree Paragraph 19, Group Risk Management should (1) perform its own analysis of the scope of entities considered relevant for Consent Decree reporting requirements; and (2) ensure the accuracy of the reporting of countermeasures taken.

a) Description of VW Defendants' Response

During the period covered by this report, GRM implemented five steps to meet the Paragraph 19 requirement for reporting certain risks: (1) identify Volkswagen entities with relevant U.S. business; (2) determine which risk focus areas in RICORS relate to the two categories of risks identified in Paragraph 19 and perform key word searches; (3) determine which risks in the risk focus areas and search term results in fact fall into the two categories of relevant risks; (4) identify the countermeasures and management controls taken and implemented in response to those risks; and (5) analyze and report the results.

This Recommended Action relates to GRM's first and fourth steps. The remaining steps are described below in Section O.

(1) Entity Scoping

As recommended by the ICA, GRM conducted its own entity scoping analysis for reporting risks under Paragraph 19. Beginning with the 103 entities that participated in the 2019 annual GRC process, GRM first excluded the Porsche brand due to its separate Consent Decree reporting obligations, and the financial services companies, which do not deal with compliance with U.S. environmental laws or risks of product development process rule violations.

GRM circulated a survey to 68 entities (the four VW Defendants were known to be in scope and therefore not surveyed) to determine which ones had direct or indirect U.S. business in 2019. GRM defined "direct" U.S. business as selling vehicles or parts in the U.S., while "indirect" U.S. business involved selling parts to other Volkswagen entities that in turn sell vehicles or parts in the U.S.

Based on the survey responses and follow-up e-mail correspondence, 22 entities acknowledged either direct or indirect U.S. business in 2019. GRM's final entity scoping list including the four VW Defendants contained 25 entities; GRM ultimately did not include SKODA AUTO a.s. because it had delivered only one part to VW GOA for testing, and that part was later scrapped. Compared to the entity scoping for Paragraph 19

risk-reporting in the second Annual Report by VW Defendants, 12 additional entities were identified. GRM described the additional entities as entities with new business connected to the United States, or smaller businesses or entities that may deliver parts (such as engines) to other Volkswagen companies or third parties.

(2) Ensure the Accuracy of the Reporting of Countermeasures Taken by the VW Defendants

As explained below in Section O, GRM determined that there were 224 risks that fell within the two categories identified in Paragraph 19. (An additional 86 risks related to the Golden Rules are discussed separately in Section J.5 below.) In RICORS, 403 countermeasures corresponding to these 224 risks were identified. To determine which countermeasures were reportable, GRM relied on the 2019 annual GRC Confirmation of Effectiveness testing. The entity identifying the risk was responsible for assessing the related countermeasures' effectiveness by determining whether there were any weaknesses in design or operating effectiveness.

According to GRM, any identified weaknesses that concerned an inadequate implementation of the countermeasure would affect whether or not the tested countermeasure was reportable under Paragraph 19. GRM reviewed the results of the identified weaknesses, along with the local Risk Management functions, to determine the effect of the weakness on whether the countermeasure would be reported. It determined one countermeasure should not be reported due to design issues. Consequently, the VW Defendants initially determined that 402 countermeasures for the identified risks were reportable.

However, the ICA learned that not all of these countermeasures had been tested for effectiveness during the 2019 annual GRC process. Based on GRC methodology, 138 of the relevant countermeasures had not been tested. Therefore, GRM performed a high-level review of the information for these countermeasures in RICORS, considering, for example, whether the countermeasures had been described in RICORS only as "planned" and therefore could not be deemed implemented.

Of the 402 reportable countermeasures by the 25 in-scope entities, a total of 174 had been recorded by the four VW Defendants. Ninety had been recorded by VW AG (corresponding to 49 risks), 38 by AUDI (corresponding to 19 risks), 33 by VW GOA (corresponding to 18 risks), and 13 by GOA Chattanooga (corresponding to 10 risks).

b) ICA Evaluation of Response

Recommended Action 10 was intended to address deficiencies in the process used by the VW Defendants to report recorded risks in their annual report. The ICA met with GRM on several occasions and reviewed documents in order to understand the improvements made to the processes for entity scoping and reporting countermeasures, and the results of the revised processes. The processes followed for the third Annual Report by VW Defendants included changes that addressed and resolved the deficiencies previously identified.

J. INJUNCTIVE RELIEF RELATED TO THE PRODUCT DEVELOPMENT PROCESS

The injunctive relief imposed on the VW Defendants by the Consent Decrees included a number of changes to the companies’ “Product Development Process,” which the Consent Decrees defined as the process to “manage the development of motor vehicles, including research and development, quality assurance, and compliance with U.S. environmental laws for vehicles marketed and sold . . . in the United States.”

1. Segregation of Duties Between Product Development and Certification Testing (U.S. CD ¶ 13; Cal. CD ¶ 12)

a) Activities by the VW Defendants

During the period covered by this report, the VW Defendants continued to maintain their Certification Group. The Certification Group remained organizationally separate from product development, namely the Powertrain and Whole Vehicle Development departments, and was responsible for ensuring that the VW Defendants’ vehicle certification and in-use performance testing complied with EPA and CARB regulations.

The VW Defendants continued to increase staffing in the Technical Conformity (ET) business units within the Certification Group. During the period covered by this report, these business units continued to have primary responsibility for vehicle emission certification testing and monitoring. At VW AG, Technical Conformity staffing increased from 101 employees in May 2017 to 301 employees as of January 2020. Of these 301 employees, 135 worked at least part time on certification issues specific to the North American Region (“NAR”). AUDI Technical Conformity employees numbered 328, up from 67 employees in June 2017. VW GOA’s Engineering and Environmental Office (“EEO”) increased to 62 authorized positions. Eleven of these positions were unfilled but are expected to be filled by the fourth quarter of 2020. All 10 EEO management positions have been filled.

The VW Defendants also continued to formalize and standardize vehicle certification –related processes by publishing process standards and work instructions. VW Passenger Cars has published 11 process standards and five work instructions related to the NAR market. On January 31, 2020, the revised NAR powertrain development process standard was made effective, and a new on-board diagnostics certification process standard was approved. These new process standards included multi-eye reviews and a requirement of management approval for all essential certification documents.

Similarly, AUDI’s Technical Conformity Department has published 17 new process standards (15 of which relate to the NAR market) and 70 work instructions (13 of which relate to the NAR market). An updated version of AUDI’s NAR powertrain certification process standard was released on March 20, 2020. Also, EEO updated 11 and released 21 new process standards and work instructions, which included standards related to regulatory compliance reporting and defect reporting.

During the period covered by this report, EEO continued to expand its role in U.S. vehicle certification testing at its Test Center California (“TCC”). EEO tested six model year 2020 vehicles at TCC as part of a pilot program. EEO also continued its effort to increase the automation of the creation, storage, and transmission to regulators of vehicle certification data. In September 2019, EEO hired a software engineer to support this effort.

b) ICA Audit Activities and Evaluation of VW Defendants’ Activities

The ICA undertook numerous activities as part of his assessment. For example, the ICA obtained and reviewed updated organizational charts and budgets for the Development and Technical Conformity departments involved in vehicle certification testing and monitoring.

The ICA also conducted on-site meetings and met with relevant personnel at the management and operational levels within the Technical Conformity and Development departments – including Powertrain Development – to confirm the segregation of duties reflected in the organizational charts.

Additionally, the ICA assessed the VW Defendants’ emissions laboratories responsible for generating emission certification data for U.S.-directed vehicles. At these laboratories – in Wolfsburg, Germany; Ingolstadt, Germany; Neckarsulm, Germany; and Oxnard, California – the ICA observed laboratory operations, reviewed procedures, and witnessed vehicle emissions testing.

During the period covered by this report, the ICA confirmed that the VW Defendants conducted or contracted to conduct vehicle emission testing for both production and in-use vehicles at sophisticated testing facilities, and that they developed and followed policies and procedures governing such testing. This confirmation was accomplished by: (1) observing a sample of actual vehicle preparation, vehicle access control, and emissions testing at the above-referenced VW Defendant facilities; (2) reviewing applicable procedures and control measures; (3) evaluating the testing software and hardware; and (4) observing how test data was generated, recorded, stored in a secure and restricted-access document management system, and transferred to departments responsible for compiling vehicle certification documentation for submission to regulatory agencies. The ICA also reviewed test operator training records and data validation processes.

The ICA held numerous meetings with VW Defendant personnel responsible for the execution and monitoring of these processes, and reviewed numerous external audit reports and test site commissioning efforts. In addition, the ICA assessed the VW Defendants’ planning and execution of vehicle testing.

The ICA also verified the roles involved with interpreting regulatory requirements and disseminating those interpretations, and reviewed the VW Defendants’ processes governing the generation and submission of vehicle emissions certification applications.

As described in the ICA’s First Annual Report, the VW Defendants formed and maintained a Certification Group that was organizationally separate from product development by the October 10, 2017 deadline set forth in the Consent Decrees. During the period covered by this report, the VW Defendants continued to ensure that employees involved in vehicle certification testing and monitoring were organizationally separate from product development. They also adopted and implemented policies, procedures, and practices to comply with applicable vehicle certification and emission standards regulatory requirements.

2. Group Steering Committees (U.S. CD ¶ 14; Cal. CD ¶ 13)

a) Activities by the VW Defendants

During the period covered by this report, the three relevant Group Steering Committees or “GSCs” made amendments to their Rules of Procedure. In August 2019, the GSC CO₂ revised its Rules of Procedure to give it authority to make decisions concerning issues up to €25 million per market region and year. The GSC CO₂ made additional amendments, such as describing the tracking process for decisions, which were released as a new version of the Rules of Procedure on January 8, 2020. On March 19, 2020, an additional update included specific requirements for attendance by VW GOA representatives for discussions of U.S.-related topics.

b) ICA Audit Activities and Evaluation of VW Defendants’ Activities

During the period covered by this report, the ICA observed meetings conducted by each relevant GSC, and evaluated, among other things, whether each GSC was operating in accordance with its respective Rules of Procedure. The ICA’s efforts focused on the GSCs’ handling of U.S.-related compliance issues.

The ICA’s activities included evaluating the GSCs’ generation, verification, and documentation of fleet-wide compliance targets, changes to GSC membership, and the role of the GSCs in regulatory interpretation. The ICA also confirmed that amendments to the Rules of Procedure were properly made.

As described in the First Annual Report, the VW Defendants established GSCs to monitor and comply with U.S. laws regarding vehicle certification and emissions, and established Rules of Procedure for the GSCs, before the July 12, 2017 deadline set forth in the Consent Decrees. The VW Defendants continued to maintain the GSCs and operate them in accordance with their Rules of Procedure during the period covered by this report.

3. Portable Emissions Measurement System Testing (U.S. CD ¶ 15; Cal. CD ¶ 14)

a) Activities by the VW Defendants

(1) Model Year 2019 Testing

As with PEMS testing for model years 2017 and 2018, the VW Defendants used the University of California, Riverside (“UC-R”) as its third-party emissions tester to conduct Consent Decree PEMS testing for model year 2019.

EPA approved the VW Defendants’ model year 2019 PEMS test plan on July 12, 2019. EPA also granted the VW Defendants an extension until December 31, 2019 to complete testing. Testing commenced on July 18, 2019 and concluded on December 6, 2019.

In addition to extending the deadline for testing, EPA extended the VW Defendants’ reporting deadlines. The deadline for the final PEMS summary report to EPA and CARB (“PEMS Summary Report”) for model year 2019 was January 15, 2020, and a public version was required to be posted in both English and German to the public website www.vwcourtsettlement.com by February 5, 2020. It was submitted on January 14, 2020, and posted on the website on February 4, 2020.

(2) Correction to Model Year 2018 Summary Report

The PEMS Summary Report for model year 2018, dated November 27, 2018, erroneously identified the maximum speed during testing of the 2019 Audi A7 3.0L vehicle. On October 9, 2019, the VW Defendants published a revised report acknowledging this error. UC-R determined that the error had no impact on any reported emissions values. On October 10, 2019, the revised report was submitted to EPA and CARB, and EPA granted the VW Defendants permission to publish the revised report on the [vwcourtsettlement.com](http://www.vwcourtsettlement.com) website with a cover page explaining the corrected maximum speed. The revised report was posted to the website on October 20, 2019.

b) ICA Audit Activities and Evaluation of VW Defendants’ Activities

During the period covered by this report, the documents obtained and reviewed by the ICA included: (1) the supplemental PEMS test plan submitted to EPA; (2) the notice to CARB concerning commencement of model year 2019 PEMS testing; (3) the original model year 2019 PEMS Summary Report; and (4) the revised model year 2018 PEMS Summary Report.

Additionally, the ICA observed portions of the PEMS vehicle preparation and testing for one model year 2019 test group at UC-R. The ICA also reviewed UC-R’s data analysis methodologies and processes for ensuring accuracy and completeness.

The VW Defendants conducted model year 2019 PEMS testing in accordance with the requirements of paragraph 15 of the U.S. Consent Decree and paragraph 14 of the California Consent Decree. As mentioned in Section G.1 above, pursuant to the California Consent Decree, the VW Defendants provided timely written notice to CARB before PEMS testing commenced.

4. Definition of Managers' Responsibilities (U.S. CD ¶ 17; Cal. CD ¶ 16)

a) Activities by the VW Defendants

The Consent Decrees required the VW Defendants to define “tasks, authorities, and responsibilities” (“TARs”) for “managers involved in the Product Development Process with respect to compliance with U.S. environmental laws and regulations.” As discussed in the First and Second Annual Reports, the VW Defendants have defined TARs for relevant managers, and periodically reviewed and revised the TARs to reflect restructuring or changes in responsibilities for managers.

During the period covered by this report, the VW Defendants continued to periodically revise the TARs, and provided the ICA with the most recent revisions to the TARs in February 2020. During 2019, the VW Defendants also conducted a series of TARs-related internal audits. Internal Audit identified a total of 536 manager positions from both Group and VW Passenger Cars, and used a sample size of 58 TARs. Internal Audit found that the Consent Decree –related TARs were properly established and contained “contents to comply with environmental legal requirements in the United States.”

At AUDI, Internal Audit found that the Consent Decree –related TARs were established and defined, but that it was unclear who had responsibility for ensuring the TARs were continuously updated. At VW GOA, Internal Audit found that the Consent Decree –related TARs were established and properly updated. Internal Audit also found that “ownership” of GOA Chattanooga –related TARs needed to be clarified, and that was completed during the period covered by this report.

In June 2019, the VW Defendants issued a new internal regulation requiring TARs be reviewed at least once per year to ensure compliance with the Consent Decrees. Group Organizational Development (K-GO) was made responsible for ensuring that TARs met all of the Consent Decrees’ requirements.

b) ICA Audit Activities and Evaluation of VW Defendants' Activities

During the period covered by this report, the ICA reviewed the VW Defendants’ revisions to the TARs. The ICA also reviewed the June 11, 2019 AUDI TARs-related Internal Audit report and the September 3, 2019 VW AG TARs-related Internal Audit report. The ICA met on numerous occasions with relevant business units to assess whether the managers with compliance-related TARs understood their responsibilities.

During those meetings, the ICA reviewed relevant documentation and discussed specific details.

As described in the ICA’s First Annual Report, the VW Defendants defined the TARs of the managers involved in the Product Development Process with respect to compliance with U.S. environmental laws and regulations by the August 11, 2017 deadline set forth in the Consent Decrees. The revised TARs and TARs-related internal audits demonstrated that there has been continued progress by the VW Defendants in further defining and revising the TARs during the period covered by this report.

5. Obligations Regarding the “Golden Rules”

a) Activities by the VW Defendants

(1) Implementation of the Golden Rules (U.S. CD ¶ 16; Cal. CD ¶ 15)

The VW Defendants continued their efforts to improve and update their Golden Rules –related processes. Although the VW Defendants initially focused on implementing the Golden Rules for Engine Control Units (“ECUs”), during the period covered by this report the VW Defendants continued to expand implementation of the Golden Rules processes across the entire Product Development Process, including for Transmission Control Units (“TCUs”) and certain Other Control Units (“OCUs”).

The VW Defendants also undertook efforts to institutionalize a “Three Lines-of-Defense” model throughout the Product Development Process. The model is intended to ensure that: (1) the business units are operating effectively (First Line-of-Defense); (2) there is a supervisory and monitoring process to ensure compliant operations by the business units (Second Line-of-Defense); and (3) there are annual risk assessments that lead to internal audits of key processes (Third Line-of-Defense).

The VW Defendants also finalized Group and brand policies for a Product Compliance Management System (“PCMS”). These policies set forth the goals and objectives for the entire Product Development Process. Group finalized its PCMS policy on September 24, 2019; VW Passenger Cars on December 16, 2019; AUDI on November 21, 2019; and VW GOA on December 12, 2019.

(2) Implementation of Golden Rule 5

As discussed in the Second Annual Report, the VW Defendants experienced challenges in implementing Golden Rule 5, which governs the process of identifying and approving non-commissioned software functions received from third-party software suppliers. In responding to Recommended Actions 2 and 2.1, the VW Defendants stated that, until August 2018, they only had a “comprehensive concept” in place, providing a framework for the Golden Rule 5 process. In August 2018, the VW Defendants released the Golden Rule 5 process standard, which included work instructions, Rules of

Procedure, and internal controls. Afterwards, the relevant business units continued to implement and update the process.

To allow the VW Defendants to properly identify and approve non-commissioned software, their software suppliers must use a software change management system incorporating software development “traceability.” The VW Defendants have added software development traceability requirements to new supplier contracts by requiring that suppliers implement automotive industry standards for software best-practices known as “ASPICE.” During the period covered by this report, the VW Defendants continued to modify existing contracts with their ECU and TCU software suppliers to incorporate Golden Rule 5 requirements, including traceability.

Further, the VW Defendants completed Golden Rule 5 audits of all of their significant ECU and TCU software suppliers to evaluate the suppliers’ incorporation of the Golden Rule 5 requirements. The VW Defendants adopted a grading system, where only software suppliers achieving a “B” grade or higher would be eligible for new software contracts. Based on these Golden Rule 5 audits, certain software suppliers were determined to be eligible for new contracts, while others were not. Findings of ineligibility are presented to the relevant Board of Management.

(3) Employee Training (U.S. CD ¶ 16; Cal. CD ¶ 15)

The Golden Rules training programs developed for ECUs and TCUs were extended to OCUs. Department heads determine the extent to which the Golden Rules training is mandatory for staff, and are responsible for ensuring that such mandatory training is completed. At VW AG, the general training on the Golden Rules was not mandatory for all Development (E) employees and Group Research & Development (K-GE) employees. Nonetheless, in 2019, the participation rate for employees in these departments was 94%. At AUDI, online Golden Rules training was mandatory for all management personnel and indirect employees in Development (I/E), and for employees in Quality Assurance (I/GQ) with Golden Rules –related work.

(4) Monitoring Golden Rules Implementation Using the GRC Process (U.S. CD ¶ 16; Cal. CD ¶ 15)

As required by the Consent Decrees, the VW Defendants used the annual GRC process to monitor the implementation of the Golden Rules. The annual GRC process requires the VW Defendants to examine their risk management procedures, identify systemic risks, implement corrective actions, and document these actions accordingly. The annual GRC process includes defining risks, as well as defining countermeasures to address the risks and management controls to ensure the countermeasures are completed.

During 2019, the VW Defendants included additional risks, countermeasures, and management controls considered related to the Golden Rules for a total of 86 risks (up from 65 in 2018), 311 countermeasures (up from 228), and 509 management controls (up from 371). A major reason for these increases was the incorporation of risks,

countermeasures, and management controls for Golden Rule 5 at both VW Passenger Cars and AUDI, and the inclusion of OCU-related risks at AUDI.

As part of the annual GRC process, Confirmation of Effectiveness testing of the management controls used to mitigate compliance risks occurs through self-assessment, peer review, or external third-party assessment. The Second Annual Report detailed the assessments of Golden Rules management controls completed by external auditing firms in 2018. The assessments at VW Passenger Cars and AUDI revealed the ineffective operation of some management controls, for which corrective actions were issued. As a result of meetings with the ICA and conclusions from the external assessments of effectiveness, the VW Defendants revised and updated their management controls. By May 2020, all but two of the corrective actions from the 2018 assessments had been closed. The remaining two actions, one of which involves an IT tool that experienced delays, are expected to be closed by June 30, 2020.

In 2019, Group and VW Passenger Cars used a combination of a self-assessment and an external third-party assessment, with an external auditing firm performing 75% of the overall assessment. AUDI used an external auditing firm for its entire effectiveness assessment. At Group and VW Passenger Cars, 84% of the Golden Rules management controls were deemed effective, as compared to 34% in 2018. At AUDI, 84% of management controls were deemed effective, as compared to 61% in 2018. The fieldwork for the effectiveness assessment at VW GOA was completed in 2019 and results are expected in the second quarter of 2020.

Corrective actions were issued as a result of the assessments. Group Risk Management was responsible for quarterly reporting on the completion of these corrective actions to the Group Board of Management and the Audit Committee of the Group Supervisory Board. For Group and VW Passenger Cars, the deadlines for corrective actions extend through November 14, 2020. For AUDI, the deadlines for corrective actions extend through June 30, 2020.

(5) Definition of TARs for Business Units, Committees, and Boards (U.S. CD ¶ 16; Cal. CD ¶ 15)

As discussed above with respect to paragraph 17 of the U.S. Consent Decree, during the period covered by this report, the VW Defendants continued to revise the TARs as needed, conducted TARs-related internal audits, and issued a new internal regulation requiring TARs to be reviewed annually to ensure compliance with the Consent Decrees.

(6) Internal Audit of Golden Rules Implementation (U.S. CD ¶ 18; Cal. CD ¶ 17)

As described in the First and Second Annual Reports, in 2017 and 2018 Internal Audit conducted 17 Golden Rules audits pursuant to the Consent Decrees. Those audits covered the software development process for ECUs, TCUs, OCUs, as well as the processes for Emissions Type Identification and the Product Safety Committees. From

these audits, 433 “action items” were issued. As of July 2019, all of these action items had been closed.

Starting in June 2018, Internal Audit commenced Golden Rules follow-up audits at VW GOA, VW Passenger Cars, and AUDI. The follow-up audits at AUDI and VW GOA were completed during the period covered by the Second Annual Report. During the period covered by this report, seven of the eight follow-up audits for VW Passenger Cars were published (and the eighth report was published at the end of April 2020).

b) ICA Audit Activities and Evaluation of VW Defendants’ Activities

(1) Golden Rules Implementation

As discussed in the ICA’s Second Annual Report, the VW Defendants produced extensive process documentation evidencing their Golden Rules implementation efforts, including the VW Defendants’ updated Rules of Procedure, process standards, work instructions, and Product Development Process –related TARs. During the period covered by this report, the ICA continued to review this documentation, as well as the VW Defendants’ updated responses to Recommended Action 2.1. The ICA also met with multiple departments to discuss the implementation of the Three Lines-of-Defense model at VW Passenger Cars and AUDI, and met with relevant personnel to discuss updates to Golden Rule 5 processes.

As discussed in the Second Annual Report, the VW Defendants implemented the Golden Rules through binding process documentation (in both approved and draft form) for ECU software development, emissions type identification, and the Product Safety Committees by the October 10, 2017 deadline set forth in the Consent Decrees.

Also discussed in the Second Annual Report was the VW Defendants’ statement that, for Golden Rule 5, they had a “comprehensive concept” in place as of October 10, 2017, with final process documentation for implementation of Golden Rule 5 for ECUs released in August 2018.

The Consent Decrees did not impose deadlines for the “implementation of software and information technology”; as a result, many of the Golden Rules –related IT tools were not required to be implemented by October 10, 2017. However, as described in the First Annual Report, the VW Defendants have made progress in this area. For example, by June 2018, both Golden Rule 9 IT tool requirements had been implemented by VW GOA. The VW Defendants continued to make progress implementing Golden Rules –related software and IT tools during the period covered by this report.

(2) Employee Training

During the period covered by this report, the ICA continued to review the Golden Rules –related training programs. In this regard, the ICA reviewed training materials, participation rate statistics, and documentation on mandatory versus non-mandatory

Golden Rules training. The ICA met with training departments to discuss the training programs, and reviewed new employee training documents.

As described in the First and Second Annual Reports, the VW Defendants established and conducted regular employee training on the Golden Rules processes, as required by the Consent Decrees. During the period covered by this report, this training continued.

(3) Monitoring

In the First and Second Annual Reports, the ICA discussed the VW Defendants' monitoring of Golden Rules process implementation using the annual GRC process, as required by the Consent Decrees. During the period covered by this report, and as described above, monitoring using the annual GRC process occurred again.

(4) TARs

During the period covered by this report, the ICA reviewed revisions to TARs and TARs internal audit reports. In addition, the ICA met with various business units regarding the TARs, including those TARs related to the Golden Rules.

As described in the First Annual Report, the VW Defendants defined the TARs of business units, committees, and boards involved in the Product Development Process, including with respect to Golden Rules –related TARs, before the October 10, 2017 deadline set forth in the Consent Decrees. During the period covered by this report, the VW Defendants continued to periodically revise these TARs.

(5) Internal Audits of Golden Rules Implementation

During the period covered by this report, the ICA reviewed the reports for the follow-up audits described above, and reviewed the action items from those audits, as well as the VW Defendants' progress in completing those action items.

As described in the ICA's First Annual Report, the VW Defendants conducted and completed internal audits to track implementation of Golden Rules processes by the April 13, 2018 deadline set forth in the Consent Decrees. The process of follow-up audits was begun during the period covered by the Second Annual Report. During the period covered by this report, this follow-up process continued, and was finalized with the publication of the last follow-up audit report at the end of April 2020.

K. THE WHISTLEBLOWER SYSTEM (U.S. CD ¶¶ 20 & 21; CAL. CD ¶¶ 19 & 20)

This section of the Third Annual Report describes the VW Defendants' efforts to comply with their Consent Decree obligations regarding a Whistleblower system.

1. Activities by the VW Defendants

a) Implementation and Maintenance of the Group Whistleblower System

Version 3.0 of the Whistleblower system policy modified key departments' roles and responsibilities, and revised the definition of "Serious Regulatory Violation" to ensure that alerts relating to U.S. environmental regulations were properly identified.

The Group Board of Management adopted Version 4.0 of the policy on May 7, 2019, and the new policy took effect on June 1, 2019. AUDI implemented Version 4.0 as of August 1, 2019, and VW GOA and GOA Chattanooga implemented Version 4.0 on July 11, 2019. Version 4.0 further clarified certain departments' roles and responsibilities, and further clarified what types of alerts constituted Serious Regulatory Violations. It also incorporated additional processes for monitoring the overall Whistleblower system.

In the Second Annual Report, the ICA described several process improvements for the Whistleblower system, including the need for more clearly defined roles and responsibilities for the departments responsible for operating the system. At the time of the draft Second Annual Report, the VW Defendants were attempting to remediate process weaknesses related to the overall Whistleblower system that had been identified by Group Internal Audit. Version 4.0 further defined such roles and responsibilities and addressed the identified process weaknesses.

b) Retention of Professionally Educated and Trained Employees

Under the Whistleblower system in effect at the time of this report, the employees responsible for administering the system at VW AG and AUDI sat in the Investigation Offices, within the Compliance function. At VW AG, these employees were primarily qualified lawyers. At AUDI, these individuals were trained as attorneys, auditors, or compliance professionals, or had bachelor's or master's degrees in business administration, accounting, and/or commercial law.

The VW AG and AUDI Investigation Offices continued to expand their resources during the period covered by this report. The VW AG and AUDI Investigation Offices hired additional resources, including personnel tasked with quality assurance and actual casework. VW GOA's Chief Ethics and Compliance Officer, a trained lawyer and experienced compliance professional, continued to be the primary interface for VW GOA in the Volkswagen Whistleblower system. No resources with responsibility for administering the Whistleblower system at VW GOA were added.

c) Designation of Violations of U.S. Environmental Laws as "Serious Regulatory Violations"

During the period covered by this report, the plausibility check, classification, and investigation processes for Whistleblower alerts were substantially similar to the

processes detailed in the ICA’s Second Annual Report. Consistent with prior versions, Version 4.0 of the Whistleblower policy at VW AG, AUDI, and VW GOA provided that “violations of U.S. environmental regulations” will “always represent Serious Regulatory Violation[s].”

d) Annual Reporting of Certain Whistleblower Alerts

The Second Annual Report described the VW Defendants’ process designed to ensure that all Whistleblower alerts relating to potential violations of U.S. environmental laws or regulations were identified, processed, and reported in each Annual Report by VW Defendants. As part of this process, external counsel reviewed the list of cases and provided feedback to the VW Defendants regarding whether alerts were reportable.

During the period covered by this report, the VW Defendants implemented controls regarding the flagging of relevant alerts for inclusion in the Annual Report by VW Defendants. The controls included a review every four months of all alerts by the Central Investigation Office to ensure alerts relating to violations of U.S. environmental laws or regulations had been flagged for review by external counsel. A similar process was conducted at the AUDI Investigation Office, with additional reviews on a monthly basis. AUDI’s process was conducted by an employee in the Quality Assurance function, along with the head of the AUDI Investigation Office.

At VW GOA, at least one attorney in the in-house legal department reviewed all alerts monthly to ensure that potential violations of U.S. environmental laws or regulations had been flagged for further investigation and forwarded to the Central Investigation Office.

The discovery of four unreported VW AG Whistleblower alerts from the previous reporting period is discussed in Section I.2 above.

The Whistleblower case-tracking information in the third Annual Report by VW Defendants included descriptions of 164 Whistleblower alerts processed by VW AG (including 3 that had been originally received by VW GOA) and 115 processed by AUDI.

2. ICA Audit Activities and Evaluation of VW Defendants’ Activities

During the period covered by this report, the ICA continued to conduct testing procedures across all phases of the Whistleblower system, including inquiries of and meetings with VW Defendant personnel who had Whistleblower system responsibilities, inspection of relevant documentation, process walk-throughs, re-performance of procedures, and sample testing of Whistleblower cases.

Regarding the Whistleblower case tracking and reporting obligation, the ICA reviewed the VW Defendants’ process for tracking and reporting cases, including discussing a sample of alerts with Investigation Office personnel, inspection of relevant documentation, process walk-throughs, and re-performance of procedures.

As discussed in the Second Annual Report, the ICA previously identified multiple Whistleblower alerts related to potential violations of U.S. environmental laws and regulations that the VW Defendants had not initially flagged for possible inclusion in the second Annual Report by VW Defendants. As a result, the ICA issued Recommended Action 5.1, which required the VW Defendants to confirm the effectiveness of their reporting in this area. During the period covered by this report, the VW Defendants implemented related, supplementary controls, including additional training of employees concerning U.S. environmental laws and regulations, and the implementation of additional quality review controls.

During the period covered by this report, the VW Defendants continued to implement and maintain the Whistleblower system, including policies and procedures to collect, triage, investigate, and sanction allegations of misconduct. The VW Defendants implemented the updated policy Version 4.0 during this period, which demonstrated continued progress to further improve and enhance the Whistleblower system.

The VW Defendants retained professionally educated and trained employees to administer their Whistleblower system. Furthermore, as required by the Consent Decrees, the VW Defendants continued to designate “violations of U.S. environmental regulations” as Serious Regulatory Violations within the Whistleblower system policy.

The VW Defendants also continued to implement and conduct certain processes and controls designed to ensure that all Whistleblower alerts relating to violations of U.S. environmental laws or regulations were identified, processed, and reported in the third Annual Report by VW Defendants. Due to potential process weaknesses identified during prior report periods, the VW Defendants established additional controls in order to enhance the effectiveness of these processes. Following the discovery of four additional alerts that had not been included in the second Annual Report by VW Defendants due to untimely registration, as discussed above in Section I.2, VW AG conducted an additional review to confirm all relevant alerts were included in the third annual report.

L. ADDITIONS TO THE EMPLOYEE SURVEY (U.S. CD ¶ 22; CAL. CD ¶ 21)

This section of the Third Annual Report describes the VW Defendants’ efforts to comply with their Consent Decree obligations regarding Volkswagen’s annual *Stimmungsbarometer* employee survey or “*StiBa*.”

1. Activities by the VW Defendants

a) Integrity Question

The 2019 *StiBa* was conducted during the period October – November 2019. The VW Defendants did not make any changes to the *StiBa* Integrity Question, which had been developed and first used in conjunction with the 2017 *StiBa*. The Integrity Question solicits the reaction of employees to the statement: “In our OU [Organizational Unit],

everyone can act with integrity.” The accompanying explanatory text in the 2019 *StiBa* remained unchanged as well.

b) *StiBa Managers’ Guides*

The VW Defendants continued to include questions in their *StiBa* guide for managers (“*StiBa Managers’ Guide*”) to gauge compliance with U.S. environmental laws and regulations. The list of questions was reviewed during the period covered by this report by the Head of Sustainability at VW AG, and the question outlining the relevant environmental requirements for U.S. projects was updated to include more specific sources of guidance, depending on the type of project.

From September through December 2019, the VW Defendants distributed the *StiBa Managers’ Guides* through multiple channels, including Manager and *StiBa* Coordinator newsletters as well as e-mail correspondence from Human Resources personnel at VW GOA and GOA Chattanooga. The information was distributed to the relevant VW GOA managers by e-mail on October 4, 2019.

c) *Monitoring and Addressing StiBa Responses Relating to the Integrity Campaign*

The VW Defendants’ approach for monitoring and addressing *StiBa* responses relating to the Integrity campaign during the period covered by this report maintained and expanded on both the centralized and decentralized activities established in the prior reporting period.

The centralized activities continued from the prior reporting period included both “Centers of Excellence” (for certain organizational units), intended to identify areas where the integrity culture could be improved long-term, and “Best Practice Workshops” (for managers of those teams and additional functional areas), where the Centers of Excellence insights are shared and measures to strengthen the integrity culture are identified.

During the period covered by this report, Group developed specific and globally applicable measures, called “worldwide central action plans,” to address weaknesses identified in the 2018 *StiBa* results. The centralized measures developed were: (1) improved communication of integrity topics; (2) entity-specific communication of new and updated regulations; (3) updated “dialogue formats” to introduce and discuss topics related to Volkswagen’s Group Essentials; and (4) improved communication to management in the areas of integrity, culture, and compliance.

The decentralized activities continued from the previous reporting period, executed by individual managers within organizational units, included “Team Dialogue” discussions and meetings to evaluate *StiBa* results and identify corresponding action plans. During the period covered by this report, the specific requirements related to the evaluation of *StiBa* results were refined. If an organizational unit achieved a score of less than 79 (out of 100) on the “Group Essentials Indicator,” which is a sub-set of questions

from the *StiBa* that includes the Integrity question, the organizational unit was required to discuss the related results; however, an identified action plan was no longer required.

A weakness in the process for monitoring the implementation of mandatory action plans in response to the 2018 *StiBa* was confirmed by the ICA. In response, Group developed an improved process for monitoring the identification and implementation of defined measures in response to the *StiBa*.

d) Summary of *StiBa* Results Relating to the Integrity Campaign in the Third Annual Report by VW Defendants

As required by the Consent Decrees, in the third Annual Report by VW Defendants, the VW Defendants provided a summary of *StiBa* results related to the VW Defendants' Integrity campaign.

2. ICA Audit Activities and Evaluation of VW Defendants' Activities

During the period covered by this report, the ICA reviewed the 2019 *StiBa* and the related *StiBa* Managers' Guides. The ICA also performed inquiries of relevant personnel and reviewed procedures related to the 2019 *StiBa* and *StiBa* responses.

The 2019 *StiBa* included the Integrity Question required by the Consent Decrees, using wording that had not changed from the 2017 and 2018 *StiBa* surveys. The Managers' Guides contained the questions or statement gauging compliance with U.S. environmental laws or regulations, and the ICA confirmed that the updated guides were distributed at each of the VW Defendants in 2019. In addition, during the period covered by this report, the VW Defendants maintained a centralized process to monitor and address *StiBa* survey responses relating to the Integrity campaign.

M. ADDITIONS TO THE CODE OF CONDUCT (U.S. CD ¶ 23; Cal. CD ¶ 22)

This section describes the VW Defendants' efforts to comply with their Consent Decree obligations regarding the companies' Code of Conduct.

1. Activities by the VW Defendants

a) Revision to Include Environmental Protection and Responsibility Provisions

During the period covered by this report, the VW Defendants did not change the existing provisions in the Code of Conduct regarding environmental protection and responsibility for compliance.

b) Training of New Employees

At each of the VW Defendants, the content of Code of Conduct training was updated to include the topic of "Integrity," and to highlight certain information within existing topics, including the use of new graphics and examples within the

“Environmental Protection” chapter, the addition of a “Lessons Learned from Dieselgate” section to the “VW Group Essentials” chapter, and an update to the “Whistleblower System” chapter in accordance with the latest version of the Whistleblower system policy.

c) Summary of Code of Conduct Training in the Third Annual Report by VW Defendants

The process for tracking and reporting employees’ participation in Code of Conduct training for the third Annual Report by VW Defendants continued with the process previously reported by the ICA, with the addition of a new monthly “plausibility check” of the reportable training statistics at each of the VW Defendants.

This monthly plausibility check was performed by the Head of Compliance Awareness and Training and the Divisional Chief Compliance Officer at VW AG, the Supervisor of Compliance, Integrity, and Risk Management at AUDI, and the Chief Ethics and Compliance Officer at VW GOA and GOA Chattanooga.

A plausibility check at VW AG in early 2020 determined that, as the result of transcription errors, the cumulative totals of employees trained at VW AG had been incorrect in prior interim reports to the ICA. As a result, and in advance of the due date for the third Annual Report by VW Defendants, VW AG further enhanced its control measures over the reporting process for Code of Conduct training statistics by having two employees compile the statistics separately and compare the results.

In the third Annual Report by VW Defendants, a summary of Code of Conduct training participation by new employees was included for each of the four VW Defendants. The summary included the total number of new employees in the reporting period and the percentage of new employees who had completed the Code of Conduct training. The percentage of new employees who had not completed the training was further broken down to distinguish between those for whom training was not yet due and those for whom training was “overdue.” The training statistics were provided in a uniform manner for the four VW Defendants, covering the same time period.

2. ICA Audit Activities and Evaluation of VW Defendants’ Activities

The ICA performed inquiries of relevant personnel, observed the Group Compliance Meeting in September 2019, and determined that the Code of Conduct continued to include the required provisions regarding both environmental protection and the responsibility for compliance.

The ICA reviewed records to assess whether new employees were being informed of their obligation to complete Code of Conduct training, and whether the VW Defendants were adequately monitoring participation in the training. The ICA also performed inquiries of relevant personnel regarding the VW Defendants’ process for reporting Code of Conduct training in the Annual Report by VW Defendants, and reviewed evidence of completed management controls over that process.

As described in the ICA’s First Annual Report, the VW Defendants ensured that their Code of Conduct included provisions regarding environmental protection and responsibility for compliance by the October 10, 2017 deadline set forth in the Consent Decrees. During the period covered by this report, the required provisions remained in place. The VW Defendants also continued to require that all new employees attend Code of Conduct training, using the process previously reported by the ICA.

N. THIRD-PARTY EMS AUDITS (U.S. CD ¶¶ 24 & 25; CAL. CD ¶¶ 23 & 24)

This section describes the VW Defendants’ efforts to comply with their Consent Decree obligations regarding an Environmental Management System (“EMS”) audit of the VW Defendants’ product development processes, conducted by an independent third-party. As noted previously, the ICA did not re-perform work conducted by third parties.

References to a particular set of audit procedures by year (*e.g.*, “2019 audit procedures”) refer collectively to the planning, site visits, and reports issued for that stage of the audit, but do not necessarily mean all procedures were conducted or completed during the calendar year.

1. Activities by the VW Defendants

a) EMS Auditor Planning

As discussed in the Second Annual Report, in 2019 EMS auditor Bureau Veritas (“BV”) told the VW Defendants it needed to increase the size and capacity of its audit team and the number of auditor days, and needed a commensurate budget increase. BV specifically indicated a need to audit additional VW Defendant departments, add auditor expertise and support staff, and provide for additional time for pre-audit preparation. The VW Defendants agreed to BV’s requests, including the request for a corresponding increase in the budget.

As in 2017 and 2018, in 2019 the VW Defendants worked with BV to determine an audit plan. Pre-audit preparation expanded in 2019 to include BV’s review of key documents prior to on-site audit procedures, development of an audit document library, and increased time reviewing product development processes.

The VW Defendants and BV participated in meetings and coordination calls on a regular basis throughout 2019 to address on-boarding new BV team members, audit planning and preparation, comments on the audit plan, audit findings, corrective actions, and BV’s reporting process. In December 2019, the VW Defendants and BV held another meeting to further review changes proposed by VW Defendants to the draft audit reports, and to discuss the VW Defendants’ corrective action plans.

b) EMS Audit Scope

(1) Product Development Processes

The Consent Decrees required the VW Defendants to contract with and retain an independent third party to “conduct an EMS audit pursuant to an industry-recognized standard for product development processes.” The VW Defendants and BV interpreted the Consent Decrees’ term “product development processes” to refer to what the VW Defendants refer to as their “Product Development Process” or “PDP.” BV’s audit reports define the PDP as “the procedures used at Volkswagen to develop new cars starting with planning and ending with Start of Production (SOP).” While the VW Defendants indicated that the PDP ends at the start of production, BV clarified for the ICA in 2019 that the scope of the 2017, 2018, and 2019 audit procedures included the VW Defendants’ “PDP-oriented activities” occurring after the start of production, specifically “change management,” which includes processes linked to changes in hardware or software during a manufactured vehicle’s lifecycle.

(2) Audited Locations

In 2019, BV explained to the ICA that the scope of BV’s three-year audit was limited to those locations identified in the VW Defendants’ Request for Quotation; no other locations were considered. Based on the understanding of the VW Defendants and BV concerning the objectives of the Consent Decrees, the scope of the audit was further limited to locations directly related to or having “organizational interfaces and/or responsibilities within” the “brand specific” PDPs. Over the course of the three-year audit, BV audited all activities it determined relevant to both PDP and compliance with U.S. environmental laws and regulations.

The VW Defendants’ Request for Quotation included as locations VW GOA’s Engineering and Planning Center in Chattanooga as well as the GOA Chattanooga facility. BV visited both locations in 2017, but BV determined neither conducted any PDP-oriented activities and therefore were out-of-scope. BV determined that the Engineering and Planning Center was not involved in vehicle development or design, and that GOA Chattanooga was a production facility. This determination was confirmed by the VW Defendants in 2018 and 2019, and therefore neither was included in the 2018 or 2019 field procedures.

During the three-year audit, BV conducted on-site audit procedures at the following VW Defendant locations:

	VW AG	AUDI		VW GOA	
	Wolfsburg	Ingolstadt	Neckarsulm	EEO	TCC
2017	✓	✓		✓	✓
2018	✓	✓		✓	
2019	✓	✓	✓	✓	✓

BV's sampling methodology did not include the Neckarsulm test benches in the 2017 or 2018 on-site procedures. While conducting the September 2019 on-site audit procedures in Ingolstadt, BV requested time to conduct on-site procedures at the Neckarsulm test benches. AUDI ultimately agreed to conduct on-site procedures in Neckarsulm for two days in October 2019, focusing on auditing test benches.

While conducting the September 2018 on-site audit procedures in Wolfsburg, BV learned that VW AG intended to conduct certification testing at TCC in 2019. BV conducted on-site audit procedures at TCC on March 26, 2019, in anticipation of this certification testing. A "follow-up audit" was conducted at TCC in September 2019. As discussed below, BV returned to TCC in March 2020, auditing the start-to-finish emissions testing process and associated quality controls. BV's final report addressed the March 2019, September 2019, and March 2020 audit procedures at TCC.

(3) Application of the ISO 14001:2015 Standard

The Consent Decrees required an EMS audit "pursuant to an industry-recognized standard for product development processes." As described in the First and Second Annual Reports, the VW Defendants selected the ISO 14001:2015 standard.

For the 2017, 2018, and 2019 audit procedures, the VW Defendants and BV evaluated the applicability of the ISO clauses and sub-clauses. In each successive year's procedures, the VW Defendants agreed to BV's proposal to increase the number of applicable ISO clauses and sub-clauses. For the 2019 audit procedures, five additional sub-clauses were applied compared to the 2018 procedures.

Written audit criteria were developed to "customize" the applicable ISO clauses "to fit to PDP activities." VW Defendants and BV revisited and expanded upon this audit criteria for the 2019 audit procedures.

(4) Application of U.S. Environmental Laws and Regulations

In 2017 and 2018, the scope of the EMS audit was limited to three categories of U.S. environmental laws and regulations: those applicable to "self-certification process (vehicle/vehicle component)"; "performance tests for certification"; and "communication to authorities." In 2019, the scope of the audit was expanded to include two additional categories of U.S. environmental laws and regulations: "prohibited, restricted substances"; and "waste management." The "prohibited, restricted substances" category (including but not limited to the Toxic Substances Control Act) was addressed at VW AG and AUDI. EEO indicated during the 2019 on-site audit procedures that VW AG and VW GOA had conducted their own privileged multi-site Toxic Substances Control Act audit, and that a report was in draft stage. VW AG and VW GOA submitted a Toxic Substances Control Act assessment report and audit report to the EPA in February 2020.

The "waste management" category was addressed at TCC.

c) 2019 Audit Procedures

In the 2019 audit procedures, documents requested by BV for review were provided by the VW Defendants in advance of the on-site audit procedures. For on-site procedures involving a review of testing documents, BV pre-selected from a list provided by the VW Defendants a sample of files to be reviewed. BV's meetings with VW Defendant departments were interactive and focused on interviews and document review. BV also increased its audit staff from prior cycles, in part to enable parallel sessions in order to obtain more coverage and more audit evidence.

The VW Defendants accommodated BV's requests with access to facilities, staff resources, and interpreters. In the closing meeting at the end of the 2019 on-site audit procedures at each location, BV presented, with the VW Defendants' support, "preliminary conclusions." BV reserved the option to adjust wording or severity of the finding after further review of audit evidence. In prior year audit procedures, the closing presentation had included the final audit findings and recommendations for corrective actions.

d) 2019 Audit Reports

For the 2019 audit procedures, BV prepared separate EMS audit reports for VW AG, AUDI, VW GOA, TCC, and EEO, incorporating comments from the VW Defendants. The Group Board of Management approved these reports on April 29, 2020. The VW Defendants disclosed the completed reports to DOJ and CARB on May 4, 2020, and posted the reports on the public website, www.vwcourtsettlement.com, in German and English, on May 20, 2020. No redactions were made in the posted reports.

In addition to the separate audit reports, BV prepared a stand-alone "Executive Summary," incorporating comments from the VW Defendants. The purpose of the Executive Summary was to provide the Group Board of Management with a summary of the three-year audit cycle and related audit reports. The Executive Summary stated that "[s]ome areas of improvement still exist in the interactions or interfaces of EMS with other management systems, particularly Product Compliance Management System," but that "[t]he audit team has seen increased maturity in the management system, along with on-going improvements which are continuing to be implemented over the course of the 3 years so that the VW Defendants are able to ensure compliance of vehicles with US environmental laws and regulations by following those improved processes."

BV issued the Executive Summary to the VW Defendants in April 2020. The VW Defendants' view is that the document is not a report required by the Consent Decrees and therefore do not intend to make it publicly available.

(1) EMS Auditor's Recommendations for Corrective Actions

Consistent with the requirements of the Consent Decrees, the audit reports for the 2019 audit procedures included recommendations for corrective actions in cases where BV had identified deficiencies or “deviations.”

BV classified deviations as major or minor. The 2019 reports stated that a “major deviation is typically defined as . . . the absence or significant failure to implement and/or maintain conformance to the requirements of the applicable clauses of ISO 14001:2015 or Volkswagen’s internal EMS or US laws and regulations,” based on objective evidence. The phrase “or US laws and regulations” was added to this definition for the 2019 reports.

Minor deviations were those where “requirements of ISO 14001:2015 (as defined in the audit criteria) are implemented but a management system weakness is detected, but it does not affect the capability of the EMS to achieve its intended outcomes.”

No finding of a major deviation was reflected in BV’s 2017 audit reports; minor deviations in the 2017 audit reports were discussed in the ICA’s Second Annual Report. BV’s 2018 audit reports did not include any finding of a major or minor deviation.

In its 2019 EMS audit report for VW GOA’s TCC, BV identified one major deviation based on information from the VW Defendants that some of the documents related to vehicle testing files had been “modified or complemented outside the currently defined and controlled process.” TCC’s corrective action was to implement a quality control structure and hierarchy for verifying and controlling the data generated by the emission testing laboratory. The control structure implemented was a five-step process involving both the Emission Laboratory and the Business Management business units. BV reviewed TCC’s corrective action for this major deviation during the March 2020 audit procedures at TCC, and determined it was complete.

In its 2019 audit reports, BV identified seven minor deviations and described the corresponding corrective actions provided by the VW Defendants.

	2019 Minor Deviations	BV Descriptions of VW Defendants' Corrective Actions
VW AG	The 3-year internal audit program has not been considering all relevant changes in processes and organization: PDP, labeling process. These changes shall be evaluated in terms of risks and the need or not for an update of the 3 year internal audit program.	A regular exchange (at least twice a year) has been organized to consider key PEP changes and other risk factors that may potentially impact the three-year internal audit program. This approach has been defined and implemented by end of November 2019 and an adapted audit work instruction has been issued.
	There was no risk assessment and evaluation formally documented for the	An analysis of the change of tire pressure has been carried out and has demonstrated that the

	2019 Minor Deviations	BV Descriptions of VW Defendants' Corrective Actions
VW AG (cont.)	change of the tire pressure requirement from 3.1 bar to manufacture recommended tire pressure (related to the type and manufacture of the tire) to confirm there is no impact to emissions measurement.	<p>influence is negligible. In order to ensure regulatory compliance and perform risk assessments new Process Standards and work instructions have been created and trained within ETA/6.</p> <p>The new concept of Homologation Maturity Gates (4 Gates before start of Homologation) was released as a Process Standard by EO TE Operations. Here the Maturity Gate 4 represents the official handshake from project management to ETA/6. The certification conditions (incl. road load) are protocolled and signed by EO, EEO and ETA/6 management before start of certification. For certification compliance ETA/6 created a new VW Certification Compliance Powertrain Concept with several Quality Checks. The Maturity Gates are owned by EO and for each project a DMS folder will be installed and the released documents locked after completion of a Gate. Thus traceability is ensured according to the respective CSD. All Certification documents are stored in EEO Exchange DMS and reviewed in multi-eye reviews EEO/ETA/6 with signed documents for each quality check. Pilot project is MY20 Jetta semi-pressure tank.</p>
AUDI	ET-B recently developed a Regulation Index (Excel based) to track applicable laws and regulations by market. The file is not linked to GETEX and is not always consistent with the regulatory information and does not provide the regulatory details to enable an effective search of information.	Implement active communication to the developing departments that the regulatory index is a helpful tool and does not exclude from obligation to follow the GETEX database (by end of 2019). This will be also part of the training for the personnel involved in the PDP process (Q2 2019).
	Some input data was inaccurate of certification file of Project A6 Sedan	Work instructions #3, #4 and #5 have been changed to include a comparison between fuel information from data sheet with general fuel specification of engine type family (before end 2019)
	In case of deviation between required and actual value for input data as part of the certification file a risk analysis supporting the decision was not documented.	Work instruction #4 has been changed by adding specific instruction in case different data between data sheet and test specification. Experts' confirmation by email to be stored.

	2019 Minor Deviations	BV Descriptions of VW Defendants' Corrective Actions
AUDI (cont.)		Data form will be changed: only final and confirmed data set is visible (before end 2019)
	Internal audit process is not fully effective for: - the coverage of some key processes within the PDP - the level of detail in audit reports.	Conduct Hotspot Analysis for 2020 ensuring to include all departments in the internal audit scope (end of 2019). Establish the Audit Program for 2020 based on Hotspot Analysis. (end of 2019) Update the corresponding Work Instruction Nr.05 to reflect the: - Hotspot Analysis (key processes) - Level of detail needed for deviations/ Opportunities for Improvement in audit reports - Scope of audit program (end of February 2020)
VW GOA	The risk and opportunities register for the EMS does not include all of the potential risks that could impact the EMS. These risks have been identified in the VWGoA Operational Risk Register tool used by TCC but they are not specifically captured in the EMS Manual.	Consolidate the Risk and Opportunities information into the EMS to assure all risks are being captured and communicated. September 2019 Status Update: TCC has incorporated the results of the Risk Register tool into the EMS risk identification process.

The VW Defendants implemented corrective actions in response to each of these seven minor deviations. BV “reviewed and approved” the corrective actions, but did not have the opportunity to assess whether they were “effective and complete,” as BV had in prior years.

e) Related Whistleblower Alert

During BV’s 2019 audit procedures, and shortly before on-site audit procedures at a VW Defendant location, a VW Defendant department received a Whistleblower alert concerning the location.

The VW Defendant department forwarded the alert to VW AG’s Central Investigation Office, which conducted a plausibility check and categorized the alert as a “Suspicion of Serious Regulatory Violation.” The Central Investigation Office subsequently initiated an investigation by a third party into the alert.

In December 2019, factual findings were presented to BV and the ICA regarding one of the allegations. The investigation concluded that the concerns stated in the alert were at least partially factually well-founded, specifically concerns that documents subject to BV’s audit at the VW Defendant location had been reviewed and altered to identify and correct potential ministerial mistakes.

As a result of the findings from the investigation, BV conducted additional audit procedures and included its findings in its report.

2. ICA Audit Activities and Evaluation of VW Defendants' Activities

The ICA applied a risk-based methodology to review and evaluate the VW Defendants' activities during the 2019 EMS audit procedures. The ICA conducted a comprehensive observation of audit design, planning, and implementation activities, including observation of all 2019 on-site audit procedures. Additionally, the ICA reviewed key BV work papers and related documents, as well as BV's analysis of evidence, bases for conclusions, objectivity, and reporting process. The ICA also reviewed the VW Defendants' development and implementation of corrective actions.

Throughout the 2019 audit procedures, the ICA held meetings with BV and the VW Defendants in order to understand the procedures. Prior to the start of the 2019 on-site audit procedures, the ICA met separately with BV and the VW Defendants to discuss the 2019 procedures and BV's role as an objective and independent third-party auditor.

The ICA continued to observe the VW Defendants' relationship and communications with BV throughout the 2019 audit procedures, including during negotiations between BV and the VW Defendants regarding BV's expanded resource needs for the 2019 procedures.

The VW Defendants retained BV to conduct EMS audits pursuant to an industry recognized standard for vehicles for sale in the United States by the July 12, 2017 deadline set forth in the Consent Decrees. As described in the First and Second Annual Reports, BV's EMS audit procedures for 2017 and 2018 included an assessment of the VW Defendants' processes to comply with U.S. and California laws and regulations, and recommendations for corrective actions. The VW Defendants also provided copies of the 2017 and 2018 EMS audit reports to DOJ and CARB, and posted the reports on a public website, as required under the Consent Decrees.

During the period covered by this report, the VW Defendants were involved in all activities related to the EMS audits, and remained engaged throughout the design, planning, and implementation of BV's 2019 audit procedures. Similar to the 2018 audit procedures, the VW Defendants occasionally disagreed with BV's protocols and decisions regarding audit procedures and report drafting, and addressed those disagreements directly with the BV auditors. The VW Defendants, however, acknowledged BV's independence and deferred to BV's judgment. The VW Defendants provided reasonable comments on BV's draft reports, acknowledging that it was BV's ultimate decision whether to incorporate those comments.

In 2020, while reviewing the VW Defendants' implementation of the corrective actions and opportunities for improvement ("OFIs") for the three-year audit cycle, the ICA observed that the 2018 EMS audit report for AUDI and the second Annual Report by VW Defendants presented the implementation status for only seven of the 14 OFIs raised in the 2017 EMS audit report. AUDI promptly notified BV of this discrepancy, and

provided documents to BV supporting AUDI's actions in response to the remaining OFIs. BV reviewed the documents and participated in multiple meetings with AUDI personnel to evaluate the implementation status of the seven omitted OFIs. BV accepted these OFIs and prepared a supplemental document for the 2018 EMS audit report for AUDI. The Group Board of Management approved this document on April 29, 2020. The VW Defendants disclosed this document to DOJ and CARB on May 4, 2020, and posted it on the public website on May 20, 2020. No redactions were made in the posted document.

The ICA reviewed and evaluated all major and minor deviations arising from the three-year audit, the VW Defendants' corrective actions taken in response to those deviations, and BV's review of the VW Defendants' corrective actions. The VW Defendants have addressed all of those deviations.

As explained above, the VW Defendants provided copies of the 2019 EMS audit reports to DOJ and CARB, and posted the reports on the public website, as required under the Consent Decrees.

O. THE THIRD ANNUAL REPORT BY VW DEFENDANTS (U.S. CD ¶ 19; CAL. CD ¶ 18)

This section of the ICA's Third Annual Report describes the VW Defendants' efforts to comply with their Consent Decree obligations regarding their own third annual report to DOJ and the California authorities.

1. Reporting of Whistleblower Case Tracking/*StiBa* Results/Code of Conduct Training

The Consent Decree paragraphs related to Whistleblower case tracking, the *StiBa* employee survey, and the Code of Conduct all contained stand-alone requirements that certain information be included in each Annual Report by VW Defendants. The VW Defendants' compliance with those provisions is addressed above in Sections K, L, and M, respectively.

2. Reporting of Injunctive Relief Measures, Assessments of Effectiveness, and Related Corrective Actions

a) Descriptions of Measures Implemented to Promote Consent Decree Compliance

The third Annual Report by VW Defendants included descriptions of the measures and actions taken by the VW Defendants during the third and final reporting period to promote compliance with the Consent Decree paragraphs specified in Paragraph 19.

b) Assessments of Effectiveness in Promoting Compliance with U.S. Environmental Law

The third Annual Report by VW Defendants included assessments of the effectiveness of the measures implemented by the VW Defendants in promoting U.S. environmental law compliance. The ICA's discussion of the uniform approach used by the VW Defendants to assess effectiveness appears above in Section I.4.

c) Identification of Corrective Actions Taken to Improve Effectiveness

Paragraph 19 required that, in connection with reporting measures that had been implemented and assessments of their effectiveness, the VW Defendants should report “any corrective actions the VW Defendants have undertaken to improve their effectiveness in promoting compliance with U.S. environmental law.” In their third annual report, the VW Defendants included summaries of the “most relevant” corrective actions. However, the business units did not take a consistent approach in determining which specific corrective actions were the “most relevant” and therefore reportable. The VW Defendants also explained that corrective actions not specifically identified in their report were covered by the report’s general descriptions.

3. Reporting of Certain Recorded Risks

a) Identification of Recorded Risks in the Third Annual Report by VW Defendants

Paragraph 19 required the VW Defendants to use their second and third annual reports to “address: (1) all risks assessed and recorded as part of the annual GRC process relating to either compliance with U.S. environmental laws and regulations or risks of rule violations in the Product Development Process; (2) countermeasures taken by the VW Defendants’ business units in response to those risks; and (3) management controls implemented by the VW Defendants’ business units relating to those risks.”

After conducting an entity scoping exercise to determine the relevant 25 Volkswagen entities, as described in Section I.5 above, Group Risk Management identified 14 risk “focus areas” in RICORS (out of approximately 100 risk focus areas total) related to the two categories of risks described in Paragraph 19. The business units select the risk focus area for each risk they record. GRM also performed key word searches within the risks identified by the 25 entities.

For the 25 entities that had been determined to be in scope, GRM used the 14 risk focus areas as well as key word searches to identify 224 risks (not including 86 Golden Rules monitoring risks) falling within the two categories identified in Paragraph 19. GRM concluded that, of these 224 risks, the four VW Defendants had a total of 96 – VW AG had 49, AUDI had 19, VW GOA had 18, and GOA Chattanooga had 10. These statistics, along with examples of the specific risks included in these numbers, were reported in the third Annual Report by VW Defendants.

b) Countermeasures Taken

The ICA's discussion of the countermeasures for these risks and how the countermeasures were evaluated to determine if they should be reported appears above in section I.5. The statistics discussed there, along with examples of the specific countermeasures included in those numbers, were reported in the third Annual Report by VW Defendants.

c) Identification of Implemented Management Controls

The VW Defendants first identified 443 management controls related to the 224 reportable risks. As with the related countermeasures, GRM relied on the Confirmation of Effectiveness testing results from the annual GRC process to identify which management controls were reportable. GRM and the local Risk Management function reviewed any identified weakness in the design or operating effectiveness of the management controls to determine if the weaknesses affected the controls' implementation.

A total of six controls were determined to be not reportable. Four management controls were not reported because they had not passed Confirmation of Effectiveness testing. Additionally, after reviewing a sample of self-assessments conducted during Confirmation of Effectiveness testing, the VW Defendants determined that two other management controls were not reportable due to segregation-of-duty conflicts. The conflicts existed because the tester had also been responsible for the controls. These conflicts had not occurred at the VW Defendants.

Of the remaining 437 management controls, 148 had not been tested during Confirmation of Effectiveness testing. GRM performed a high-level review of the information for these controls in RICORS, especially to understand whether the controls had been described only as "planned" and therefore could not be deemed implemented.

Of these 437 reportable management controls, GRM determined that a total of 183 had been implemented at the four VW Defendants. GRM identified 91 relevant management controls implemented at VW AG, 41 at AUDI, 33 at VW GOA, and 18 at GOA Chattanooga.

d) ICA Audit Activities and Evaluation of VW Defendants' Activities

The ICA reviewed the 14 risk focus areas selected by GRM, as well as the remaining ones in RICORS, to determine whether GRM missed any relevant risk focus areas. The ICA concluded that GRM's selection of the 14 areas was reasonable.

Furthermore, in the ICA's searches and review of the risk descriptions in RICORS, the ICA did not identify any additional risks that the ICA believed were potentially reportable under Paragraph 19.

With regard to the reporting of management controls, the VW Defendants performed various assessments to determine which controls were reportable. GRM

followed GRC methodology in testing a sample of the management controls, reviewed a sample of Confirmation of Effectiveness self-assessments for segregation-of-duty issues, following the ICA team's feedback, and conducted a high-level review of the management controls information in RICORS. GRM's approach incorporated feedback from the ICA and addressed the issues identified.

P. END OF THE AUDITING TERM

The ICA's term concludes today, June 16, 2020. This is the ICA's final report pursuant to the Consent Decrees.

Appendix

Paragraph(s) in Consent Decrees	Injunctive Relief for the VW Defendants <i>[Volkswagen Parties]</i> [*]
¶¶ 13 – 19 (U.S. CD) ¶¶ 12 – 18 (Cal. CD)	<h3 style="text-align: center;">Product Development Process</h3>
¶ 13 (U.S. CD) ¶ 12 (Cal. CD)	<p><u>Segregation of Duties between Product Development and Certification Testing/Monitoring for the VW Defendants.</u></p> <p>Within 180 Days after the Effective Date, the VW Defendants shall implement measures to ensure that employees involved in certification testing and monitoring for purposes of vehicle certification under the Clean Air Act <i>[and California law]</i> are organizationally separate from product development. The VW Defendants shall form and maintain an organizationally separate certification group (“Certification Group”) to manage, supervise, and conduct certification testing and monitoring. The Certification Group shall:</p> <ul style="list-style-type: none"> a. Ensure that the VW Defendants have policies, procedures, practices, or processes for vehicle development that include emission control systems designed to comply with U.S. laws and regulations <i>[including California laws and regulations]</i> related to vehicle certification and emission standards; b. Conduct, or retain a qualified contractor to conduct, emissions certification testing of both production and in-use vehicles; c. Plan the testing program, obtain the vehicles, confirm that the configuration of the test vehicles is representative of the production vehicles, and test or retain a qualified contractor to test the certification vehicles consistent with EPA’s <i>[and CARB’s]</i> regulations for certification and in-use performance testing. The Certification Group may utilize testing facilities and technicians assigned to other units within the VW Defendants’ organization provided that the Certification Group controls the certification testing; and d. Supervise all certification personnel, provide appropriate training, and control access to certification vehicles.
¶ 14 (U.S. CD) ¶ 13 (Cal. CD)	<p><u>Establishment of VW Defendants’ Group Steering Committee(s) <i>[Project Management Office(s)]</i>.</u></p> <p>Within 90 Days after the Effective Date, the VW Defendants shall establish and maintain one or more Group Steering Committees <i>[Project Management Office(s)]</i>, for monitoring and complying with current and future U.S. laws <i>[including California laws]</i> regarding vehicle certification and vehicle emissions. The VW Defendants shall establish rules of procedure for the Group Steering Committee(s) <i>[Project Management Office(s)]</i> and shall define its tasks, authorities, and responsibilities, which shall include: (1) to document significant</p>

* Places where the California Consent Decree differs from the U.S. Consent Decree are *[bracketed in italics with blue font]*. The California Consent Decree uses “Volkswagen Parties” to refer to the same four entities named “VW Defendants” in the U.S. Consent Decree, and “Porsche Parties” to refer to the “Porsche Defendants” in the U.S. Consent Decree. Except for here, this Appendix does not note that difference or other differences that are stylistic only.

	<p>current U.S. laws, regulations, and legislation [<i>(including California laws, regulations, and legislation)</i>] related to vehicle certification and automotive emissions, and track future developments in U.S. law [<i>(including California law)</i>] related to vehicle certification and automotive emissions; (2) to monitor and assist the VW Defendants' compliance with U.S. requirements [<i>including California requirements</i>] regarding exhaust emission standards and technology; and (3) to establish internal procedures and controls for the VW Defendants in order to achieve compliance with U.S. requirements [<i>including California requirements</i>] regarding exhaust emission standards and technology.</p>
¶ 15 (U.S. CD) ¶ 14 (Cal. CD)	<p><u>PEMS Testing by the VW Defendants.</u> <i>[The testing required by this paragraph is the same testing required by paragraph 15 of the US Third Partial Consent Decree, subject to certain additional terms applicable to the Volkswagen Parties and CARB.]</i></p> <p>a. The VW Defendants (under the supervision of the Certification Group) shall test certain model year 2017, 2018, and 2019 light-duty motor vehicles using portable emissions measurement system ("PEMS") testing. For each model year, the VW Defendants shall perform PEMS testing on 33% of VW Defendants' EPA-certified test groups within that model year ("VW Test Groups"). For purposes of determining the number of VW Test Groups composing 33%, the VW Defendants shall round up or down to the nearest whole VW Test Group number closest to 33%. EPA may select the VW Test Groups for testing under this Paragraph 15.a pursuant to the following schedule: for model year 2017, by no later than February 1, 2017; for model year 2018, by no later than December 31, 2017, or at the annual certification meeting with EPA, whichever is earlier; and for model year 2019, by no later than December 31, 2018, or at the annual certification meeting with EPA, whichever is earlier. If EPA does not select the VW Test Groups pursuant to the schedule set forth in this Paragraph 15.a, then the VW Defendants shall select the VW Test Groups for PEMS testing. The VW Defendants shall select the VW Test Groups for model year 2017, model year 2018, and model year 2019 that will cover, in the aggregate, the full range of configurations of emission control systems on their light-duty vehicles for those model years, and shall not select a VW Test Group that was certified using carryover emissions data from another VW Test Group that has already been tested pursuant to this Paragraph (unless necessary to meet the 33% requirement). All testing under Paragraph 15.a for model year 2017 shall be completed by December 31, 2017. All testing under Paragraph 15.a for model years 2018 and 2019 shall be completed by September 30 of the calendar year for which the applicable model year is named, except that the VW Defendants and the United States may agree to a later date (but in no case later than December 31 of the applicable model year) sufficient to enable the VW Defendants to complete PEMS testing of the selected model year. The VW Defendants may, but are not required to, use the Third-Party Emissions Tester required by Paragraph 15.b to conduct the testing required by this Paragraph 15.a.</p> <p><i>[The corresponding sub-paragraph of the California Consent Decree, 14.a, reads as follows: The Volkswagen Parties (under the supervision of the Certification Group) shall test certain model year 2017, 2018, and 2019 light-duty motor vehicles using portable emissions measurement system ("PEMS") testing. For each</i></p>

model year, the Volkswagen Parties shall perform PEMS testing on 33% of Volkswagen Parties' EPA-certified test groups within that model year ("Volkswagen Test Groups"). For purposes of determining the number of Volkswagen Test Groups composing 33%, the Volkswagen Parties shall round up or down to the nearest whole Volkswagen Test Group number closest to 33%. Volkswagen shall test those Volkswagen Test Groups selected by EPA pursuant to Paragraph 15(a) of the Third Partial Consent Decree between Defendants and the United States, lodged with the Court on January 11, 2017 (Dkt. #2758 in 15-MD-2672) (the "US Third Partial Consent Decree"). If EPA does not select the Volkswagen Test Groups pursuant to the schedule set forth in Paragraph 15(a) of the US Third Partial Consent Decree, CARB will attempt to confer with EPA in an effort to arrive at a common list of test groups to be tested by the Volkswagen Defendants, and, if EPA fails to select the Volkswagen Test Groups for any given year by the applicable deadline, CARB will have 10 business days following the applicable EPA selection deadline to designate the Volkswagen Test Groups for that model year. If CARB also fails to select the Volkswagen Test Groups for any given year by the applicable deadline, Volkswagen will designate the Volkswagen Test Groups for that model year. The Volkswagen Parties shall select the Volkswagen Test Groups for model year 2017, model year 2018, and model year 2019 that will cover, in the aggregate, the full range of configurations of emission control systems on their light-duty vehicles for those model years, and shall not select a Volkswagen Test Group that was certified using carryover emissions data from another Volkswagen Test Group that has already been tested pursuant to this Paragraph (unless necessary to meet the 33% requirement). All testing under this Paragraph 14.a for model year 2017 shall be completed by December 31, 2017. All testing under Paragraph 14.a for model years 2018 and 2019 shall be completed by September 30 of the calendar year for which the applicable model year is named, except that the Volkswagen Parties and EPA may agree, under the US Third Partial Consent Decree, to a later date (but in no case later than December 31 of the applicable model year) sufficient to enable the Volkswagen Parties to complete PEMS testing of the selected model year. The Volkswagen Parties may, but are not required to, use the Third-Party Emissions Tester required by Paragraph 14.b to conduct the testing required by this Paragraph 14.a.]

- b. In addition to the requirements of Paragraph 15.a, [14.a] the VW Defendants shall retain an independent third-party emissions tester ("Third-Party Emissions Tester"). (The VW Defendants and Porsche Defendants may hire the same Third-Party Emissions Tester.) No attorney-client relationship shall exist or be formed between any VW Defendant and the Third-Party Emissions Tester. For each of model year 2017, 2018, and 2019, the VW Defendants shall ensure that the Third-Party Emissions Tester conducts PEMS testing on a vehicle from each of two VW Test Groups. Testing under this Paragraph 15.b [14.b] does not count toward the testing required under Paragraph 15.a [14.a]. These VW Test Groups selected for testing under this Paragraph 15.b [14.b] shall be the VW Test Groups with the highest projected sales for the model year at the time of certification, or if applicable those VW Test Groups selected by EPA [*or, if EPA fails to make a selection pursuant to Paragraph 15(a)) of the US Third Partial Consent Decree, those test groups*

- [selected by CARB])* by letter to the VW Defendants, pursuant to Section XV *[XIV]* (Notices). Any such letters shall be provided no later than June 30 of the year for which the model year is named. All testing under this Paragraph 15.b *[14.b]* shall be completed by December 31 of the calendar year for which the applicable model year is named.
- c. The VW Defendants shall satisfy the testing required by Paragraph 15.a *[14.a]* as follows, and shall ensure that the Third-Party Emissions Tester satisfies the testing required by Paragraph 15.a and b *[14.a and b]* as follows:
 - i. Test a VW Test Group by testing one sample vehicle procured at random from the series production vehicles from that selected VW Test Group;
 - ii. Perform the required third-party PEMS testing on public roads in the United States, and perform all PEMS testing under real-world driving conditions over a range of ambient temperatures and pressures (including conditions not represented on the Federal Test Procedure *[or any other test procedure designated by CARB]*) to measure emissions that are detectable on a serial vehicle via PEMS of the vehicle's regulated criteria air pollutants and CO₂; and
 - iii. Conduct the required PEMS testing according to test methods recorded before the testing commences. The Third-Party Emissions Tester shall use test methods independently from the VW Defendants. *[The Volkswagen Parties and Third-Party Emissions Testers will make best efforts to provide 10 days written notice to CARB before commencing testing.]*
 - d. Within 120 Days after the Effective Date, the VW Defendants shall submit to EPA *[CARB]* for review and approval *[for CARB approval, if EPA fails to approve or disapprove a plan for PEMS testing submitted by the Volkswagen Parties to EPA]* in accordance with Section VII (Approval of Submissions) a plan for PEMS testing under this Paragraph. Such plan shall include:
 - i. A list of those test groups the VW Defendants will test for model year 2017;
 - ii. A written statement of qualifications for the proposed Third-Party Emissions Tester including its name, affiliation, and address, its experience in conducting PEMS testing, and a description of previous contracts or financial relationships of the proposed Third-Party Emissions Tester with the VW Defendants;
 - iii. A list of all emissions and vehicle and engine parameters the VW Defendants will measure and record during each PEMS test they perform under this Paragraph *[14]*;
 - iv. A description of the test methods the VW Defendants propose to use including the routes and ambient conditions over which the vehicles shall be tested;
 - v. A template for the VW Defendants' summary report as described below; and
 - vi. A description of how the VW Defendants intend to satisfy all requirements of this Paragraph *[14]*.
 - e. For each model year, for the PEMS testing required by Paragraph 15.a *[14.a]*, the VW Defendants shall provide the test data, a detailed statement of all test methods used, and an executive summary of the data and methods (that includes the

	<p>measured emissions of the vehicle's regulated criteria air pollutants and CO₂) for all tests the VW Defendants performed under this Paragraph for that model year ("VW Defendants' Summary Report") to EPA [CARB] as specified in Section XV [XIV] (Notices). The VW Defendants' Summary Report for model year 2017 shall be due no later than March 1, 2018. The VW Defendants' Summary Report for model years 2018 and 2019 shall be due no later than November 30 of the calendar year for which the model year is named, unless the VW Defendants and the United States [EPA] agree to a later date <i>[that is no later than January 15 of the following calendar year, unless also agreed to by CARB]</i>. Within 21 Days following submission of the VW Defendants' Summary Report to EPA [CARB], the VW Defendants shall post their Summary Report (redacted of any Confidential Business Information ("CBI") or personal information the disclosure of which is restricted by applicable law; however no emissions test methods and results may be claimed as CBI) in English and German at the public website required by Paragraph 51 [50].</p> <p>f. For each model year, for the PEMS testing required by Paragraph 15.b [14.b], the VW Defendants shall ensure that the Third-Party Emissions Tester prepares one or more "Third-Party Emissions Tester Summary Report" including the test data, a detailed statement of all test methods used, and an executive summary of the data and methods (that includes the measured emissions of the vehicle's regulated criteria air pollutants and CO₂) for all testing the Third-Party Emissions Tester performed under this Paragraph for that model year. The VW Defendants shall provide the Third-Party Emissions Tester Summary Report to EPA [CARB] as specified in Section XV [XIV] (Notices) by no later than March 1 of the calendar year immediately after the calendar year for which the model year is named. Within 30 Days following submission of the Third-Party Emissions Tester Summary Report to EPA [CARB], the VW Defendants shall post the Third-Party Emissions Tester Summary Report (redacted of any CBI or personal information the disclosure of which is restricted by applicable law; however no emissions test methods and results may be claimed as CBI) in English and German at the public website required by Paragraph 51 [50].</p> <p>g. The Parties agree and acknowledge that U.S. law does not set forth a standard by which PEMS testing can be used to determine compliance for purposes of certification under Title II of the Clean Air Act.</p> <p><i>[Sub-paragraph 14.g of the California Consent Decree reads as follows: If any of the PEMS data produced pursuant to the testing in Paragraph 14.a or Paragraph 14.b suggest the potential presence of an undisclosed AECD or defeat device, or are otherwise anomalous or inconsistent with the certification application for the Volkswagen Test Groups being tested, the Volkswagen Parties shall, upon CARB's reasonable written request: meet and confer with CARB to discuss the PEMS data; work collaboratively with CARB to determine why the PEMS data suggest the potential presence of an undisclosed AECD or defeat device, or are otherwise anomalous or inconsistent with the certification application for the Volkswagen Test Groups being tested; provide relevant information and documents to CARB; and provide CARB with vehicles and vehicle components (including without limitation hardware and software) for PEMS or other testing by CARB.]</i></p>
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	<p>h. <i>[The Parties agree and acknowledge that neither U.S. law nor California law set forth a standard by which PEMS testing can be used to determine compliance for purposes of certification under California law.]</i></p>
¶ 16 (U.S. CD) ¶ 15 (Cal. CD)	<p><u>Business Units within the Product Development Process.</u></p> <p>Within 180 Days after the Effective Date, the VW Defendants shall implement the internal procedures set out in the “Golden Rules” Handbook by establishing internal controls and rules of procedure, and by defining the tasks, authorities, and responsibilities for the business units, committees, and boards involved in the Product Development Process, including, but not limited to, the Product Safety Committee (also known as “APS”), the Change Control Board, and the Type Approval, Recyclability and Functional Safety Department (also known as “EGDT”); provided however, that implementation of software and information technology may extend beyond 180 Days after the Effective Date, and that these additional Days shall not count in determining the three-year period set forth in Paragraph 26 <i>[25]</i>. The “Golden Rules” Handbook and the internal controls and internal rules of procedure developed by the VW Defendants may be subject to reasonable modification, in consultation with the Department of Justice <i>[and California]</i>. The VW Defendants shall conduct regular employee training regarding the internal procedures, and shall monitor implementation of these procedures through the VW Defendants’ Governance, Risk, and Compliance (“GRC”) process.</p>
¶ 17 (U.S. CD) ¶ 16 (Cal. CD)	<p><u>Definition of Managers’ Responsibilities.</u></p> <p>Within 120 Days after the Effective Date, the VW Defendants shall define the tasks, authorities, and responsibilities of the managers involved in the Product Development Process with respect to compliance with U.S. <i>[California]</i> environmental laws and regulations.</p>
¶ 18 (U.S. CD) ¶ 17 (Cal. CD)	<p><u>Internal Audit.</u></p> <p>Within one year after the Effective Date, the VW Defendants shall conduct and complete an internal audit to track the implementation of the internal procedures in the “Golden Rules” Handbook relating to vehicle approval procedures with respect to U.S. <i>[California]</i> environmental laws and regulations, ECM Software development in the Product Development Process, and escalation management in the Product Safety Committee (“APS”). The audit shall assess the effectiveness of those internal procedures and propose any corrective actions to improve their effectiveness.</p>
¶ 19 (U.S. CD) ¶ 18 (Cal. CD)	<p><u>Reporting on Injunctive Relief Measures.</u></p> <p>The first annual report provided to the Department of Justice <i>[California]</i> pursuant to Paragraph 47 <i>[VIII.46]</i> shall include the information required by Paragraphs 18, 21, 22, and 23 <i>[17, 20, 21, and 22]</i>. In the second and third annual reports provided to the Department of Justice <i>[California]</i> pursuant to Paragraph 47 <i>[46]</i>, the VW Defendants shall describe the measures that they have implemented to promote compliance with the requirements of Paragraphs 13, 14, 15, 16, 17, 21, 22, and 23 <i>[12, 13, 14, 15, 16, 20, 21, and 22]</i> of this Section V (Injunctive Relief for the VW Defendants), together with an assessment of the effectiveness of those measures in promoting compliance with U.S. environmental law <i>[including California law]</i> and any corrective actions the VW Defendants have undertaken to improve their effectiveness in promoting compliance with</p>

	<p>U.S. environmental law [<i>including California law</i>]. In the second and third annual reports provided to the Department of Justice [<i>California</i>] pursuant to this Paragraph 19 [18], Defendants shall also address: (1) all risks assessed and recorded as part of the annual GRC process relating to either compliance with U.S. [<i>California</i>] environmental laws and regulations or risks of rule violations in the Product Development Process; (2) countermeasures taken by the VW Defendants' business units in response to those risks; and (3) management controls implemented by the VW Defendants' business units relating to those risks. The information required to be provided in the annual reports pursuant to this Paragraph 19 [18] shall be certified in accordance with Paragraph 52 [51]. [<i>The Volkswagen Parties may elect to fulfill their reporting obligations under this Paragraph 18 by submitting the required information in a single joint report to the Department of Justice and California.</i>]</p>
¶¶ 20 & 21 (U.S. CD) ¶¶ 19 & 20 (Cal. CD)	Whistleblower System
¶ 20 (U.S. CD) ¶ 19 (Cal. CD)	<p><u>Implementation of Whistleblower System.</u> Within 180 Days of the Effective Date, the VW Defendants shall implement and maintain the Volkswagen Group whistleblower system that was approved by the Board in September 2016. The VW Defendants shall retain professionally educated and trained employees to administer the system. Any whistleblower policy that applies to individuals whose work the VW Defendants reasonably anticipate may involve or relate to vehicles to be certified for sale in the United States [<i>California</i>] shall designate violations of U.S. environmental laws or regulations [<i>including California laws or regulations</i>] as "serious violations" within the meaning of the policy.</p>
¶ 21 (U.S. CD) ¶ 20 (Cal. CD)	<p><u>Report on case tracking.</u> In each annual report provided to the Department of Justice [<i>CARB</i>] pursuant to Paragraph 47 [VIII.46], the VW Defendants shall submit a report, with a certification in accordance with Paragraph 52 [51] of the Consent Decree, regarding case tracking under the Volkswagen Group whistleblower system of all whistleblower alerts relating to violations of U.S. environmental protection laws or regulations [<i>including California laws or regulations</i>].</p>
¶¶ 22 & 23 (U.S. CD) ¶¶ 21 & 22 (Cal. CD)	Employee Survey and Code of Compliance
¶ 22 (U.S. CD) ¶ 21 (Cal. CD)	<p><u>Annual Employee Survey.</u> Within 90 Days after the Effective Date, the VW Defendants shall create for inclusion in their annual employee survey a question to monitor progress of the VW Defendants' integrity campaign as introduced on June 16, 2016, and, for teams whose work includes matters related to compliance with U.S. environmental laws, [<i>including California laws</i>] questions in appropriate managers' guides to the annual employee survey to gauge compliance with U.S. laws or regulations [<i>(including California laws or regulations)</i>] relating to environmental compliance. The VW Defendants shall establish a centralized</p>

	process to monitor and address employee survey responses relating to the integrity campaign. In each annual report to the Department of Justice [CARB] pursuant to Paragraph 47 [46] , the VW Defendants shall provide a summary of survey results relating to the integrity campaign.
¶ 23 (U.S. CD) ¶ 22 (Cal. CD)	<u>Code of Conduct.</u> Within 180 Days after the Effective Date, the VW Defendants shall ensure that the VW Defendants' corporate Code of Conduct includes provisions regarding (1) environmental protection and (2) responsibility for compliance. The VW Defendants shall require all new employees to attend training regarding the Code of Conduct. In each annual report to the Department of Justice [CARB] pursuant to Paragraph 47 [46] , the VW Defendants shall provide a summary of training provided to employees regarding the Code of Conduct.
¶¶ 24 & 25 (U.S. CD) ¶¶ 23 & 24 (Cal. CD)	Environmental Management System (“EMS”) Audit
¶ 24 (U.S. CD) ¶ 23 (Cal. CD)	<u>EMS Audit.</u> Within 90 Days after the Effective Date, the VW Defendants shall contract with and retain an independent third party to conduct an EMS audit pursuant to an industry-recognized standard for product development processes for vehicles to be certified for sale in the United States for each year for calendar years 2017, 2018, and 2019. Beginning with the EMS audit covering calendar year 2017, the EMS audit shall include: (1) an assessment of the VW Defendants' processes to comply with U.S. environmental laws and regulations [(including California laws and regulations)] ; and (2) a recommendation for corrective actions.
¶ 25 (U.S. CD) ¶ 24 (Cal. CD)	<u>Annual EMS Audit Report.</u> Upon completion of each annual EMS audit report, the VW Defendants shall provide to the Department of Justice [CARB] a copy of their annual EMS audit report covering calendar year 2017, 2018, and 2019. To the extent that any such report contains CBI, the VW Defendants shall simultaneously submit to Department of Justice [CARB] for its review a summary version that can be made publicly available. Within 21 Days after a copy is provided to the Department of Justice [CARB] , the VW Defendants shall post a copy of the annual EMS audit report (redacted of any CBI or personal information the disclosure of which is restricted by applicable law; however no emissions test methods and results may be claimed as CBI) in English and German on the public website required by Paragraph 51 [50] .