



Environmental Crimes Case Bulletin

U.S. Environmental Protection Agency
Office of Criminal Enforcement, Forensics and Training

This bulletin summarizes publicized investigative activity and adjudicated cases conducted by OCEFT Criminal Investigation Division special agents, forensic specialists, and legal support staff. To subscribe to this monthly bulletin you may [sign up for email alerts](#) on our publications page.

January 2017

In This Edition:

- **SCP Management, LLC — Region 1**
- **James Powers—Region 1**
- **John Brewer (Appalachian Labs) - Region 3**
- **Charles Edward Bayer, Jr.—Region 4**
- **Omega Protein, Inc.—Region 4**
- **Volkswagen AG (VW) - Region 5**
- **Richard Delp—Region 7**
- **Richard Estes—Region 10**

Quick Links

[Defendant Summary](#)

[Sentencing](#)

[Plea Agreements](#)

Indictments/
Informations

Defendant Summary

Region	Defendants	Case Type/Status
Region 1	SCP Management, LLC	Sentencing
Region 1	James Powers	Sentencing
Region 3	John Brewer (Appalachian Labs)	Sentencing
Region 4	Charles Edward Bayer, Jr.	Plea Agreement
Region 4	Omega Protein, Inc.	Sentencing
Region 5	Volkswagen AG (VW)	Plea Agreement
Region 7	Richard Delp	Sentencing
Region 10	Richard Estes	Sentencing

District of Columbia Man Sentenced to 20 Months in Prison For Committing Environmental Crime

Developer Admits Improperly Removing Asbestos From Historic Building

WASHINGTON – James Powers, 59, of Falls Church, Va., was sentenced today to 20 months in prison, to be followed by 36 months of supervised release, after earlier pleading guilty to violating the Clean Air Act for his role in a scheme to improperly remove asbestos from a historic building in the District of Columbia. The sentencing, in the U.S. District Court for the District of Columbia, was announced by the Justice Department’s Environment and Natural Resources Division and U.S. Attorney Channing D. Phillips.



The Historic Friendship House in Washington, DC

Powers pleaded guilty on September 7, 2016, to a charge of failure to remove asbestos prior to renovation. He was sentenced by the Honorable Amy Berman Jackson. Powers was also sentenced to perform 250 hours of community service.

Asbestos, a once-popular fireproofing insulation, is now known to cause lung cancer, asbestosis and mesothelioma in people who inhale the fibers released when asbestos is disturbed. Congress has determined that there is no safe level of exposure to asbestos. The Clean Air Act requires that renovation in asbestos-containing properties follow specific

protocols designed to safely remove asbestos from the property prior to any renovation or demolition activity, so as not to expose workers to the risk of deadly respiratory diseases.

The development project at issue involved renovating the historic Friendship House, located at 619 D Street SE in Washington, D.C., into condominiums, a development known as the Maples. According to a statement of offense submitted as part of the guilty plea, in March 2010, Powers formed a partnership with a local real estate development firm to purchase and renovate the property. An asbestos survey of the property documented asbestos throughout the property, including in floor tiles, wall board and pipe insulation.

After the survey, the partnership received bids from licensed professional asbestos abatement and renovation firms in the area. Despite knowing that the building contained asbestos, Powers hired Larry Miller, 59, of Palmetto, Georgia, a general contractor from Atlanta with no training, certification, or experience in asbestos abatement, to conduct interior demolition and renovation of the building. The written contract with Miller specifically excluded removal of asbestos from the property. Powers told Miller that the asbestos would be abated by another contractor after Miller’s work and did not fully inform Miller about the extent of asbestos in the property. Powers represented to his partners that a qualified entity would conduct appropriate asbestos abatement at the property. He e-mailed them a proposed asbestos abatement contract from a corporation that, unbeknownst to his partners, was simply an alter-ego for Powers.

Sentencings

During the period between August 2011 and October 2011, according to the statement of offense, Miller and his crew of workers conducted interior demolition at the Maples, without any asbestos abatement having



Asbestos-containing materials placed outside of building

themselves to a substantial risk of serious illness later in life.

Miller pleaded guilty on Nov. 19, 2015, to one count of negligent endangerment under the Clean Air Act. He is awaiting sentencing in the U.S. District Court for the District of Columbia. The charge carries a maximum sentence of not more than one year of imprisonment, a fine of up to \$100,000 and a term of supervised release and/or probation.

After the acts described in the statement of offense, a licensed asbestos abatement firm conducted abatement at the Maples. The District of Columbia Department of the Environment subsequently conducted inspections and found the property to be free of all asbestos-containing materials.

This case was investigated by EPA's Criminal Investigation Division and DOJ's Environment and Natural Resources Division.

occurred as required under the Clean Air Act. Powers also contracted with a waste disposal company to haul construction debris from the Maples off-site. Powers failed to inform the waste disposal company that the construction debris contained asbestos and the debris was not taken to a site qualified to receive asbestos waste.

Even after an inspection by local environmental authorities revealed asbestos in the building, Powers had Miller and his crew members proceed with demolition. Over the course of the project, the workers disturbed substantial quantities of asbestos, exposing

New Hartford Company to Pay \$200,000 Fine for Failing to Report Clean Air Act Violations to EPA— Company will also contribute \$200K to National Fish and Wildlife Foundation

On January 19, 2017, SCP Management, LLC, pleaded guilty to one count of failing to notify or report to the U.S. Environmental Protection Agency as required under the Clean Air Act. Sentencing was immediately imposed and the company was ordered to pay a \$200,000 fine.

According to court documents and statement made in court, Syntac Coated Products, LLC (“Old Syntac”) operated a manufacturing facility located at 29 Industrial Park Road in New Hartford from 2007 until April 19, 2013, when it sold all of its assets, including its trade name to Syntac Coated Products, LLC (“New Syntac”). Since April 19, 2013, Old Syntac has continued to exist under the name of SCP Management, LLC.

Old Syntac designed and manufactured specialty adhesive films for various applications used in the automotive, electronics and medical industries. In its manufacturing process, the company used three adhesive coating lines. When operating, those coating lines emitted volatile organic compounds (VOCs), some of which were also hazardous air pollutants that are suspected to cause cancer or other serious health effects. Beginning in 2008, the company controlled its emissions of VOCs and hazardous air pollutants from its coating lines with two catalytic oxidizers. Catalytic oxidizers produce chemical reactions that generate heat and promote the oxidation of VOCs to carbon dioxide and water. The company replaced its catalytic oxidizers with a regenerative thermal oxidizer in April 2013.

The Clean Air Act requires the EPA to create a list of the important categories of stationary sources of air pollution, and to establish federal standards of performance for new sources within these categories. These New Source Performance Standards (“NSPS”) apply to newly constructed sources or those that undergo major upgrades or modifications. As required under the NSPS, Old Syntac performed an initial performance test on each catalytic oxidizer in 2008 to demonstrate that VOC emissions from its coating lines were captured and properly controlled. Following the performance tests, the company was required to monitor, record and report the gas temperature upstream and downstream of each incinerator catalyst bed continuously during coating operations in order to demonstrate that the incinerator continued to function properly over time. Every six months, the company was required to submit a report to the EPA that identified any three-hour periods during which the average temperature difference across the catalyst bed in each of its catalytic oxidizers was less than 80 percent of the average temperature difference of the device during the performance test. If no such three-hour periods occurred during the reporting period, the company was required to say so in the report.

Between 2008 and April 2013, Old Syntac used paper temperature charts to record the upstream and downstream temperatures of its catalytic oxidizers during coating operations. Each day, a new temperature chart was installed and the chart for the previous day was removed, reviewed and preserved. On numerous occasions the temperature charts showed that the temperature difference across the catalyst bed was less than 80 percent of the average temperature difference of the device during the performance test. The company also performed tests of its catalyst blocks that indicated the catalysts were likely not destroying all of the VOCs emitted during its production processes. The company failed to file any reports with the EPA, as required under the Clean Air Act, regarding the temperature readings of the oxidizers. Had it done so, EPA could have investigated the company’s compliance further and required additional performance testing.

Sentencings

In addition to paying a \$200,000 criminal fine, SCP MANAGEMENT will make a Community Service Payment of \$200,000 to the National Fish and Wildlife Foundation, a nonprofit organization that will use the funds for projects and initiatives benefitting air quality in Connecticut. Additionally, SCP Management has acknowledged that, on one or more occasions between 2008 and April 2013, Old Syntac had the potential to emit hazardous air pollutants in excess of “major source” thresholds. Because of the EPA’s “Once In, Always In” policy concerning major sources of air pollutants, New Syntac or any successor entity will be filing an application for a permit under Title V of the Clean Air Act, which will subject the company to heightened regulatory and reporting requirements going forward.

“When Syntac noticed its catalytic oxidizers may not be functioning properly, it failed to report that information to the EPA,” said U.S. Attorney Daly. “A report would have triggered a regulatory review. Not reporting resulted in a criminal investigation. Hopefully, this prosecution will serve as a warning to corporations that if they ignore signs they are polluting the air we breathe, they risk federal prosecution.”

“To protect the surrounding community, the EPA relied on SCP Management to report on the hazardous air pollutants emitted from their Connecticut facility,” said EPA Special Agent in Charge Amon. “The company knowingly failed to report information that showed its emission control equipment was not operating properly, avoided regulatory oversight under the Clean Air Act and garnered an unfair economic benefit over its competitors.”

This matter was investigated by the U.S. Environmental Protection Agency with assistance from the Connecticut Department of Energy and Environmental Protection.

A report would have triggered a regulatory review. **Not** reporting resulted in a criminal investigation. Hopefully, this prosecution will serve as a warning to corporations that if they ignore signs they are polluting the air we breathe, they risk federal prosecution.

- US Attorney

Second Former Lab Manager Sentenced to Federal Prison for Falsifying Water Sample Data

BECKLEY, W.Va. – A former lab manager from Raleigh County who falsified data was sentenced today to two years in federal prison for violating the Clean Water Act, announced United States Attorney Carol Casto. John Brewer, 62, is the second former employee of Appalachian Laboratories to be prosecuted for a violation of the Clean Water Act.

Appalachian Laboratories performed water sampling and analysis for coal mining operations to ensure that the discharges of pollutants into public waterways were within the limits of permits issued by the West Virginia Department of Environmental Protection. From at least 2008 through the summer of 2013, law enforcement found evidence of irregularities in the sampling. Brewer admitted that he knew and approved of employees falsifying the date that water samples were taken, as well as falsifying dates himself. Brewer further admitted that Appalachian Laboratories employees would falsify the date a sample was taken in order to avoid collecting samples that they believed to be in violation of permit limits. Instead, the employees would wait until they believed the water was within permit limits and then take a sample. They then backdated the samples to make it appear as though the samples had been collected in the previous month as required. Brewer additionally admitted that he caused this falsified data to be submitted in a report to the West Virginia Department of Environmental Protection.

John Shelton, another former lab manager at Appalachian Laboratories, previously pleaded guilty to conspiring to violate the Clean Water Act. Shelton was sentenced in February 2015 to a year and nine months in federal prison.

The investigation was conducted jointly by the FBI and EPA's Criminal Investigation Division.

Louisiana company to pay \$1.2 million for discharge of pollutants into the Vermilion River Shreveport, LA. – Dietary supplement company must pay \$1.2 million for illegally discharging pollutants into the Vermilion River.

Omega Protein Inc. was sentenced for two counts of unlawful discharge of a pollutant into a water of the United States. Company representative John D. Held was present on the company's behalf at the hearing. The company pleaded guilty and was sentenced Wednesday, January 18, 2017. Omega will pay a \$1 million



fine to the United States and a \$200,000 community service fee will be paid to the Louisiana State Police Emergency Service Unit. The company was also placed on probation for three years. Omega is a corporation located in Louisiana and incorporated under the laws of Virginia. According to evidence presented at the hearing, on December 8, 2014 and February 1, 2016, a manager at the Abbeville Omega plant directed employees to place a hose in a treatment pond and drain polluted water into a canal that emptied into the Vermilion River.

The investigation was conducted by EPA's Criminal Investigation Division and Louisiana State Police.

*Pollutant discharge into a canal
leading to the Vermilion River*

North-Central Iowa Man Sentenced to Federal Prison for Unlawful Storing of Hazardous Waste

A Cedar Falls, Iowa man who knowingly stored hazardous waste at his now defunct Cedar Valley Electroplating facility in Cedar Falls without a permit authorizing the storage was sentenced on January 18, 2017, to two years in federal prison.

Richard Delp, 62, from Cedar Falls, Iowa, received the prison term after an August 3, 2016, guilty plea to a charge of unlawfully storing hazardous waste.

Evidence at the plea and sentencing hearing showed that from sometime in 2004 to about September 30, 2011, Delp owned and operated Cedar Valley Electroplating (CVE), an electroplating facility located at 5611 Westminster Drive, Cedar Falls, Black Hawk County, Iowa. Neither the defendant nor CVE had a permit to treat, store or dispose of hazardous waste under federal law.



Inside Cedar Valley Electroplating facility

CVE electroplated zinc onto carbon steel parts using a rack plating line (dip tank) and a hand-dip plating operation (barrel line). The various materials used in this process included raw steel, acids, zinc plating solution, chromate solutions (yellow and clear), acids and caustic soda. From sometime in 2004 to about September 30, 2011, CVE was a large quantity hazardous waste generator and produced more than 1,000 kilograms of hazardous waste per month.

On September 9, 2005, and September 20, 2010, civil inspectors of the United States Environmental Protection Agency (EPA) inspected CVE and found hazardous waste being handled and stored unlawfully. The inspectors told Delp of their findings.

Based on information obtained during the 2010 civil inspection, the EPA issued a Notice of Preliminary Finding to CVE for failing to perform hazardous waste determinations on the wastes stored in the facility. In a July 25, 2011, letter from Delp to the EPA, Delp acknowledged some of the wastes EPA had observed in the September 20, 2010 inspection were, in fact, hazardous wastes within the meaning of 42 U.S.C. §6928.

On or about September 30, 2011, Delp closed CVE, leaving numerous process chemicals and wastes inside and surrounding CVE's building including those observed in the 2010 inspection.

In late 2011, Delp was ordered by the Cedar Falls Fire Department to move several white plastic tanks containing caustic or acid compounds from the outside and into the building so that they would not freeze and discharge into the environment. The tanks, when moved, left visible staining in the area where they had been stored outside, revealing there had already been discharges to the environment.

On February 27, 28, and 29, 2012, EPA executed a federal search warrant at CVE, discovering totes, tanks,

drums, and other containers, some of which were leaking and unlabeled, and materials throughout the facility, giving off a strong acidic odor, containing hundreds of gallons of chromium, zinc, ferric sulfate, ferric chloride, sulfuric acid, hydrochloric acid, sodium hypochlorite, sodium hydroxide, and other items. Abandoned plating baths containing hundreds of gallons of caustic chemicals (e.g., hydrochloric acid, sulfuric acid, and sodium hydroxide), waste water tanks, corroded metal and concrete surfaces also were discovered during the search.

EPA collected chemical samples from ten 55-gallon drums, one tote, five tanks and four vats. Of these 20 samples, 18 exhibited the characteristic for corrosiveness and 9 exhibited the characteristic for toxicity and therefore constituted hazardous waste under federal law.

Following the search, EPA civil responders removed earth, containers, and interior portions of the property to ameliorate the contamination. The on-site clean-up work concluded on October 23, 2012. The total clean-up related costs exceeded \$789,138.03.

Items stored at the CVE facility were hazardous wastes exhibiting the characteristics of corrosiveness and toxicity (specifically chromium), for purposes of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6109 et seq.

“By refusing to comply with laws that ensure the safe handling and storage of hazardous chemicals, Delp put the public at serious risk,” said Justin Oesterreich, Assistant Special Agent in Charge of EPA’s criminal enforcement program in Iowa. “EPA and its law enforcement partners are committed to protecting local communities by holding to account those who disregard the harm they pose to public health and the environment.”

“Mr. Delp unlawfully stored hazardous waste, resulting in the discharge of this waste into the environment and creating a risk to the safety of others and to the natural resources of Iowa,” said Kevin W. Techau, United States Attorney for the Northern District of Iowa. “We hope this case will encourage others to comply with laws designed to ensure hazardous wastes are properly stored and protect our environment.”

Delp was sentenced in Cedar Rapids by United States District Court Chief Judge Linda R. Reade. Delp was sentenced to 24 months’ imprisonment. A special assessment of \$100 was imposed and he was ordered to make \$789,138.03 in restitution to the Environmental Protective Agency (EPA’s) Superfund. He must also serve a 3-year term of supervised release after the prison term. There is no parole in the federal system.

Delp was released on bond previously set and is to surrender to the United States Marshal on February 13, 2017.

The case was investigated by EPA’s Criminal Investigation Division.

Renton, Washington Man Sentenced to 105 Months in Prison for Conspiracy to Commit Money Laundering

Richard Estes of Renton, Washington, was sentenced, after having previously pled guilty on December 16, 2015, to Conspiracy to Commit Money Laundering. Estes was sentenced to a term of imprisonment of 105 months, to be followed by a three-year term of court supervision after he is released from Federal prison. In addition, Estes was ordered to pay \$4,360,724.50 in restitution to the taxpayers of the United States.

m of the renewable fuel claimed to be produced at the Gen-X facilities was either not produced or re-processed multiple times. In total, over \$39,000,000 of proceeds of the scheme was laundered through accounts owned or controlled by Estes.

According to information disclosed during the court proceedings, Estes was a member of a conspiracy involving Gen-X Energy Group, Inc. (Gen-X), a renewable energy company formerly located in Pasco and Moses Lake, Washington. Between March of 2013 and May of 2014, Estes and his co-conspirators laundered the proceeds of schemes to falsely claim the production of marketable renewable energy credits, and file false claims for refunds of excise credits with the IRS. Throughout this period, much of the renewable fuel claimed to be produced at the Gen-X facilities was either not produced or re-processed multiple times. In total, over \$39,000,000 of proceeds of the scheme was laundered through accounts owned or controlled by Estes.

Michael C. Ormsby stated, "The United States Attorney's Office for the Eastern District of Washington is, and will continue to be, committed to prosecuting aggressively and seeking appropriate punishment for white collar crimes. I commend the tenacious and thorough efforts of the IRS-Criminal investigations and the Environmental Protection Agency's Criminal Investigation Division."

"This is a classic case of an individual who allowed his own unfettered greed to guide his duplicitous actions," stated Special Agent in Charge Darrell Waldon of IRS Criminal Investigation. "When that greed turns into fraud to the degree perpetrated by Richard Estes and his co-conspirators, IRS CI stands ready with our law enforcement partners to serve as the guardians of economic equity and social justice."

This investigation was conducted by the IRS Criminal Investigations and EPA's Criminal Investigation Division.

Louisiana Man Pleads Guilty to Conspiracy to Sell Devices to Cheat Vehicle Emissions Tests—Charles Bayer Manufactured and Sold the Fraudulent Devices

Charles Edward Bayer, Jr. of Lafayette, Louisiana, pled guilty in federal court on January 12, 2017, in Syracuse, NY to one felony count of conspiracy to commit mail fraud and violate the Clean Air Act

In pleading guilty, Bayer admitted that between 2011 and 2013 he participated in a conspiracy to design, manufacture, and sell motor vehicle simulator devices which were designed and programmed to allow vehicles to by-pass motor vehicle emissions inspections tests in a fraudulent manner. Bayer admitted that when one of his co-conspirators believed the EPA had become aware of the illegal sales of these devices, he (Bayer) purchased the remaining inventory as well as the source codes, and a customer list. Thereafter Bayer continued to sell and manufacture these devices. Ultimately, Bayer and his co-conspirators sold at least 170 such devices throughout the country. In pleading guilty, Bayer admitted that he was a leader in the conspiracy, which involved at least five others. Bayer also admitted that he understood his customers were using the devices to fraudulently bypass motor vehicle inspections and that he added a disclaimer to the instructions that the devices were for “development/off road use only” to make the devices appear legitimate.



Motor Vehicle Simulator Device

The charge to which Bayer pled guilty carries a maximum sentence of 5 years in prison and a fine of up to \$250,000. Sentencing is scheduled for May 11, 2017.

This case is being investigated by EPA’s Criminal Investigation Division, and the New York State Department of Environmental Conservation.

Volkswagen AG Agrees to Plead Guilty and Pay \$4.3 Billion in Criminal and Civil Penalties; Six Volkswagen Executives and Employees are Indicted in Connection with Conspiracy to Cheat U.S. Emissions Tests

VW to Pay \$2.8 Billion Criminal Fine in Guilty Plea and \$1.5 Billion Settlement of Civil Environmental, Customs and Financial Violations; Monitor to Be Appointed to Oversee the Parent Company

Volkswagen AG (VW) has agreed to plead guilty to three criminal felony counts and pay a \$2.8 billion criminal penalty as a result of the company's long-running scheme to sell approximately 590,000 diesel vehicles in the U.S. by using a defeat device to cheat on emissions tests mandated by the Environmental Protection Agency (EPA) and the California Air Resources Board (CARB), and lying and obstructing justice to further the scheme, the Justice Department announced today.

In separate civil resolutions of environmental, customs and financial claims, VW has agreed to pay \$1.5 billion. This includes EPA's claim for civil penalties against VW in connection with VW's importation and sale of these cars, as well as U.S. Customs and Border Protection (CBP) claims for customs fraud. In addition, the EPA agreement requires injunctive relief to prevent future violations. The agreements also resolve alleged violations of the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA).

The Criminal Case:

VW is charged with and has agreed to plead guilty to participating in a conspiracy to defraud the United States and VW's U.S. customers and to violate the Clean Air Act by lying and misleading the EPA and U.S. customers about whether certain VW, Audi and Porsche branded diesel vehicles complied with U.S. emissions standards, using cheating software to circumvent the U.S. testing process and concealing material facts about its cheating from U.S. regulators. VW is also charged with obstruction of justice for destroying documents related to the scheme, and with a separate crime of importing these cars into the U.S. by means of false statements about the vehicles' compliance with emissions limits. Under the terms of the plea agreement, which must be accepted by the court, VW will plead guilty to all these crimes, will be on probation for three years, will be under an independent corporate compliance monitor who will oversee the company for at least three years, and agrees to fully cooperate in the Justice Department's ongoing investigation and prosecution of individuals responsible for these crimes.



In addition, a federal grand jury in the Eastern District of Michigan returned an indictment today charging six VW executives and employees for their roles in the nearly 10-year conspiracy. Heinz-Jakob Neusser, 56; Jens Hadler, 50; Richard Dorenkamp, 68; Bernd Gottweis, 69; Oliver Schmidt, 48; and Jürgen Peter, 59, all of Germany, are charged with one count of conspiracy to defraud the United States, defraud VW's U.S. customers and violate the Clean Air Act by making false representations to regulators and the public about the ability of

VW's supposedly "clean diesel" vehicles to comply with U.S. emissions requirements. The indictment also charges Dorenkamp, Neusser, Schmidt and Peter with Clean Air Act violations and charges Neusser, Gottweis, Schmidt and Peter with wire fraud counts. This case has been assigned to U.S. District Judge Sean F. Cox of the Eastern District of Michigan.

Schmidt was arrested on Jan. 7, 2017, in Miami during a visit to the United States and appeared in federal court there on Monday. The other defendants are believed to presently reside in Germany.

This wasn't simply the action of some faceless, multinational corporation. This conspiracy involved flesh-and-blood individuals who used their positions within Volkswagen to deceive both regulators and consumers.

- Deputy Attorney General Yates

"Volkswagen's attempts to dodge emissions standards and import falsely certified vehicles into the country represent an egregious violation of our nation's environmental, consumer protection and financial laws," said Attorney General Lynch. "Today's actions reflect the Justice Department's steadfast commitment to defending consumers, protecting our environment and our financial system and holding individuals and companies accountable for corporate wrongdoing. In the days ahead, we will continue to examine Volkswagen's attempts to mislead consumers and deceive the government. And we will continue to pursue the individuals responsible for orchestrating this damaging conspiracy."

"When Volkswagen broke the law, EPA stepped in to hold them accountable and address the pollution they caused," said EPA Administrator McCarthy. "EPA's fundamental and indispensable role becomes all too clear when companies evade laws that protect our health. The American public depends on a strong and active EPA to deliver clean air protections, and that is exactly what we have done."

"This wasn't simply the action of some faceless, multinational corporation," said Deputy Attorney General Yates. "This conspiracy involved flesh-and-blood individuals who used their positions within Volkswagen to deceive both regulators and consumers. From the start of this investigation, we've been committed to ensuring that those responsible for criminal activity are held accountable. We've followed the evidence—from the showroom to the boardroom—and it brought us to the people whose indictments we're announcing today."

"Americans expect corporations to operate honestly and provide accurate information," said Deputy Director McCabe. "Volkswagen's data deception defrauded the U.S. government, violated the Clean Air Act and eroded consumer trust. This case sends a clear message to corporations, no matter how big or small, that if you lie and disregard rules that protect consumers and the environment, you will be caught and held accountable."

"Blatant violations of U.S. customs and environmental laws will not be tolerated, and this case reinforces that," said Acting Deputy Secretary Deyo. "These actions put our economy, consumers and citizens at risk, and the Department of Homeland Security and U.S. Customs and Border Protection will continue to take every step necessary to protect the American people."

Plea Agreements

According to the indictment, the individuals occupied the following positions within the company:

Heinz-Jakob Neusser: from July 2013 until September 2015, Neusser worked for VW as head of Development for VW Brand and was also on the management board for VW Brand. From October 2011 until July 2013, Neusser served as the head of Engine Development for VW.

Jens Hadler: from May 2007 until March 2011, Hadler worked for VW as head of Engine Development for VW.

Richard Dorenkamp: from 2003 until December 2013, Dorenkamp worked for VW as the head of VW's Engine Development After-Treatment Department in Wolfsburg, Germany. From 2006 until 2013, Dorenkamp led a team of engineers that developed the first diesel engine that was designed to meet the new, tougher emissions standards in the United States.

Bernd Gottweis: from 2007 until October 2014, Gottweis worked for VW as a supervisor with responsibility for Quality Management and Product Safety.

Oliver Schmidt: from 2012 through February 2015, Schmidt was the General Manager in charge of the Environment and Engineering Office, located in Auburn Hills, Michigan. From February 2015 through September 2015, Schmidt returned to VW headquarters to work directly for Neusser, including on emissions issues.

Jürgen Peter: Peter worked in the VW Quality Management and Product Safety Group from 1990 until the present. From March 2015 until July 2015, Peter was one of the VW liaisons between the regulatory agencies and VW.

According to the charging documents and statement of facts filed with the court, in 2006, VW engineers began to design a new diesel engine to meet stricter U.S. emissions standards that would take effect by model year 2007. This new engine would be the cornerstone of a new project to sell diesel vehicles in the United States that would be marketed to buyers as "clean diesel," a project that was an important strategic goal for VW's management. When the co-conspirators realized that they could not design a diesel engine that would both meet the stricter NOx emissions standards and attract sufficient customer demand in the U.S. market, they decided they would use a software function to cheat standard U.S. emissions tests.

VW engineers working under Dorenkamp and Hadler designed and implemented a software to recognize whether a vehicle was undergoing standard U.S. emissions testing on a dynamometer or it was being driven on the road under normal driving conditions. The software accomplished this by recognizing the standard published drive cycles. Based on these inputs, if the vehicle's software detected that it was being tested, the vehicle performed in one mode, which satisfied U.S. NOx emissions standards. If the software detected that the vehicle was not being tested, it operated in a different mode, in which the vehicle's emissions control systems were reduced substantially, causing the vehicle to emit NOx up to 40 times higher than U.S. standards.

Disagreements over the direction of the project were articulated at a meeting over which Hadler presided, and which Dorenkamp attended. Hadler authorized Dorenkamp to proceed with the project knowing that only the use of the defeat device software would enable VW diesel vehicles to pass U.S. emissions tests.

Plea Agreements

Starting with the first model year 2009 of VW's new "clean diesel" engine through model year 2016, Dorenkamp, Neusser, Hadler and their co-conspirators installed, or caused to be installed, the defeat device software into the vehicles imported and sold in the United States. In order to sell their "clean diesel" vehicles in the United States, the co-conspirators lied to the EPA about the existence of their test-cheating software, hiding it from the EPA, CARB, VW customers and the U.S. public. Dorenkamp, Neusser, Hadler, Gottweis, Schmidt, Peter and their co-conspirators then marketed, and caused to be marketed, VW diesel vehicles to the U.S. public as "clean diesel" and environmentally-friendly.

Around 2012, hardware failures developed in certain of the diesel vehicles. VW engineers believed the increased stress on the exhaust system from being driven in the "dyno mode" could be the cause of the hardware failures. In July 2012, VW engineers met with Neusser and Gottweis to explain what they believed to be the cause of the hardware failures and explained the defeat device. Gottweis and Neusser each encouraged further concealment of the software. In 2014, the co-conspirators perfected their cheating software by starting the vehicle in "street mode," and, when the defeat device realized the vehicle was being tested, switching to the "dyno mode." To increase the ability of the vehicle's software to recognize that it was being tested on the dynamometer, the VW engineers activated a "steering wheel angle recognition feature." With these alterations, it was believed the stress on the exhaust system would be reduced because the engine

In implementing their strategy of disclosing as little as possible, [they provided] testing results, data, presentations and statements in an attempt to make it appear that there were innocent mechanical and technological problems to blame, **while secretly knowing that the primary reason for the discrepancy was their cheating software that was installed in every VW diesel vehicle sold in the United States.**

would not be operating for as long in "dyno mode." The new function was installed in existing vehicles through software updates. The defendants and other co-conspirators falsely represented, and caused to be represented, to U.S. regulators, U.S. customers and others that the software update was intended to improve durability and emissions issues in the vehicles when, in fact, they knew it was used to more quickly deactivate emission control systems when the vehicle was not undergoing emissions tests.

After years of VW selling their "clean diesel" vehicles in the United States that had the cheating software, in March 2014, West Virginia University's Center for Alternative Fuels, Engines and Emissions published the results of a study commissioned by the International Council on Clean Transportation (ICCT). The ICCT study identified substantial discrepancies in the NOx emissions from certain VW vehicles when tested on the road compared to when these vehicles were undergoing EPA and CARB standard drive cycle tests on a dynamometer. Rather than tell the truth, VW employees, including Neusser, Gottweis, Schmidt and Peter, pursued a strategy to disclose as little as possible – to continue to hide the existence of the software from U.S. regulators, U.S. customers and the U.S. public.

Following the ICCT study, CARB, in coordination with the EPA, attempted to work with VW to determine the cause for the higher NOx emissions in VW diesel vehicles when being driven on the road as opposed to on the dynamometer undergoing standard emissions test cycles. To do this, CARB, in coordination with the EPA, repeatedly asked VW questions that became increasingly more specific and detailed, and tested the vehicles

Following the ICCT study, CARB, in coordination with the EPA, attempted to work with VW to determine the cause for the higher NOx emissions in VW diesel vehicles when being driven on the road as opposed to on the dynamometer undergoing standard emissions test cycles. To do this, CARB, in coordination with the EPA, repeatedly asked VW questions that became increasingly more specific and detailed, and tested the vehicles



Plea Agreements

themselves. In implementing their strategy of disclosing as little as possible, Neusser, Gottweis, Schmidt, Peter and their co-conspirators provided EPA and CARB with testing results, data, presentations and statements in an attempt to make it appear that there were innocent mechanical and technological problems to blame, while secretly knowing that the primary reason for the discrepancy was their cheating software that was installed in every VW diesel vehicle sold in the United States. The co-conspirators continued this back-and-forth with the EPA and CARB for over 18 months, obstructing the regulators' attempts to uncover the truth.

The charges in the indictment are merely accusations and each defendant is presumed innocent unless and until proven guilty.

The case was investigated by the FBI, EPA's Criminal Investigation Division and DOJ's Environment and Natural Resources Division. The prosecution and corporate investigation are being handled by DOJ's Securities and Financial Fraud Unit .