



Volkswagen Environmental Mitigation Trust



EPA Complaint

- U.S. Environmental Protection Agency (EPA) and California filed a complaint against Volkswagen (VW) and subsidiary companies for violation of the Clean Air Act.
- VW admitted that the engine control module (ECM) on each subject vehicle contained computer algorithms to the emission control systems causing higher nitrogen oxides (NO_x) emissions during normal operation than during emissions testing.
- 500,000 model year 2009-2015 2.0 liter diesel vehicles and approximately 80,000 model year 2009-2016 3.0 liter diesel vehicles were involved.



Remedies

- Buyback/Lease Termination and Vehicle Modification Recall Program
- Zero Emission Vehicle (ZEV) Investment Commitment
- Environmental Mitigation Trust



Buyback/Lease Termination and Vehicle Modification Recall Program

- **Buyback Recall** – no less than retail replacement value
- **Lease Termination** – full cancellation of the remaining terms with no penalty
- **Emissions Modification** – must offer approved emissions modification in lieu of buyback or lease termination
- 85% required recall rate
- \$10,033,000,000 available funding pool



Zero Emission Vehicle (ZEV) Investment Commitment

- \$2 billion over 10 years on actions that will support increased use of ZEV technology in the U.S.
 - \$800 million in California
 - **\$1.2 billion** in other areas
- VW will develop a National ZEV Investment Plan and a California ZEV Investment Plan
- VW will develop a National ZEV Outreach Plan
- See <https://www.electrifyamerica.com/>



Environmental Mitigation Trusts

- \$2.86 billion allocated among the States, Puerto Rico, and District of Columbia
- \$60 million allocated to Indian Tribes under a separate Trust
- **Texas' share is \$209 million or more**
- Funding allocation is generally based on the number of impacted VW vehicles in each jurisdiction.
- If a beneficiary declines to participate, their share will be allocated among the other beneficiaries.



Designation of the Beneficiary and Lead Agency

- No later than 60 days after the Trust Effective Date, an eligible beneficiary must file a single certification form, certified by the Governor (**filed November 21, 2017**).
- The Governor has designated the TCEQ as the Lead Agency for administering the funds.
- The Trustee must file a Notice of Beneficiary Designation not later than 120 days after the Trust Effective Date (**filed January 29, 2018**). **The state of Texas is officially designated a Beneficiary.**



Beneficiary Mitigation Plan

- Must be filed at least 30 days before submission of the first funding request
- The Plan summarizes how the Beneficiary plans to use the funds, addressing:
 1. Overall goal for use of the funds
 2. Categories of Mitigation Actions and preliminary assessment of the percentages of funds anticipated to be used for each type of action
 3. Description of how the Beneficiary will consider the potential beneficial impact on air quality in areas that bear a disproportionate share of the air pollution burden
 4. General description of the expected ranges of air emissions benefits



Funding Requests

- In general, the funds must be spent within ten years.
- Beneficiaries may request up to 1/3 during the first year starting on the Trust Effective Date, or 2/3 during the first two years.
- Funding Requests must include a detailed list and information on each Eligible Mitigation Action to be funded.
- Beneficiaries may use Trust Funds for actual administrative expenditures associated with implementing each Eligible Mitigation Action, not to exceed 15% of the total cost of the Eligible Mitigation Action.



Eligible Mitigation Actions

See Appendix D-2 of the Trust Agreement

(includes repowers and replacement, except where noted)

- Class 8 Local Freight Trucks and Port Drayage Trucks
- Class 4-8 School Bus, Shuttle Bus, or Transit Bus
- Freight Switchers
- Ferries/Tugs (*repower only*)
- Ocean Going Vessels (OGV) Shorepower
- Class 4-7 Local Freight Trucks
- Airport Ground Support Equipment (*all-electric only*)
- Forklifts and Cargo Handling Equipment (*all-electric only*)
- Light-Duty Zero Emission Vehicle Supply Equipment
- Diesel Emission Reduction Act (DERA) Option



Next Steps

- TCEQ invites input and recommendations regarding use of the funds and development of the state's mitigation plan.
- TCEQ will prepare a draft mitigation plan and solicit public comment on the plan.
- Visit the VW Environmental Mitigation Trust webpage for information and updates on status of the state's efforts.



Request for Comments

- 1. Overall goal for use of the funds**
- 2. Categories of Mitigation Actions and preliminary assessment of the percentages of funds anticipated to be used for each type of action**
- 3. Description of how the Beneficiary will consider the potential beneficial impact on air quality in areas that bear a disproportionate share of the air pollution burden**
- 4. General description of the expected ranges of air emissions benefits**



Information and Contact

For copies of the Trust Agreement and information on submitting recommendations, visit the TCEQ's Volkswagen Mitigation Trust webpage at:

<https://www.tceq.texas.gov/agency/trust>

Questions and recommendations may be emailed to:

VWSettle@tceq.texas.gov



Mail

Recommendations may also be submitted by mail

Regular Mail:

Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section, MC-204
P.O. Box 13087
Austin, TX 78711-3087
ATTN: VW Settlement

Express Mail:

Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section, MC-204
12100 Park 35 Circle
Austin, TX 78753
ATTN: VW Settlement



Eligible Mitigation Actions

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new diesel or alternate fueled engine, MY (model year) in which the EMA occurs or one engine model year prior	1992-2009	40%	100%
Engine replacement with new all-electric engine, engine MY in which the EMA occurs or one engine MY prior	1992-2009	75%	100%
Vehicle replacement with new diesel or alternate fueled vehicle, engine MY in which the EMA occurs or one engine MY prior	1992-2009	25% (50% for Drayage)	100%
Vehicle replacement with all-electric vehicle, engine MY in which the EMA occurs or one engine MY prior	1992-2009	75%	100%



Eligible Mitigation Actions

2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new diesel or alternate fueled engine, engine MY in which the EMA occurs or one engine model year prior	2009 and older	40%	100%
Engine replacement with new all-electric engine, engine MY in which the EMA occurs or one engine MY prior	2009 and older	75%	100%
Vehicle replacement with new diesel or alternate fuel vehicle, engine MY in which the EMA occurs or one engine MY prior	2009 and older	25%	100%
Vehicle replacement with all-electric vehicle, engine MY in which the EMA occurs or one engine MY prior	2009 and older	75%	100%



Eligible Mitigation Actions

3. Freight Switchers

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new diesel or alternate fueled engine or generator sets that are EPA certified for the engine MY in which the EMA occurs	Pre-Tier 4	40%	100%
Engine replacement with new all-electric engine	Pre-Tier 4	75%	100%
Locomotive replacement with new diesel or alternate fueled freight switcher that is EPA certified for the engine MY in which the EMA occurs	Pre-Tier 4	25%	100%
Locomotive replacement with new all-electric freight switcher	Pre-Tier 4	75%	100%



Eligible Mitigation Actions

4. Ferries/Tugs			
Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new Tier 3 or 4 diesel or alternate fueled engine	Pre-Tier 3	40%	100%
Engine replacement with new all-electric engine	Pre-Tier 3	75%	100%
Certified remanufacture system or verified engine upgrade	Pre-Tier 3	40%	100%



Eligible Mitigation Actions

5. Ocean Going Vessels (OGV) Shorepower

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Costs associated with shore-side system	Systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Should be supplied with power sourced from the local utility grid.	25%	100%



Eligible Mitigation Actions

6. Class 4-7 Local Freight Trucks (Eligible Medium Trucks)

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new diesel or alternate fueled engine, engine MY in which the EMA occurs or one engine model year prior	1992 - 2009	40%	100%
Engine replacement with new all-electric engine, engine MY in which the EMA occurs or one engine MY prior	1992 - 2009	75%	100%
Vehicle replacement with new diesel or alternative fuel vehicle, engine MY in which the EMA occurs or one engine MY prior	1992 - 2009	25%	100%
Vehicle replacement with all-electric vehicle, engine MY in which the EMA occurs or one engine MY prior	1992 - 2009	75%	100%



Eligible Mitigation Actions

7. Airport Ground Support Equipment (GSE)			
Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new all-electric engine	Tier 0, 1, or 2 diesel-powered engine Uncertified or certified to 3 g/bhp-hr or greater spark-ignition engine	75%	100%
Equipment replacement with new all-electric equipment	Tier 0, 1, or 2 diesel-powered engine Uncertified or certified to 3 g/bhp-hr or greater spark-ignition engine	75%	100%



Eligible Mitigation Actions

8. Forklifts and Port Cargo Handling Equipment (CHE)

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Engine replacement with new all-electric engine	Forklifts greater than 8000 lbs. lift capacity and Port CHE	75%	100%
Equipment replacement with new all-electric equipment	Forklifts greater than 8000 lbs. lift capacity and Port CHE	75%	100%



Eligible Mitigation Actions

9. Light-Duty Zero Emission Vehicle Supply Equipment

Activity	Vehicle and Equipment Eligibility	Trust Funding Limits	
		<i>Non-Gov. Owned</i>	<i>Gov. Owned</i>
Light-duty electric vehicle supply (Available to the public)	Level 1, level 2, or fast charging equipment	80%	100%
Light-duty electric vehicle supply Workplace (not available to the public)	Level 1, level 2, or fast charging equipment	60%	60%
Light-duty electric vehicle supply Multi-Unit Dwelling (not available to the public)	Level 1, level 2, or fast charging equipment	60%	60%
Light-duty hydrogen fuel cell vehicle supply (available to the public)	Capable of dispensing at least 250 kg/day	33%	33%
Light-duty hydrogen fuel cell vehicle supply (available to the public)	Capable of dispensing at least 100 kg/day	25%	25%