



Bureau of Air Quality

Pennsylvania's Draft Beneficiary Mitigation Plan: VW Clean Air Act Violations Settlement

May 23, 2017

Tom Wolf, Governor

Patrick McDonnell, Acting Secretary

Introduction

- Opening Remarks from Acting Deputy Secretary George Hartenstein

Background

- 2016 – Federal government and California sued Volkswagen and subsidiaries (VW) for federal Clean Air Act and state law violations
- VW installed ‘defeat devices’ on more than 500,000 nationwide
 - Devices resulted in excess emissions of NO_x from these vehicles of 9-40 times the allowable amount
- 2016/2017 – Settlement of consumer and environmental claims
- Consumer claims – Settled directly with VW
 - See <https://www.vwcourtsettlement.com/en/>
- Environmental Mitigation – 2 funds created
 - VW’s National ZEV Investment Plan
 - Environmental Mitigation Trust Fund

Background

- PA does not receive funds directly from National ZEV Investment
 - PA can suggest projects but VW makes final decision
 - See PA VW website for additional info
<http://www.dep.pa.gov/Business/Air/Volkswagen/Pages/default.aspx>
- PA is allocated funds from Environmental Mitigation Trust Fund
 - PA's allocation is based upon the over 23,000 illegal vehicles in PA
 - Funds can be used expressly to reduce NO_x emissions in PA to offset excess emissions from vehicles with defeat devices
 - Funds can only be used for 10 Eligible Mitigation Actions (EMAs) listed in Appendix D-2 of First Partial Consent Decree

Environmental Mitigation Trust Fund

- Several partial consent decrees lodged with the court
- Form of Environmental Mitigation Trust Agreement is in Appendix D of first Partial Consent Decree
- Trust Agreement requires potential beneficiaries to submit a Beneficiary Mitigation Plan to the Trustee
- Pennsylvania's plan is due to the Trustee within 90 days of PA being certified as a beneficiary (date of certification to be determined)

Environmental Mitigation Trust Fund

- Disbursement of funds
 - The term of Trust is at least 10 years
 - Beneficiaries may request up to 1/3 of allocation in first year, 2/3 of allocation within first 2 years
 - It will likely take PA more than the first 3 years to request all of funds allocated to PA
 - The rate of drawdowns depends on what projects are approved by the Trustee

Listening Session Schedule

- DEP Southcentral Regional Office
 - June 5, 2017
 - 10am-12pm
- DEP Northcentral Regional Office
 - June 7, 2017
 - 10am-12pm
- DEP Southeast Regional Office
 - June 13, 2017
 - 10am-12pm
- DEP Northeast Regional Office
 - June 15, 2017
 - 10am-12pm
- DEP Northwest Regional Office
 - June 22, 2017
 - 10am-12pm
- DEP Southwest Regional Office
 - June 23, 2017
 - 10am-12pm

Submitting Comments

- Submit comments:
 - Using DEP's online eComment tool at www.ahs.dep.pa.gov/eComment
 - By email at eComment@pa.gov
 - Mail to the Department of Environmental Protection, Policy Office, Rachel Carson State Office Building, P. O. Box 2063, Harrisburg, PA 17105-2063
 - Comments submitted by facsimile will not be accepted
- A Comment and Response document will not be created
 - All comments received will be available through eComment at <http://www.ahs.dep.pa.gov/eComment/>
 - Comments may also be incorporated into the existing Frequently Asked Questions document on DEP's Volkswagen web site

➤ Beneficiary Mitigation Plan – Sections I & II

- Draft Beneficiary Mitigation Plan is divided into 6 sections
- Section I – Settlement Summary and Background
 - Section I provides additional information about the violations, lawsuit and settlements
 - Note: the highlighted items are those that are not final at this time
 - Section I specifies that the draft mitigation plan is not binding on PA and does not create rights or entitlements for any person or entities

➤ Beneficiary Mitigation Plan – Sections I & II

- Section II – Air Quality in Pennsylvania
 - Section II provides an overview of air quality in PA relating to NO_x
 - Diesel mobile sources are a significant source of NO_x in PA
 - Accounted for 150,891 tons of NO_x in 2011
 - NO_x is a precursor for fine particulate matter ($\text{PM}_{2.5}$) and ozone
 - Several nonattainment areas in PA for $\text{PM}_{2.5}$ and ozone
 - A large fleet of older diesel vehicles and engines, which operate on average 25-30 years, exists in PA
 - There are many opportunities for replacements or repowers

➤ Beneficiary Mitigation Plan – Section III

- Section III – Required Elements of Mitigation Plan
 - The beneficiary's overall goal for the use of the funds
 - The categories of eligible mitigation actions the beneficiary anticipates will be appropriate to achieve the stated goals and the preliminary assessment of the percentages of funds anticipated to be used for each type of eligible mitigation action
 - A description of how the beneficiary will consider the potential beneficial impact of the selected eligible mitigation actions on air quality in areas that bear a disproportionate share of the air pollution burden within their jurisdiction
 - A general description of the expected ranges of emission benefits the beneficiary estimates would be realized by the implementation of the eligible mitigation actions identified in the beneficiary mitigation plan
- Additionally, the Mitigation Plan must explain the public input process

➤ Beneficiary Mitigation Plan – Section III-A

- Overall Goals
 - Distribute funding statewide, based primarily on cost-effectiveness and total NO_x emission reductions of proposed projects
 - Focus on projects involving large, older diesel engines/vehicles or large numbers of diesel engines/vehicles
 - Focus on projects in areas of high pollution (priority areas), high population density and/or high traffic density
 - Prioritize projects in NAAQS nonattainment areas for PM_{2.5}, ozone or NO₂
 - Consider project co-benefits that further PA's energy, environmental or economic goals, including but not limited to:
 - Reducing other significant pollutants
 - Promote/support related infrastructure development
 - Transform or advance market for technologies eligible for trust funding

➤ Beneficiary Mitigation Plan – Section III-A

- Overall Goals, continued
 - PA is seeking comment on this section of the Mitigation Plan on whether PA should prioritize: 1) projects that have a transformative impact on markets for eligible technologies or 2) infrastructure to support those technologies
 - PA is also seeking comment on whether there are concerns about the capacity of any of the sectors eligible for funding to use any of the Eligible Mitigation Actions. Are there any sectors that may have insufficient capacity to utilize or develop the Eligible Mitigation Actions?

➤ Beneficiary Mitigation Plan – Section III-B

- Categories of Eligible Mitigation Actions (EMAs) PA will consider, and funding allocations
 - PA will consider submitting projects for funding from all 10 EMAs listed in the first partial consent decree
 - EMAs and projects allowed under each are detailed in the first partial consent decree
 - PA has separated the 10 EMAs into 4 groups: on-road, non-road/off-road, DERA, and light-duty ZEV equipment
- PA is seeking comment on this section of the draft Mitigation Plan regarding the percent of the total funds that PA should request for each of the 4 groups

➤ Beneficiary Mitigation Plan – Section III-B

- PA is seeking comment on this section of the Mitigation Plan regarding the maximum reimbursement rates for each of the project types
- On-road Fleet Projects
 - Class 8 Local Freight Trucks and Port Drayage Trucks
 - Repowers or replacements with diesel, alternative fuels, hybrid or electric
 - Max reimbursements range from 25-100%
 - Class 4-8 School Bus, Shuttle Bus, or Transit Bus
 - Repowers or replacements with diesel, alternative fuels, hybrid or electric
 - Max reimbursements range from 25-100%
 - Class 4-7 Local Freight Trucks
 - Repowers or replacements with diesel, alternative fuels, hybrid or electric
 - Max reimbursements range from 25-100%
 - Proposed funding allocation: 20-40%

➤ Beneficiary Mitigation Plan – Section III-B

- Non-road/Off-road Fleet Projects
 - Freight Switchers
 - Repowers or replacements with diesel, alternative fuels, hybrid or electric
 - Max reimbursements range from 25-100%
 - Ferries/Tugs
 - Repowers or replacements with diesel, alternative fuels, hybrid or electric
 - Max reimbursements range from 25-100%
 - Ocean Going Vessels Shorepower
 - Marine shorepower systems (electric power supply in berth)
 - Max reimbursements range from 25-100%
 - Airport Ground Support Equipment
 - Repowers or replacements with electric ONLY
 - Max reimbursements range from 75-100%
 - Forklifts and Port Cargo Handling Equipment
 - Repowers or replacements with electric ONLY
 - Max reimbursements range from 75-100%
 - Proposed funding allocation: 35-55%

➤ Beneficiary Mitigation Plan – Section III-B

- Diesel Emission Reduction Act (DERA) Fleet Projects
 - DERA Option
 - Includes EMAs already included under DERA programs
 - Also includes all other projects allowed under DERA programs
 - Reimbursements are subject to requirements of DERA programs
 - Trust funds used as voluntary match for PA State Clean Diesel Grant Program
 - Proposed funding allocation: 0-20%

➤ Beneficiary Mitigation Plan – Section III-B

- Light-Duty Zero Emission Vehicle Supply Equipment
 - Includes 6 options for electric vehicle recharging equipment (4) and hydrogen refueling equipment (2)
 - Max reimbursements range from 25-100%
 - Proposed funding allocation: 0-15%
 - Note: Max percentage allowed for this category is 15%
- Administrative Costs
 - PA may request up to 15% of project costs for eligible administrative expenditures
 - Funds are part of, not in addition to, allocations listed above

➤ Beneficiary Mitigation Plan – Section III-C

- Consider Potential Beneficial Impact on Priority Areas
- Focus on priority areas including:
 - NAAQS Nonattainment areas
 - Ozone and PM2.5
 - Environmental Justice areas
 - High poverty levels and/or large minority population
 - Brownfields
 - Properties where reuse is impacted by presence or potential presence of hazardous substances, pollutants or contaminants
 - High Pollution areas
 - Distribution centers; multi-modal centers; ports; rail and bus terminals; airports; brownfields, or environmental justice areas
- Prioritize these areas through a scoring process for competitive programs or through other means for non-competitive programs

➤ Beneficiary Mitigation Plan – Section III-D

- Expected Emission Benefits
- For the purpose of illustrating the emission reduction potential of the 4 groups of projects, DEP conducted an analysis using assumptions about the funds allocated to each group
 - On-road Fleet Projects:
 - Assumed 30% of funding, resulted in approx. 440 tons of NO_x reduced
 - Non-road/Off-road Fleet Projects:
 - Assumed 45% of funding, resulted in approx. 32,000 tons of NO_x reduced
 - DERA Fleet Projects:
 - Assumed 10% of funding, resulted in approx. 720 tons of NO_x reduced.
 - Light-Duty ZEV Supply Equipment:
 - Assumed 15% of funding, resulted in approx. 12 tons of NO_x reduced.
 - Total potential NO_x reductions: approx. 33,000 tons

➤ Beneficiary Mitigation Plan – Section III-D

- PA is seeking comment on this section of the draft Mitigation Plan regarding the most appropriate model to use to calculate emission reductions for the various Eligible Mitigation Actions

➤ Beneficiary Mitigation Plan – Sections IV, V, & VI

- DEP VW Web site and Email (Section IV)
 - DEP has created a public web site as a clearinghouse for information relating to the VW violations, settlement and related matters
 - <http://www.dep.pa.gov/Business/Air/Volkswagen/Pages/default.aspx>
 - Includes links to Environmental Mitigation Trust webpage, and ZEV Investment Plan webpage
 - Email: RA-EPVWMITIGATION@pa.gov
 - Note: Questions sent to this email will not be considered comments for the purpose of this comment period
 - Written comments must be submitted via eComment Using DEP's online eComment tool at www.ahs.dep.pa.gov/eComment or By email at eComment@pa.gov

➤ Beneficiary Mitigation Plan – Sections IV, V, & VI

- Funding Mechanisms (Section V)
 - All funding award decisions are made by the Trustee
 - PA may use the following mechanisms to select projects for submission to the Trustee:
 - Competitive grant awards, sole source awards, rebate programs, pilot projects, and MOUs/LOUs
- Project Partners (Section V)
 - DEP has identified organizations that are potential project partners within the Commonwealth, regionally, and nationally
 - Organizations other than those listed may also be considered partners
 - Project partners may assist DEP with outreach and eligible project development

➤ Beneficiary Mitigation Plan – Sections IV, V, & VI

- Public Input (Section IV)
 - A PA Bulletin notice was published May 20, 2017
 - This webinar and six listening sessions in the following weeks at DEP Regional Offices are scheduled for public input
 - PA will review comments and final Trust Agreement, and amend the Mitigation Plan as necessary before submitting the final Mitigation Plan to the Trustee
- This Beneficiary Mitigation Plan is NOT a solicitation for projects
- Project submission information will be posted on DEP's VW web site as it becomes available



pennsylvania
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Bureau of Air Quality

Thank you!

For questions, contact:

RA-EPVWMITIGATION@pa.gov