



# **Volkswagen Settlement: Beneficiary Mitigation Plan**

Mississippi Department of  
Environmental Quality



# Settlement Overview

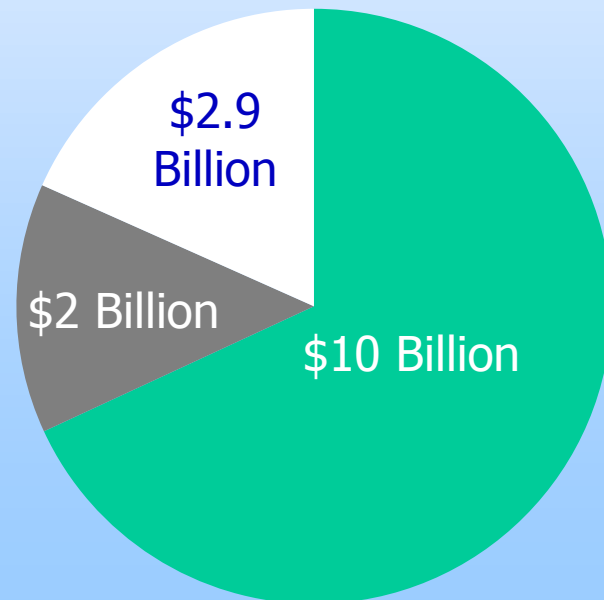
- U.S. EPA and the State of California filed a complaint against Volkswagen, AG alleging that the defendants violated the Clean Air Act with regard to approximately 580,000 model year 2009 to 2016 motor vehicles containing 2.0 and 3.0 liter diesel engines.
- The complaint alleges that each vehicle contains computer algorithms that cause the emissions control system of those vehicles to perform differently during normal vehicle operation and use than during emission testing, and that during normal operation and use the vehicles emit levels of nitrogen oxides ( $\text{NO}_x$ ) significantly in excess of EPA's compliance levels.



# Settlement Overview

- Volkswagen agreed to spend up to \$14.9 billion to settle allegations of cheating emissions. Settlement funds will be used to buyback and/or modify vehicles, and to support national- and state-level projects to reduce NO<sub>x</sub> emissions.

## Settlement Breakdown



- Vehicle buyback and modification (consumers)
- Zero Emission Vehicle investment (national and CA)
- Environmental Mitigation Trust (states)



# Mitigation Trust Fund

- The Mitigation Trust Fund is intended to fully mitigate the excess NO<sub>x</sub> emissions from the subject vehicles.
- Each beneficiary received an allocation of funds that can be used for any of the listed eligible mitigation actions.
- The allocation is primarily based on the number of Volkswagen subject vehicles registered within the jurisdictions of the beneficiaries.
- Allocations ranged from 8 to over 400 million dollars.
- Mississippi's total allocation is \$9,874,414.



# Environmental Mitigation Trust Timeline

- October 2, 2017 - Trust agreement was approved by the court establishing the Trust Effective Date (TED)
- November 21, 2017 - Beneficiary certification form was submitted by Governor Bryant designating MDEQ as the Lead Agency
- January 29, 2018 - Mississippi is designated as a Beneficiary
- MDEQ must submit Beneficiary Mitigation Plan 30 days Prior to submitting any funding request



# Mitigation Trust Fund

- We have 10 years from the TED to request our allocation and implement eligible mitigation actions. If Beneficiaries obligate at least 80% of their allocation by the 10th anniversary of the TED, they may be eligible to receive a portion of the remaining balance in unused funds. Beneficiaries that are eligible to receive such supplemental funding will be granted 5 years of additional time to select and implement appropriate eligible mitigation actions.
- A Beneficiary may request up to 1/3 of its allocation during the first year and up to 2/3 of its allocation during the first two years.



# Beneficiary Mitigation Plan

- Explains Mississippi's overall goal for the use of the Trust funds
- Describes the NO<sub>x</sub> reductions we expect our plan to achieve
- List the categories of projects we intend to implement
- Explains how we will consider benefits to air quality in communities with a disproportionate air pollution burden
- Explains how we will seek and consider public input



# Beneficiary Mitigation Plan

- After we submit the Beneficiary Mitigation Plan, we may adjust our goals and spending plans at our discretion. To do this, we will need to provide the Trustee with updates and amendments to the Beneficiary Mitigation Plan.





# Eligible Mitigation Actions

- The settlement only allows disbursements for the eligible mitigation activities defined in appendix D-2 of the settlement agreement.
- Governmental and non-governmental entities can participate.
- A higher reimbursement is allowed for governmental entities.
- Most eligible actions are for the repower or replacement of existing diesel equipment.
- Any engines or vehicles that are replaced must be scrapped



# Key Definitions

- “Government” is defined in the Trust Agreement as a state or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village.
- “Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any eligible vehicle will be replaced as part of an eligible project, “scrapped” shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.



# Eligible Mitigation Action Categories

- Large Trucks: Class 8 Local Freight Trucks and Port Drayage Trucks
- Buses: Class 4-8 School Bus, Shuttle Bus, or Transit Bus
- Railroad Freight Switchers
- Ferries/Tugs
- Shorepower for Ocean Going Vessels
- Medium Trucks: Class 4-7 Local Freight Trucks
- Airport Ground Support Equipment
- Forklifts and Port Cargo Handling Equipment
- Light Duty Zero Emission Vehicle Supply Equipment
- Diesel Emission Reduction Act (DERA) Option



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Large Trucks

- 1992-2009 model year Class 8 Local Freight or Drayage Trucks (>33,000 lbs)
- Eligible Large Trucks may be repowered or replaced with any new diesel, alternative fueled, or all-electric engine

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Eligible Large Trucks	Non-Government Owned Eligible Large Trucks
Repower with new diesel or AFV engine	100%	40%
Purchase new diesel or AFV vehicle	100%	25% (50% for drayage trucks)
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric vehicle, including infrastructure	100%	75%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Class 8 Local Freight or Drayage Trucks





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Buses

- 2009 model year or older Class 4-8 school buses, shuttle buses, or transit buses
- Eligible buses may be repowered or replaced with any new diesel, alternative fueled, or all-electric engine

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Eligible Buses, or Buses Under Contract with Public School District	Non-Government Owned Eligible Buses
Repower with new diesel or AFV engine	100%	40%
Purchase new diesel or AFV vehicle	100%	25%
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric vehicle, including infrastructure	100%	75%



# Environmental Mitigation Trust: Eligible Mitigation Actions

Class 4-8 school buses, shuttle buses, or transit buses





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Freight Switchers

- Pre-Tier 4 switcher locomotives that operate 1000 or more hours per year
- Eligible Freight Switchers may be repowered or replaced with any new diesel, alternative fueled, or all-electric engine or Freight Switcher that is certified to meet applicable EPA emissions standards

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Freight Switchers	Non-Government Owned Freight Switchers
Repower with new diesel, AFV engine, or Generator Sets	100%	40%
Purchase new diesel or AFV Freight Switcher	100%	25%
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric Freight Switcher, including infrastructure	100%	75%





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Freight Switchers





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Ferries/Tugs

- Unregulated, Tier 1 or Tier 2 marine engines
- Eligible ferries and tugs may be repowered with any new Tier 3 or Tier 4 diesel, alternative fueled, or all-electric engines or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Ferries and Tugs	Non-Government Owned Ferries and Tugs
Repower with new diesel, AFV engine	100%	40%
Repower with all-electric engine, including infrastructure	100%	75%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Ferries & Tugs





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Ocean Going Vessels (OGV) Shorepower

- Systems that enable a compatible vessel's engines to remain off while the vessel is at berth. Components eligible for reimbursement include cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution components

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Marine Shorepower	Non-Government Owned Marine Shorepower
Costs associated with shore-side system	100%	25%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Medium Trucks

- 1992-2009 model year Class 4-7 Local Freight Trucks (14,001 – 33,000 lbs)
- Eligible medium trucks may be repowered or replaced with any new diesel, alternative fueled, or all-electric engine

	Percentage of Project That Can Be Funded Through Trust	
	Government-Owned Medium Trucks	Non-Government Owned Medium Trucks
Repower with new diesel or AFV engine	100%	40%
Purchase new diesel or AFV vehicle	100%	25%
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric vehicle, including infrastructure	100%	75%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Medium Trucks: Class 4-7





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Airport Ground Support Equipment

- Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment, and uncertified or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment
- Eligible airport ground support equipment may be repowered with an all-electric engine, or replaced with the same equipment in an all-electric form

	Percentage of Project That Can Be Funded Through Trust	
	Government Owned Eligible Airport Ground Support Equipment	Non-Government Owned Eligible Airport Ground Support Equipment
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric equipment, including infrastructure	100%	75%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Forklifts

- Forklifts with greater than 8,000 pounds lift capacity
- Eligible forklifts may be repowered with an all-electric engine, or replaced with the same equipment in an all-electric form

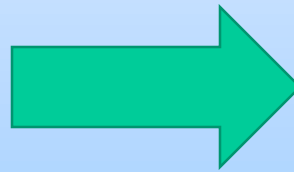
	Percentage of Project That Can Be Funded Through Trust	
	Government Owned Forklift	Non-Government Owned Forklift
Repower with all-electric engine, including infrastructure	100%	75%
Purchase new all-electric equipment, including infrastructure	100%	75%





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Eligible Forklifts





# Environmental Mitigation Trust: Eligible Mitigation Actions

## Light Duty Zero Emission Vehicle Supply Equipment

- May use up to 15% of its allocation of Trust Funds on the costs to acquire, install, operate and maintain new light duty ZEV supply equipment. Eligible projects include:
  - Level 1, Level 2 or DC fast chargers located in a public place, workplace, or multi-unit dwelling (not a private residence)
  - Hydrogen fuel cell supply equipment, including hydrogen dispensing equipment that is located in a public place

	Percentage of Project That Can Be Funded Through Trust
EVSE - publicly available at government owned property	100%
EVSE - publicly available at non-government owned property	80%
EVSE - at workplace but not available to general public	60%
EVSE - at multi-unit dwelling but not available to general public	60%
FCVSE - publicly available and able to dispense at least 250kg/day	33%
FCVSE - publicly available and able to dispense at least 100kg/day	25%



# Environmental Mitigation Trust: Eligible Mitigation Actions

## Diesel Emission Reduction Act (DERA) Option

- May use Trust Funds for our non-federal match or overmatch for DERA
- For example, if a state receives \$100,000 DERA grant, the state can use Environmental Mitigation Trust funds to provide a voluntary \$100,000 match for the grant; DERA will then provide an additional \$50,000, bringing the total to \$250,000 for the grant period
- Allows beneficiaries to use Trust Funds for actions not specified in the settlement, but eligible under DERA



# Project Funding

- MDEQ will request funds from the Trustee
- Request have to be for specific projects and include:
  - a detailed description of the proposed mitigation action,
  - an estimate of anticipated NOx reductions
  - a detailed budget, and
  - an implementation and expenditure timeline.
- Any vendors must be selected in accordance with state public contracting laws.



# Mississippi's Plan

- Mississippi is currently taking input for the Mitigation Plan through May 18, 2018.
- Mississippi plans to draft the plan and have a public notice period in July 2018 and submit the plan in September 2018.
- At this point, we do not plan to exclude any eligible actions that are included in the settlement document.
- We envision developing a grant or reimbursement program and soliciting projects proposals to be submitted periodically over several years. Projects would be evaluated and awarded.



# Request for Input

- What should be Mississippi's overall goal?
- Should we focus on any particular categories?
- How do we consider benefits to air quality in communities with a disproportionate air pollution burden?
- How do we balance funds for urban and rural areas?
- What will be our percentage of reimbursement?



# How to Comment

- At this meeting
- On our Website
  - <https://www.mdeq.ms.gov/air/vw-mitigation-trust/>
- Contact MDEQ staff with further questions:
  - Elliott Bickerstaff (ebickerstaff@mdeq.ms.gov) 601-961-5176
  - Keith Head (khead@mdeq.ms.gov) 601-961-5577
  - Chuck Rainey (crainey@mdeq.ms.gov) 601-961-5536