



Department of
**Environment &
Conservation**

Volkswagen Settlement: Overview and Next Steps

**Tennessee Department of Environment and Conservation
Office of Energy Programs**



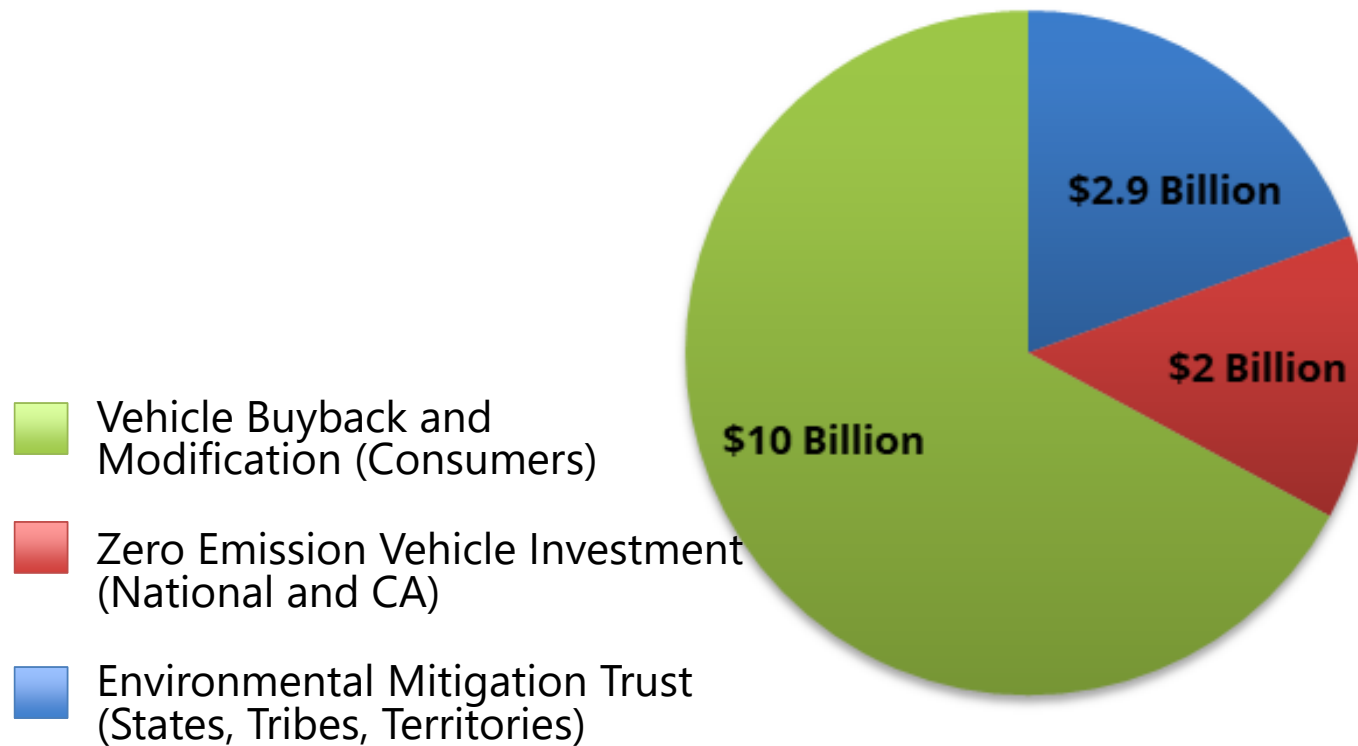
VW Settlement Overview

- In 2015, Volkswagen (VW) publicly admitted that it had secretly and deliberately installed a defeat device -- software designed to cheat emissions tests and deceive federal and state regulators -- in approximately 590,000 model year 2009 to 2016 motor vehicles containing 2.0 and 3.0 liter diesel engines.
- U.S. EPA filed a complaint against VW, alleging that the company had violated the Clean Air Act.
- In October 2016 and May 2017, the U.S. District Court, Northern District of California approved two partial settlements related to the affected **2.0 and 3.0 liter vehicles**, totaling \$14.9 billion.

VW Settlement Overview (continued)

- In April 2017, a third partial settlement, addressing civil penalties and injunctive relief, was approved by the court. Under the third partial settlement, VW has paid a \$1.45 billion civil penalty for the alleged civil violations of the Clean Air Act. The money was collected via the Department of Justice and was deposited to the U.S. Treasury.
- Settlement funds from the first and second partial settlements (2.0 and 3.0 liter, respectively) will be dispersed amongst three categories:

Settlement Breakdown



1. Vehicle Buyback and Modification (Consumers)

- \$10 Billion
- The Consent Decree requires VW to remove or modify at least 85% of the subject 2.0 liter vehicles by June 30, 2019, the subject 3.0 liter generation 1 vehicles (MY 2009-2012) by November 30, 2019, and the subject 3.0 liter generation 2 vehicles (MY 2013-2016) by May 31, 2020.
 - Buyback
 - Lease termination
 - EPA-approved emissions modification

2. Zero Emission Vehicle (ZEV) Investment

- VW will invest \$2 billion over 10 years in projects that support the increased use of ZEV, which are defined as battery electric vehicles, plug-in hybrid electric vehicles, and fuel cell vehicles.
- This will be a VW administered program.
- VW created a separate entity within VW Group of America, known as Electrify America, LLC, to oversee the ZEV investment.
 - \$300 million National ZEV investment plan during every 30 month cycle for four cycles (with EPA oversight) = **\$1.2 billion**
 - \$200 million California ZEV investment plan every 30 month cycle for four cycles (with CARB oversight) = **\$800 million**

2. Zero Emission Vehicle (ZEV) Investment

- Eligible ZEV Investment expenses include:
 - Design/planning, construction/installation, and operation and maintenance of ZEV infrastructure;
 - Brand-neutral education or public outreach that builds or increases awareness;
 - Programs or actions to increase public exposure or access to ZEVs without requiring the consumer to purchase or lease a ZEV at full market value, such as car sharing services or ride hailing services.
- For more details, visit www.electrifyamerica.com.

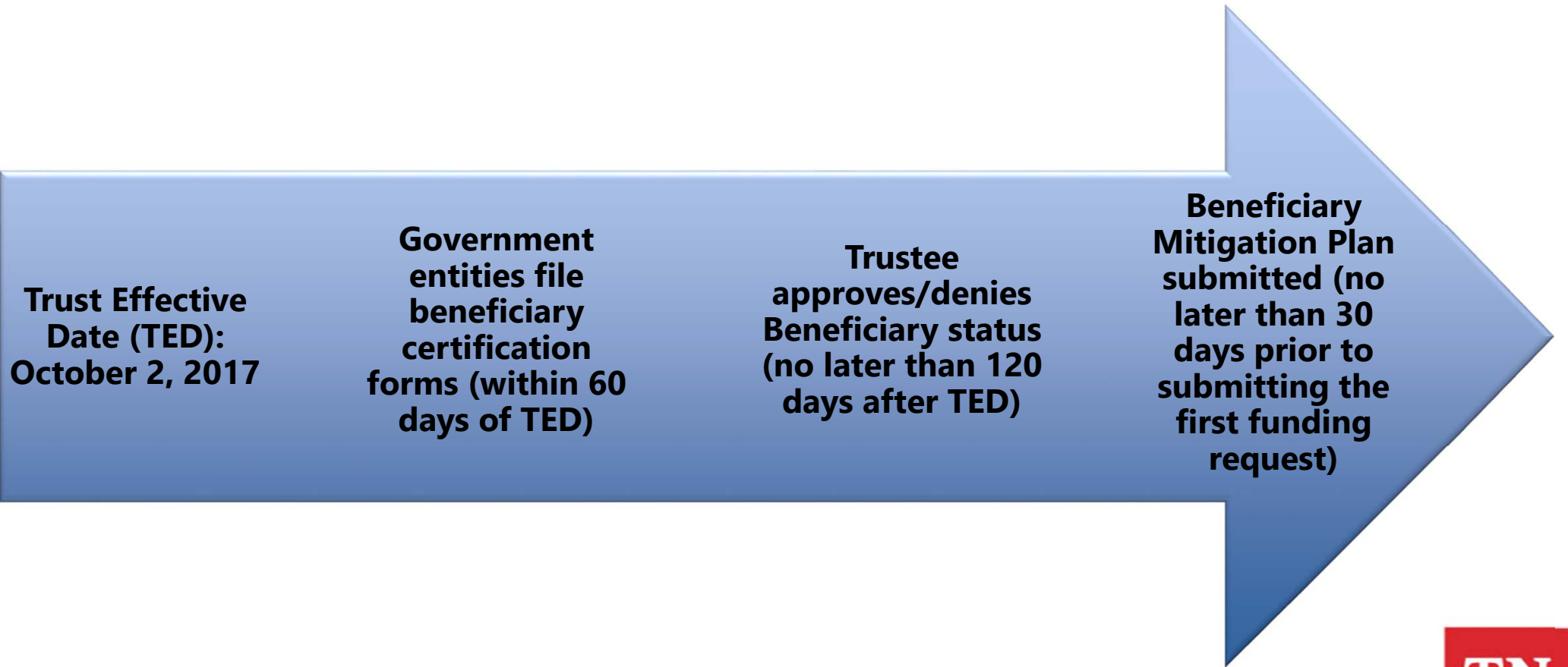
3. Environmental Mitigation Trust

- The remaining \$2.9 billion will fund environmental mitigation projects that reduce NOx emissions.
- The funds will be allocated among beneficiaries (states, tribes, and certain territories) based on the number of impacted VW vehicles in their jurisdictions.
- Beneficiaries will develop a high-level mitigation plan, summarizing how the beneficiary plans to use the mitigation funds.

3. Environmental Mitigation Trust

- **TN's initial allocation based on the 2.0 and 3.0 liter partial settlements is \$45,759,914.**
- TDEC has been identified by Tennessee Governor Bill Haslam as the Lead Agency for purposes of administering Tennessee's trust allocation.
- On **October 2, 2017**, the final, executed Trust Agreements under the Partial Settlements with the U.S. federal government for 2.0 and 3.0 liter vehicles were filed with the Court, establishing the Trust Effective Date (TED) for the Environmental Mitigation Trust.

3. Environmental Mitigation Trust



Beneficiary Mitigation Plan

The Plan must summarize how the Beneficiary (TN) plans to use its mitigation funds, addressing:

- TN's overall goal for the use of the funds;
- The categories of Eligible Mitigation Actions TN anticipates that it will use and the expected percentages of funds to be used for each type of action;
- How TN will consider the beneficial impact of Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction;
- The expected ranges of emissions benefits TN estimates would be realized by implementation of the Eligible Mitigation Actions identified in the Plan;
- The process by which TN shall seek and consider public input on its Beneficiary Mitigation Plan.



Eligible Mitigation Actions - Environmental Mitigation Trust

- Eligible Projects (general information)
 - **Replacing or repowering older diesel engines in certain medium and heavy duty vehicles, vessels, or equipment** with new diesel, alternate fueled (e.g., CNG, propane, diesel-electric hybrid) , or all-electric engines (including installation of associated charging infrastructure for all-electric engines)
 - **Replacing certain older, diesel medium and heavy duty vehicles, vessels, or equipment** with new diesel, alternate fueled, or all-electric (including installation of associated charging infrastructure for all-electric)
 - Installing charging infrastructure for light-duty all-electric vehicles (up to 15% of the Trust Fund allocations can be spent on this)
 - The use of Trust Funds as non-federal voluntary match for projects eligible under Diesel Emission Reduction Act (DERA) program.

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Eligible Mitigation Actions - Environmental Mitigation Trust

10 different categories of eligible mitigation actions **set forth in the Trust Agreement.**

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

Eligible Mitigation Actions - Environmental Mitigation Trust

- The Trust Agreement dictates the Eligible Mitigation Action categories. These categories were not selected by TDEC or the State of Tennessee.
- Categories 1-8 are focused on medium and heavy duty vehicles, vessels, or equipment.
- Eligible large and medium trucks must be “local,” although the term “local” is undefined by the settlement.
- Replacing or repowering with “all-electric ” is the only option for categories 7 and 8. “All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

Eligible Mitigation Actions - Environmental Mitigation Trust

- For more details regarding the Eligible Mitigation action categories, please visit TDEC's VW Settlement webpage <https://www.tn.gov/environment/program-areas/energy/state-energy-office--seo-/tennessee-and-the-volkswagen-diesel-settlement.html>. Click on the "Environmental Mitigation Trust Comment Form" from the menu on the left of the page.
- TDEC will also host a webinar on December 19th. Registration is full, but the webinar will be recorded and made available on the TDEC VW settlement webpage.



Eligible Mitigation Actions - Environmental Mitigation Trust

- All of these categories (except for the DERA option) have separate sub-categories for Non-Government Owned and “Government” Owned engines and vehicles.
- **“Government”** is defined 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.

Eligible Mitigation Actions - Environmental Mitigation Trust

- For **Non-Government Owned**, the percentage of the cost of the mitigation action that can be funded with Trust Funds is dictated by the sub-category of the mitigation action (i.e., repower with a new diesel engine versus repower with a new all-electric engine).
- Match is required for all **Non-Government Owned** projects.
- For **Government Owned** projects, up to 100% of the cost of the mitigation action can be funded with Trust Funds, regardless of the sub-category.
- Match is not required for **Government Owned** projects, but TN's Beneficiary Mitigation Plan can require it.

Eligible Mitigation Actions - Environmental Mitigation Trust

- **Eligible Mitigation Action Administrative Expenditures:** For any eligible mitigation action, Beneficiaries may use Trust Funds for actual administrative expenditures associated with implementing such eligible mitigation action, not to exceed 15% of the total cost of such eligible mitigation action.
- These expenditures are defined in Appendix D-2 to the Trust Agreement.

What the Environmental Mitigation Trust CANNOT Fund

- Research and development
- Refueling infrastructure for diesel, natural gas or propane-powered vehicles.
 - The only allowable infrastructure costs are the cost of infrastructure associated with eligible all-electric engines, vehicles, or equipment **and** the cost of acquisition, installation, operation and maintenance of new, light duty ZEV supply equipment (Level 1, Level 2, and fast charging EV infrastructure, and hydrogen dispensing equipment).
- The repower or replacement of light-duty, passenger vehicles (the environmental mitigation trust is focused on the repower or replacement of medium and heavy-duty vehicles and equipment only)

Environmental Mitigation Trust: Additional Considerations

Scrappage: Vehicles or engines to be replaced must be scrapped. “Scrapped” shall mean to render inoperable and available for recycle, and to cut a 3-inch hole in the engine block for all engines. If a vehicle is to be replaced, scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

Stakeholder Engagement in TN: Environmental Mitigation Trust

- In order to make informed decisions, we must conduct research and engage stakeholders from various sectors so that we can identify the “needs” in Tennessee. A multi-disciplinary internal Advisory Council has been established, with members from Air Pollution Control, Office of Energy Programs, Office of Policy & Planning, Office of Sustainable Practices, and Office of General Counsel.
- TDEC seeks input from stakeholders to shape TN’s Beneficiary Mitigation Plan. TDEC has created a webpage that provides an overview of the Settlement, links to related resources, a number of FAQs, and a Public Comment Form. <https://www.tn.gov/environment/program-areas/energy/state-energy-office--seo-/tennessee-and-the-volkswagen-diesel-settlement.html>
- TDEC recently revised its Public Comment Form to include more detail on the various options that will be available to the State within each eligible mitigation action category. All public comments must be received by **11:59 pm CST on January 15** to be considered for the draft Beneficiary Mitigation Plan.
- On December 12, TDEC released an RFI to seek cost information on eligible mitigation actions, in order to inform TN’s Beneficiary Mitigation Plan. Responses are due to TDEC by **January 23 at 11:59 PM CST**.
- TDEC is not currently soliciting proposals.

Beneficiary Mitigation Plan -- Variables to Consider

Required by Trust Agreement:

- Expected ranges of emissions benefits
- Beneficial impact of Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction

Additional Variables to Consider:

- Include all or some of the following options -- new diesel, CNG, LNG, propane, hybrid, or all- electric*
- Vehicle and equipment inventory in TN
- Cost to repower (including installation) v. cost to replace
- Cost, if any, to scrap
- Cost of fueling infrastructure (Trust allocation can fund infrastructure for all- electric but not any other infrastructure)

*Note: "All-Electric" shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.



Beneficiary Mitigation Plan -- Variables to Consider

Additional Variables to Consider (continued):

- Availability of fueling infrastructure and fuel price volatility
- Economic development potential
- Opportunities to leverage other funding / programs
- Opportunities to coordinate with other states
- Lessons learned from similar projects or programs
- Additional factors (quietness of engines, health benefits to children's lungs from a school bus project, etc.)

TDEC Draft Work Plan for BMP Development & Related Program Design

Q4 2017:

Host Public Information Sessions; solicit comments / feedback / input to inform *draft* BMP.

Q1 2018:

Close of comment period to inform *draft* BMP; deadline for responses to RFI; review and consider comments and responses; complete *draft* BMP; submit *draft* BMP to Governor's Office

Late Q1 2018 / Early Q2 2018:

Finalize *proposed* BMP and release for public comment; begin program design.

Q2 2018:

Close of public comment period; review and consider comments; finalize BMP, submit to Trustee, release to public; continue with program design.

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Contact Us!

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<http://tn.gov/environment/section/energy>



Questions regarding areas that bear a disproportionate share of the air pollution burden?

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<http://www.tn.gov/environment/topic/opsp-title-vi-and-environmental-justice>

