

November 1, 2017

Update on Grant Funding from the Volkswagen Environmental Mitigation Trust Fund

CONSTRUCTION, GOVERNMENT, TRANSPORTATION & LOGISTICS
BY

Last year, Volkswagen was found guilty of designing and installing illegal defeat devices for the purpose of evading federal and state emission standards. As noted in our June 21, 2017 article, the Environmental Mitigation Trust was created as a result of the settlement between Volkswagen and the U.S. Environmental Protection Agency. The Trust, once fully approved through the judicial oversight process, is anticipated to be funded in the amount of \$2.9 billion, which will be used to support projects in all states with the purpose of reducing NOx emissions from diesel engines by replacing or retrofitting vehicles and improving infrastructure projects. The total funding has been generally allocated to, and will be administered by, designated agencies from each of the 50 states.

While initially expected to be available beginning in the fall of 2017, the process is taking longer than anticipated. Only recently did the United States District Court execute the trust agreements, therefore establishing the trust effective date ("TED") as October 2, 2017. The states now have 60 days to file certification forms identifying which of its agencies will receive the trust funds as beneficiaries. This disclosure by the Trustee to the Court must occur within 120 days after the TED, which at the latest would occur around the first week of January 2018. Once an agency is deemed a beneficiary, the state will have 90 days to submit a State Beneficiary Mitigation Plan for approval. Once that is approved, the state will release details on the application process to obtain the grant funding.

Currently, Pennsylvania, Michigan, Indiana and Virginia have presented draft mitigation plans that contain information on priority areas as well as eligible projects on their respective transportation agency websites, but all are still taking comments and suggestions. Additionally, Indiana has a website that includes a Projects Wish List Survey asking organizations what type of replacement projects they intend to pursue in utilizing the funds. Ohio has created a map of proposed priority counties to receive the funds and is in the process of drafting its plan. Illinois, Michigan, New York and South Carolina have requested information and comments from the industry and are currently in the process of drafting their respective plans. Other states have similar ongoing efforts.

Shortly, the formal requirements, funding and procedures will become clearer as each state receives approval for their State Beneficiary Mitigation Plan and the grant application processes are established. In the meantime, you should review your capital project plans, determine if they could qualify for grants from the Trust – based on your state's mitigation plan, and would help your business (or municipality) benefit the environment while making the project more affordable or

attractive from an economic and financial perspective.

Our Transportation and Logistics Industry team is available to assist in the review and application process for any company or municipality considering replacing or retrofitting its equipment or vehicles over the next 10 years. Grants will cover eligible expenditures to replace or repower existing vehicles or equipment with new diesel, alternative fuel or electric vehicles, engines or equipment, and are expected to cover between 25-75% of the costs.

Eligible Mitigation Expenditures repower or replacements include:

- On-road vehicles Fleet Project
 - Class 8 local freight trucks and port drayage trucks
 - Class 4-8 school buses, shuttle buses or transit buses
 - Class 4-7 local freight trucks
- Non-road / off-road equipment
 - Forklifts and port cargo handling equipment
 - Freight switchers
 - Ferries / tugs
 - Ocean going vessels shore power
 - Airport ground support equipment
- Diesel Emission Reduction Act Fleet Projects
 - Additional projects under the DERA may be eligible
- Light-duty, zero-emission vehicle supply equipment

We will continue to provide more updates as states' mitigation plans become approved. For information, you can contact a member of the Transportation and Logistics Team listed below to discuss the opportunity:

- John Popies – Shareholder (412) 697-5201
- Dan Phillips – Shareholder (412) 697-5299
- Mike Renzelman – Shareholder (614) 586-7203
- Jim Gilboy – Senior Manager (412) 697-5249

Below are links to the above mentioned states for more information:

Pennsylvania - <http://www.dep.pa.gov/Business/Air/Volkswagen/Pages/Environmental-Mitigation-Trust-Agreement.aspx>

Ohio - <http://www.epa.ohio.gov/Default.aspx?alias=www.epa.ohio.gov/oeef#131364255-whats-new>

Virginia - <http://www.deq.virginia.gov/Programs/Air/twmitigation.aspx>

Michigan - http://www.michigan.gov/deq/0,4561,7-135-70153_70155_3585_57765_78496-397560--,00.html

Indiana - <http://greaterindiana.com/tw-indiana-settlement-information/>

South Carolina - <http://doi.sc.gov/889/Volkswagen-Settlement>

New York - <http://www.dec.ny.gov/chemical/109784.html>

Illinois - <http://www.epa.illinois.gov/topics/air-quality/vw-settlement/index>

For more information on grant funding, [contact us](#).

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