



# Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Rick Scott  
Governor

Carlos Lopez-Cantera  
Lt. Governor

Noah Valenstein  
Secretary

## Questions & Answers

### From Florida's Diesel Emissions Mitigation Program Public Informational Meeting and Webinar Series

On March 13, 2018, the Florida Department of Environmental Protection (Department), announced a series of public informational meetings and the opening of a 60-day period for all persons to complete an online public survey, the results of which the Department will use in the development of Florida's State Beneficiary Mitigation Plan (Mitigation Plan) under the Volkswagen Diesel Emissions Environmental Mitigation Trust.

Over this 60-day period, the Department facilitated five in-person informational meetings around the state and two informational webinars, each of which covered the same topics and used the same presentation materials. The presentation addressed Florida's Diesel Emission Mitigation Program, which stems from the United States government's settlement with Volkswagen resolving claims that it violated the Clean Air Act by selling diesel vehicles that violated the U.S. Environmental Protection Agency's mobile source emission standards, and the process of developing Florida's Mitigation Plan.

This document summarizes questions raised by the public during the in-person and webinar meetings relating to the Department's process for developing the Mitigation Plan and the Volkswagen Diesel Emissions Environmental Mitigation Trust. The Department will be able to further address questions concerning the timetables and criteria for developing specific mitigation projects and funding opportunities under Florida's Diesel Emission Mitigation Program once the state's Mitigation Plan has been finalized.

### Volkswagen Settlement

**Q: The Environmental Trust Agreement for State Beneficiaries (Final Trust Agreement) specifies ten Eligible Mitigation Actions. How did the settling parties come to these ten eligible mitigation actions and the cost share percentages? Was Florida involved in these negotiations?**

A: The Final Trust Agreement was agreed upon by Volkswagen, the Trustee (Wilmington Trust) the United States, and the State of California. These settling parties developed the ten Eligible Mitigation Actions for the purpose of remediating environmental harms caused by Volkswagen's Clean Air Act violations. Each of these ten Eligible Mitigation Actions falls broadly under the transportation and logistics sector,

with an emphasis on reducing mobile-source diesel emissions. Under each Eligible Mitigation Action, cost share percentages for privately-owned units are intended to incentivize program participation while increasing the total number of units repowered or replaced. The State of Florida did not participate directly in the development of the terms of the Final Trust Agreement. The State of Florida became bound by the terms of the Final Trust Agreement and the scope of the Eligible Mitigation Actions when it became a Certified State Beneficiary under the Trust.

**Q: As a Certified State Beneficiary, Florida is now eligible to receive the allotted \$166 million under the Mitigation Trust. When will funding be available to the State?**

A: Under the Final Trust Agreement, funding is available to states 30 days after submitting a Mitigation Plan (see below question regarding Florida’s timeline for submitting the Mitigation Plan). Florida’s total allocation of \$166 million will be available three years after the initial deposit as Volkswagen is required to transfer the total settlement amount to the State Mitigation Trust over a period of three years. The State of Florida is eligible to request up to a third of the allotment in the first year following the initial deposit, and up to two-thirds in the second year. This does not, however, mean that Florida will utilize all of the available funds over this three-year period. State beneficiaries under the Trust have up to ten years to spend the available funds. The Trustee will hold these funds in trust for the state and disperse specific funding amounts to the state through project-specific funding requests, which must include project budgets, timetables, and mechanisms for ensuring programmatic and financial accountability.

## **Eligible Mitigation Actions**

**Q: What are the ten Eligible Mitigation Actions under the Final Trust Agreement and how can we find out if a potential project is eligible?**

A: The Eligible Mitigation Actions are listed in [Appendix D-2](#) of the Final Trust Agreement. For ease of reference, the Department has created a dropdown menu tool that describes the Eligible Mitigation Actions and their cost-share requirements; this tool is available on the Department’s [Volkswagen Settlement](#) webpage.

**Q: The presentation describes a segment of eligible vehicles as “local” large and medium duty freight trucks. How do you define “local” when determining if a large and/or medium freight truck is considered a local use truck?**

A: Pursuant to [EPA’s Frequently Asked Questions](#), “neither the Consent Decree nor the Trust Agreements define what makes a truck local, and interpretations of a local truck may vary depending on location; for example, the distinction between local trucks and other trucks may include operation primarily within one metropolitan area.” The Department has not formally defined “local.” The Department will address this concept during the mitigation project development process.

**Q: Which fuel types are allowed in replacing or repowering an eligible diesel-powered engine or vehicle?**

A: [Appendix D-2](#) of the Final Trust Agreement provides that diesel-powered engines or vehicles may be replaced or repowered with new, well-controlled diesel-powered engines, new alternative-fueled engines (e.g., compressed natural gas, propane, diesel-electric hybrid), or new all-electric engines. The Final Trust Agreement does not specify any ineligible “alternative” fuel-type. The Final Trust Agreement does not, however, allow for diesel-powered engines to be replaced with gasoline-powered engines.

**Q: Where can I find details for the allowable cost share for each of the Eligible Mitigation Actions?**

A: Cost share information is included in [Appendix D-2](#) of the Final Trust Agreement. The dropdown menu tool on the Department’s [Volkswagen Settlement](#) webpage includes the various cost-share allowances under each Eligible Mitigation Action.

**Q: One of the ten Eligible Mitigation Actions allows states to use Environmental Mitigation Trust funds for their non-federal voluntary match to participate in the Diesel Emission Reduction Act (DERA) program. Is Florida intending to utilize funds to participate in the DERA program?**

A: Yes. The Department is currently participating in the DERA program and intends to use Trust funds as the non-federal voluntary match, consistent with Eligible Mitigation Action #10 under the Final Trust Agreement. More information about the DERA program is available on the Department’s [DERA Information](#) webpage.

**State Beneficiary Mitigation Plan**

**Q: When is the State Beneficiary Mitigation Plan (Mitigation Plan) due?**

A: The Final Trust Agreement does not set a required submittal date for the Mitigation Plan, however, the state must submit its Mitigation Plan to the Trustee no later than 30 days prior to submitting its first project-specific funding request.

**Q: What is the Department’s timeline for developing the Mitigation Plan?**

A: The Department intends to develop Florida’s draft Mitigation Plan and provide an opportunity for the public to submit comments during the summer. After consideration of the public comments received, the Department will finalize and submit the state’s final Mitigation Plan to the Trustee in the fall.

**Q: Will you make the Mitigation Plan available for public comment?**

A: Yes. The Department intends to make a draft Mitigation Plan publicly available for comment before developing a final Plan for submittal to the Trustee.

## **Funding**

**Q: The Florida Legislature granted \$5 million in spending authority for Fiscal Year 2018-19. How will this spending authority be used?**

A: The Department has made no determinations as to the categories of diesel emission reduction projects that may be funded during Fiscal Year 2018-19. The Department intends to proceed with project development after the state submits its Mitigation Plan to the Trustee.

**Q: The Final Trust Agreement provides up to 15 percent of the State's funding to be used for administrative costs. Is the Department planning to spend the funding available under the Environmental Mitigation Trust on administrative costs?**

A: The Department does not intend to use the full 15 percent on administrative costs. The Department will assess the need for reimbursement of administrative costs as the Mitigation Plan is developed, depending on the number and scope of Eligible Mitigation Actions and program types included in the Mitigation Plan. The Department intends to limit the amount of administrative costs to be reimbursed to the greatest extent possible.

## **ZEV Investment**

**Q: Is the state involved in the ZEV Investment portion of the Volkswagen Settlement which is being administered by Electrify America?**

A: No. The Department is not participating in the ZEV Investment portion of the Volkswagen Settlement. Electrify America, a subsidiary of Volkswagen, was created to administer this portion of the Settlement. The Department is monitoring the activities of Electrify America regarding the identifying and development of ZEV infrastructure projects in Florida.

## **Quality Assurance**

**Q: Replacement and repowering of diesel units to mitigate diesel emissions are only effective if the unit being replaced is never used again. Are there provisions under the Final Trust Agreement that ensure the mitigation value of replacement or repowering is verified?**

A: Yes. The Final Trust Agreement specifies that all units being replaced must be scrapped. "Scrapped" is defined in the Final Trust Agreement to 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.”

## **Public Engagement**

**Q: An email subscription list was referenced during the presentation. What is the email subscription list and where is the link to subscribe?**

A: The Department maintains an email subscription service to distribute notifications to those interested in the Volkswagen Settlement and activities related to the state’s development and implementation of the Diesel Emissions Mitigation Program. The subscription service is located on the Department’s [Volkswagen Settlement](#) webpage.

**Q: Will the presentation used for the five in-person public informational meetings and two webinars be posted online?**

A: Yes. The same presentation was used for all five of the in-person meetings and each of the two webinars. This [presentation](#) has been posted on the Department’s Volkswagen Settlement webpage.

**Q: Will the Department post the results of the public survey?**

A: Yes. The Department will post a summary document describing the results of the public survey. This summary document will be posted on the Department’s [Volkswagen Settlement](#) webpage and noticed through the email subscription service.

## **Important Links**

Volkswagen Settlement: [Final Trust Agreement](#)

The Department’s [Volkswagen Settlement Webpage](#)

The Department’s Email Subscription: <https://floridadep.gov/subscribe>

## **Contact Information**

Division of Air Resource Management:

John Paul Fraites, (850) 717-9021

Diesel Emissions Mitigation Program Email: [VWMitigation@FloridaDEP.gov](mailto:VWMitigation@FloridaDEP.gov)