

DATE: September 20, 2017

Mail-Out # MSC 17-15

TO: All Interested Parties

SUBJECT: PUBLIC WORKSHOP ON DEVELOPING A BENEFICIARY MITIGATION PLAN  
FOR CALIFORNIA'S ALLOCATION OF THE VOLKSWAGEN  
ENVIRONMENTAL MITIGATION TRUST

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The California Air Resources Board (CARB or Board) invites you to participate in a public workshop on developing a Beneficiary Mitigation Plan (Plan) for California's \$423 million allocation of the nearly \$3 billion Volkswagen (VW) Environmental Mitigation Trust (Mitigation Trust). The VW Mitigation Trust is a component of partial settlements with VW resulting from its use of illegal defeat devices—software designed to cheat on emissions tests—in certain 2009 to 2016 model year diesel cars that were sold in California. The Trust provides funding opportunities for specified eligible actions to mitigate the excess nitrogen oxide (NOx) emissions caused by the subject VW vehicles. The Mitigation Trust is enumerated in the first of two Partial Consent Decrees as Appendix D, as further described in this notice.

### Meeting Information

The meeting will be held at the following time and place:

Date: Monday, October 9, 2017  
Time: 9:00 a.m. to 4:00 p.m. (PST)  
Place: Cal/EPA Headquarters Building  
Byron Sher Auditorium, Second Floor  
1001 I Street  
Sacramento, California 95814

This meeting will be webcast for those unable to attend in person. The broadcast can be accessed on the day of the workshop at <https://video.calepa.ca.gov/>. Information on submitting questions or comments will be provided during the webcast for remote participants. Staff's presentation will be posted before the workshop on CARB's website at [https://www.arb.ca.gov/msprog/vw\\_info/vsi/vw-mititrust/vw-mititrust.htm](https://www.arb.ca.gov/msprog/vw_info/vsi/vw-mititrust/vw-mititrust.htm).

CARB has established a new electronic mailing list to notify stakeholders of upcoming events related to the VW Mitigation Trust. If you would like to be notified of future meetings and the availability of materials, please sign up at: [https://www.arb.ca.gov/listserv/listserv\\_ind.php?listname=vw-mititrust](https://www.arb.ca.gov/listserv/listserv_ind.php?listname=vw-mititrust).

At this workshop, staff will discuss and seek input on factors for developing California's Beneficiary Mitigation Plan to guide VW Mitigation Trust monies in California, including:

- Guiding principles for the use of the Mitigation Trust funds.
- Potential eligible mitigation action categories to consider for funding.
- The process for administering mitigation action projects.
- Implementing Legislative direction on providing benefits to low-income and disadvantaged communities as directed by Senate Bill (SB) 92 (Secretary of State, Chapter 26, Statutes of 2017).

Interested members of the public may present comments for consideration in developing California's Beneficiary Mitigation Plan in one of three ways:

1. Orally or in writing at the workshop.
2. Submitted by postal mail before the workshop to the address below:

Lisa Williams  
California Air Resources Board, Mailstop 5B  
P.O. Box 2815  
Sacramento, California 95812-2815

3. Electronically submitted to:  
[https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=vw-mititrust-pl-ws&comm\\_period=1](https://www.arb.ca.gov/lispub/comm2/bcsubform.php?listname=vw-mititrust-pl-ws&comm_period=1).

This workshop is the first public meeting CARB staff will hold on developing the Beneficiary Mitigation Plan. Staff may conduct additional workshops and public meetings to focus on developing the Plan and eligible mitigation action categories. Ultimately, staff will bring the Plan to the Board for its consideration and approval.

## **Background**

In October 2016, the United States District Court for the Northern District of California approved a Partial Consent Decree (first Consent Decree) pertaining to the subject 2.0-liter VW diesel cars. A second Partial Consent Decree was approved by the Court in May 2017 that pertains to the subject 3.0-liter diesel cars and augments the first Consent Decree. The Consent Decrees partially resolve Clean Air Act and California state claims against VW for equipping its 2.0-liter and 3.0-liter diesel vehicles with defeat devices. Additional information on the settlement, including full texts of the individual Consent Decrees, is available at <https://ww2.arb.ca.gov/our-work/topics/vw-diesel-vehicles>.

There are four elements of the first Consent Decree. Each element is described in a separate appendix:

- Appendix A (the Buyback, Lease Termination, and Vehicle Modification Recall Program) and Appendix B (the Vehicle Recall and Emissions Modification Program) describe the procedures that VW will use to offer its affected consumers the option of either: (1) a buyback or lease termination; or (2) the option of an emissions modification in accordance with the technical specifications prescribed in Appendix B. The Consent Decree also allows consumers to choose to do nothing.
- Appendix C (the Zero-Emission Vehicle or ZEV Investment Commitment) requires VW to invest \$800 million in California over a ten-year period to support the increased use and availability of ZEVs. VW will implement these investments in four \$200 million 30-month cycles, the first cycle for which was described in VW's ZEV Investment Plan that the Board approved at its July 2017 meeting.
- Appendix D (the Environmental Mitigation Trust) – the subject of this workshop – is intended to mitigate past and future excess NOx emissions from the subject vehicles. Under the terms of the two Consent Decrees, VW must pay about \$3 billion into a national Environmental Mitigation Trust over a three-year period for specified eligible mitigation actions. California's allocation of the trust is about \$423 million; about \$381 million from the first Consent Decree and about \$42 million from the second Consent Decree. The eligible mitigation actions listed in the first Consent Decree are mostly scrap-and-replace projects, including supportive infrastructure for zero- and near zero-emission advanced technology replacements, for the heavy-duty sector. The following are the eligible mitigation action categories:

Scrap-and-Replace

- Class 8 freight trucks and drayage trucks
- Class 4-7 local delivery trucks
- Class 4-8 transit, shuttle, and school buses
- Forklifts and port cargo handling equipment
- Airport ground support equipment
- Ferries and tugs
- Freight switcher locomotives

Other

- Ocean-going vessel shorepower
- Light-duty electric vehicle charging/fueling supply equipment
- Non-federal voluntary match for Diesel Emission Reduction Act

A complete description of the eligible mitigation action categories, as excerpted from the Consent Decree, is available at [https://www.arb.ca.gov/msprog/vw\\_info/vsi/vw-mititrust/documents/appendixd2.pdf](https://www.arb.ca.gov/msprog/vw_info/vsi/vw-mititrust/documents/appendixd2.pdf).

In addition to the requirements outlined in the Consent Decree, SB 92 was passed in June 2017, which further directs how California's Mitigation Trust funds in Appendix D are to be spent. The legislation directs the designated Lead Agency for the Mitigation Trust to strive to

ensure that at least 35 percent of California's allocation benefit low-income or disadvantaged communities that are disproportionately impacted by air pollution. It also requires the Lead Agency to strive to ensure that the expenditures align with the state's priorities and provide for public transparency before approval.

Again, this workshop will focus on Appendix D (the Environmental Mitigation Trust) and developing a Beneficiary Mitigation Plan to expend California's allocation of the Environmental Mitigation Trust. The Plan will describe the eligible mitigation actions from the list specified in the Consent Decree that will be funded from the Trust and the recommended allocation percentages. The Plan must also describe the estimated emission benefits and consider potential impacts of the eligible mitigation actions on air quality in areas that bear a disproportionate share of the air pollution burden.

In March 2017, the Court appointed Wilmington Trust, N.A., as Trustee to administer the Trust for all eligible beneficiaries (states and tribes). The Trust is expected to become effective between September 2017 and October 2017. A Beneficiary Mitigation Plan is required to be submitted to the Trustee before the State may expend any funds from its allocation of the Trust.

## Contact

We welcome and encourage your participation in this public meeting. If you have questions regarding the workshop, please contact Ms. Lisa Williams, Air Pollution Specialist, at (916) 324-7582 or by email at [lisa.williams@arb.ca.gov](mailto:lisa.williams@arb.ca.gov).

## Special Accommodations

If you require a special accommodation, or need this document in an alternate format (i.e., Braille, large print), please visit <http://www.arb.ca.gov/html/ada/ada.htm> for assistance or contact the Americans with Disabilities Act Coordinator by telephone at (916) 323-4916 no later than ten business days before the scheduled meeting. If you are a person who needs assistance in a language other than English, please visit <http://www.arb.ca.gov/eeo/bilingual-services.htm> or contact the Bilingual Coordinator by telephone at (916) 322-0473 no later than ten business days before the scheduled meeting. TTY/TTD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia.
- Documentos disponibles en un formato alterno u otro idioma.
- Una acomodación razonable relacionados con una incapacidad.

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Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 324-0342 o envíe un fax a (916) 327-8524 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del

Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

Sincerely,

/s/

Jack Kitowski, Chief  
Mobile Source Control Division

cc: Lisa Williams  
Air Pollution Specialist  
Mobile Source Control Division

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bcc: Richard Corey, EO  
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