



The Transportation Policy Body for the North Central Texas Council of Governments
(Metropolitan Planning Organization for the Dallas-Fort Worth Region)

December 7, 2017

Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section, MC-204
PO Box 13087
Austin, TX 78711-3087

ATTN: Volkswagen Settlement

On behalf of the Regional Transportation Council (RTC), the Metropolitan Planning Organization for the Dallas-Fort Worth (DFW) area, attached are recommendations outlining how funds associated with the Environmental Mitigation Trust established by the Volkswagen Partial Consent Decrees should be allocated to maximize emission reductions in focused areas and administration options to expand resources. This information was previously transmitted to the Office of the Governor on March 9, 2017.

In summary, the RTC recommends that the Texas Commission on Environmental Quality (TCEQ) distribute 90 percent of the funding to Council of Government (COG) regions that are most directly impacted by the collective installation of illegal emissions defeat devices in light-duty vehicles with diesel engines by Volkswagen, Audi, and Porsche. The remaining 10 percent funding balance be used as a set aside for other interested COG regions.

Also, the Environmental Mitigation Trust Agreement outlines that beneficiaries may use Trust Funds for actual administrative expenditures associated with implementing such eligible mitigation action. This 15 percent cap includes eligible administrative expenditures incurred by any third-party contractors. The RTC recommends that the TCEQ utilize regional COG's as third-party administrators, and allow the 15 percent to be used for administrative expenditures incurred by each region. Regional distribution of funds is optimal due to existing relationships, close proximity to emission sources, and varying degrees of pollution sources and technology implementation within each region.

We look forward to collaborating with the TCEQ to expand the opportunities that these funds bring to the State of Texas and welcome the opportunity to be a third-party administrator.

If you have any questions or concerns, please contact me at (817) 695-9286 or cklaus@nctcog.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Klaus", is written over a white background. The signature is fluid and cursive, with the first name "Chris" and last name "Klaus" clearly distinguishable.

Chris Klaus

AP:ch
Attachment

cc: David Brymer, Director, Air Quality Division, TCEQ



The Transportation Policy Body for the North Central Texas Council of Governments
(Metropolitan Planning Organization for the Dallas-Fort Worth Region)

March 9, 2017

The Honorable Greg Abbott
Governor of Texas
Office of the Governor
P.O. Box 12428
Austin, Texas 78711-2428

The Honorable Ken Paxton
Attorney General of the State of Texas
Office of the Attorney General
P.O. Box 12548
Austin, TX 78711-2548

Dear Governor Abbott and Attorney General Paxton:

The Regional Transportation Council (RTC), a roster is included as Attachment 1, which serves as the Metropolitan Planning Organization for North Central Texas, is responsible for meeting federal transportation conformity requirements resulting from our ozone nonattainment status. In addition, the RTC is very involved and committed in implementing a diverse array of emission reduction projects and programs that lessen mobile source impacts. To this end, the RTC sent correspondence to Assistant Attorney General Cruden and Attorney General Paxton on March 10, 2016, requesting a portion of any financial settlement which results from the Department of Justice's (DOJ) Civil Action and the Texas Attorney General's (AG) lawsuit filed in 2015 (Volkswagen Group of America, Inc. and Audi America, LLC), be distributed equitably to all nonattainment areas, see [Attachment 2](#). Since that time, Volkswagen has agreed to a Partial Consent Decree with the United States, which includes the creation of a Mitigation Trust to fund eligible mitigation actions. At this time, the sum from Partial Consent Decrees suggest funding for the State of Texas of approximately \$209 million.

The RTC encourages the State of Texas to pursue funding available to the state as part of the Mitigation Trust established by the Volkswagen Partial Consent Decrees. Accompanying this letter are recommendations on allocating the \$209 million allotment to the State of Texas, as well as suggestions for the dispersal process of the funds, see Attachment 3. Texas can use this funding to not only improve the air quality throughout the state, but can also allow Texas to invest in infrastructure and create jobs. The RTC has a strong collaborative history with the state and the Texas Commission on Environmental Quality to improve the nonattainment situation in our region. These funds will have a significant impact in improving the quality of life in the region as well have a positive impact on the private and public sectors in a variety of ways. The RTC appreciates your attention to this matter, and looks forward to working with you.

March 9, 2017

If you have any questions or concerns, please contact Michael Morris, P.E., Director of Transportation for NCTCOG at (817) 695-9241 or mmorris@nctcog.org.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ron Jensen', with a long horizontal flourish extending to the right.

Ron Jensen
Chair, Regional Transportation Council
Mayor, City of Grand Prairie

CK:ch
Attachments

cc: Bethany Engel, Trial Attorney, US Department of Justice
Barbara L. McQuade, US Attorney, US Department of Justice
Anthony W. Benedict, Assistant Attorney General, State of Texas
Pedro Perez Jr, Assistant Attorney General, State of Texas
Richard Hyde, P.E., Executive Director, TCEQ
David Brymer, Director, Air Quality Division, TCEQ
Michael Morris, P.E., Director of transportation, NCTCOG
Ken Kirkpatrick, Counsel for Transportation, NCTCOG
Chris Klaus, Senior Program Manager for Air Quality Planning and Operations, NCTCOG

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City of Denton

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Texas Department of
Transportation, Fort Worth District

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Tarrant County

Kathryn Wilemon
Councilmember
City of Arlington

W. Jeff Williams
Mayor
City of Arlington

Erik Wilson
Deputy Mayor Pro Tem
City of Dallas

W. B. "Zim" Zimmerman
Councilmember
City of Fort Worth



ATTACHMENT 2

The Transportation Policy Body for the North Central Texas Council of Governments
(Metropolitan Planning Organization for the Dallas-Fort Worth Region)

March 10, 2016

The Honorable John C. Cruden
Assistant Attorney General
United States Department of Justice
Environment & Natural Resources Division
Law and Policy Section
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

The Honorable Ken Paxton
Attorney General of the State of Texas
Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

Dear Assistant Attorney General Cruden and Attorney General Paxton:

The Regional Transportation Council (RTC), which serves as the Metropolitan Planning Organization for North Central Texas and responsible for meeting federal transportation conformity requirements, is requesting a portion of any financial settlement which results from the Department of Justice's (DOJ) Civil Action filed on January 4, 2016, (Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., Volkswagen Group of America Chattanooga Operations, LLC, Dr. Ing. H.c. F. Porsche AG, and Porsche Cars North America, Inc.) and the Texas Attorney General's (AG) lawsuit filed on October 8, 2015, (Volkswagen Group of America, Inc. and Audi America, LLC), be distributed equitably to all nonattainment counties.

The actions by both the DOJ and Texas AG were a result of findings that Volkswagen AG installed illegal emissions defeat devices in light-duty vehicles with diesel engines. These defeat devices allow tailpipe emissions up to 40 times the legal level of Nitrogen Oxides (NO_x).

These settlement funds would be earmarked to implement air quality projects and/or programs to off-set the increased emissions from the diesel vehicles equipped with the emission test defeat devices. This is important because the Dallas-Fort Worth region is NO_x-limited, which means decreases or increases in NO_x emissions, such as the increases resulting from the emissions test-cheat devices, have a more profound effect on the overall ozone levels.

It is a federal requirement that regions designated nonattainment for ozone must demonstrate transportation conformity for the long-range Metropolitan Transportation Plan (MTP). As the region develops or amends the MTP, the North Central Texas Council of Governments (NCTCOG), as staff to the RTC, must ensure it complies with these federal requirements and the associated motor vehicle emissions budgets for NO_x and volatile organic compounds set by the State Implementation Plan. To develop the on-road emissions inventories for the region, NCTCOG uses the Environmental Protection Agency's (EPA) Motor Vehicle Emissions

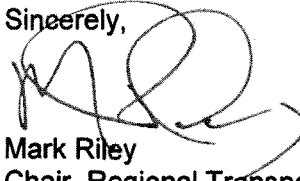
March 10, 2016

Simulator, which includes local inputs and built-in federal vehicle emission standards. The overall emissions for the region are based on many factors, including the assumption vehicle's emission systems design and function are in compliance with State and federal emissions standards. As a result of the recent findings, certain Volkswagen, Audi, and Porsche diesel vehicles are operating above the federally allowed NO_x emissions limits, air quality planning has underestimated these emissions and additional emission reduction control strategies are necessary. Financial assistance through any level of settlement funds would allow nonattainment areas such as the Dallas-Fort Worth region to implement said emission reduction control strategies to offset unhealthy emission impacts.

NCTCOG will continue to partner with the EPA and the Texas Commission on Environmental Quality through developing emissions inventories and providing assistance with on-road vehicle emissions data for our region. Although restitution for the individual owners of vehicles equipped with emissions test-cheat devices is prudent, providing a portion of any financial settlement resulting from violations of the Clear Air Act to the nonattainment regions will benefit all citizens through the continued improvement for air quality.

If you have any questions or concerns, please contact Michael Morris, P.E., Director of Transportation for NCTCOG at (817) 695-9241 or mmorris@nctcog.org.

Sincerely,



Mark Riley
Chair, Regional Transportation Council
County Judge, Parker County

JPL:ch

cc: Bethany Engel, Trial Attorney, US Department of Justice
Barbara L. McQuade, US Attorney, US Department of Justice
Anthony W. Benedict, Assistant Attorney General, State of Texas
Pedro Perez, Jr., Assistant Attorney General, State of Texas
Richard Hyde, P.E., Executive Director, TCEQ
David Brymer, Director, Air Quality Division, TCEQ
Michael Morris, P.E., Director of Transportation, NCTCOG
Ken Kirkpatrick, Counsel for Transportation, NCTCOG
Chris Klaus, Senior Program Manager for Air Quality Planning and Operations, NCTCOG

Elements of Proposed Technical Plan

Upon the State of Texas pursuit of available funding to the state as part of the Mitigation Trust established by the Volkswagen Partial Consent Decrees, the Regional Transportation Council (RTC) requests that the State of Texas, by and through the Office of the Governor, designate the Texas Commission on Environment Quality (TCEQ) as the Lead Agency for the purposes of Texas' participation in the Mitigation Trust. The RTC believes that the TCEQ has shown reliable capabilities in the dispersal of their Texas Emission Reduction Program grants, and has the administrative and technical capacity to serve as the Lead Agency for Texas. The RTC also requests to allow input from regions and other interested parties throughout Texas on the development of the Mitigation Plan.

As stated in the 2.0 L Partial Consent Decree, acceptable projects are identified that allow regions flexibility to maximize investments, with emphasis on high nitrogen oxides reduction programs. The North Central Texas Region can benefit from this Mitigation Trust by implementing said emission reduction strategies to offset unhealthy emissions impacts. As projects vary in benefits across different regions, the RTC suggests that use of funds be determined by each regional Council of Governments (COG) and administration functions be streamlined and flexible to allow for quick project implementation. If a COG is unwilling or unable to participate in the spending of funds, the RTC requests the TCEQ, as the Lead Agency, retain and disperse remaining funds to regions that demonstrate adequate need and interest.

To ensure the appropriate allocation of funds, the RTC requests 90 percent of funds be suballocated to each COG region by total number of registered Volkswagen, Audi, and Porsche vehicles subject to the Partial Consent Decrees in that area. The selected regions are recommended to be based on Transportation Management Areas that were recently recommended nonattainment for the 2015 National Ambient Air Quality Standard for Ozone or have an existing vehicle inspection/maintenance program. As an added benefit, this recommendation falls in line to similar regions identified in Texas Clear Lanes.

Utilizing data supplied by the National Renewable Energy Laboratory, the following table highlights potential suballocated funding results for each COG after distributing impacted Volkswagen, Audi, and Porsche vehicles. The RTC suggests the remaining 10 percent balance be used as a set aside for other interested COG regions.

Texas Regional Councils	Vehicles Affected				Potential Settlement Per Texas Regional Councils
	2.0 Liter	3.0 Liter	Total		
Alamo Area Council of Governments (AACOG) ^{1, 2, 3}	4,014	482	4,496	11.12%	\$27,438,116
Capital Area Council of Governments (CAPCOG) ^{1, 2, 3}	4,657	729	5,386	13.32%	\$32,869,593
Houston-Galveston Area Council (H-GAC) ^{1, 2, 3}	8,056	1,599	9,655	23.87%	\$58,922,377
North Central Texas Council of Governments (NCTCOG) ^{1, 2, 3}	8,789	1,537	10,326	25.53%	\$63,017,345
Rio Grande Council of Governments (RGCOG) ^{1, 2}	870	89	959	2.37%	\$5,852,570
Remaining Regions with 10% Set Aside	8,813	809	9,622	10.00%	\$20,900,000
Total Vehicles Affected in State of Texas					40,444
VW Settlement to the State of Texas					\$209,000,000
Fair Share Funding Recommendation Total (VW Settlement – 10% Set Aside)					\$188,100,000
Total Vehicles in Fair Share Funding Recommendation					30,822
Potential Settlement Per Vehicle with Fair Share Funding Recommendation					\$6,103

Fair Share Funding Recommendation: Regional counties within Transportation Management Areas: are proposed for nonattainment under 2015 NAAQS for Ozone or have existing vehicle inspection/maintenance programs; and/or are a part of Texas Clear Lanes

1. Transportation Management Area
2. Proposed Ozone Nonattainment Area (2015 Ozone NAAQS) and/or has Existing Vehicle Inspection/Maintenance Program
3. Texas Clear Lanes

Registration Source: NREL (Polk Vehicle Registration Database)

VW Settlement to the State of Texas Source: Partial Consent Decree 2.0L (9/30/16) and 3.0L (12/20/16)