

DOJ /EPA VW Emissions Settlement

Webinar Presentation





Webinar Agenda

- * Overview of Proposed Consent Decree
- * Review of Comments from NTAA
- * Report on Recent DOJ Consultations
- * Q&A



Overview of Consent Decree

- * DOJ, EPA, California to partially settle VW diesel emissions violations
- * Consent decree entered July 2016, with 30 day comment period
- * VW agrees to pay over \$14.7 billion
 - * Fix or buy VW 2.0 liter engines - \$10 billion
 - * Mitigation Trust Account - \$2.7 billion
 - * Zero Emission Vehicle Investments - \$2 billion



Fix or Buy VW 2.0 Liter Engines

- * VW must remove vehicles from commerce or perform approved emission modifications
- * 85% of affected 2.0 liter engine vehicles
- * If don't make 85% goal, must put additional funds in Mitigation Trust Account



Mitigation Trust Account

- * Trustee will be selected by Court to manage the trust account
 - * Tribes can submit a list of 3-5 proposed trustees
- * Funds allocated between 50 states, Puerto Rico, DC, and all federally recognized tribes
 - * Tribal set-aside of \$50 million
 - * Tribes are eligible for funds through state as well
- * Funds used for “eligible mitigation actions” – projects that result in NOx emission reductions



Beneficiary Status

- * To be eligible for funding, Tribe must establish its beneficiary status with the Court
 - * File an approved certification form with first funding request
- * Meet funding and certification requirements – disclosure, waivers, plans,



Tribal Funding Process

- * 5% of tribal funds can be used for technical assistance
- * Tribe submits funding request to trustee for EMA projects
- * Trustee can establish / hire a separate entity to evaluate EMA requests
- * Funding available over a 6 year period – starting on Sept. 1 after the Effective Date of trust agreement



Eligible Mitigation Actions

- * Repower, replace engines, or new vehicles
 - * Class 8 / Port Drayage Trucks
 - * Class 4 – 8 School Buses, Transit Bus
 - * Ferries, Tugs
 - * Ocean Going Vessels
 - * Class 4 – 7 Local Freight Trucks
 - * Forklifts
- * DERA Option



Key NTAA Comments

- * Trustee Selection
 - * Should have a separate trustee for tribal sub-account
 - * Should strive to hire tribal consultants and vendors who understand Indian tribes
- * Equitable access to funds
- * Expand 6 year funding window to term of agreement
- * Expand EMAs (especially to include stationary engines, monitoring equipment, ZEV infrastructure)



Key NTAA Comments

- * Allocate additional funds directly to tribes by allocating 2.5% instead of 5% toward technical assistance
- * Trustee should prepare template documents for tribes to use to ease administrative burden on tribes
- * Include tribes in any initial amendments to trust agreement
- * Case by case approach for allocation of funds towards Zero Emission Vehicle Infrastructure and allow more than 15% of total requested in Environmental Mitigation Action Plans



Review of DOJ Consultation Calls

- * 3 DOJ consultation calls focused on 4 questions:
 - * Is the process for tribes submitting eligible mitigation actions workable?
 - * How and when should the 5% of the Tribal Allocation Subaccount be used to help Tribes and is there an organization that can provide this assistance?
 - * Should the Tribes submit a consolidated list of Trustee candidates and if so, who should coordinate this?
 - * Should Tribes be eligible for funding ZEV infrastructure and if so, should they be limited to 15% of its allocation?



VW Settlement Next Steps

- * DOJ accepting written comments until consultation closes August 27.
- * After consultation closes, the DOJ may file a motion with the court seeking approval of the allocation mechanism resulting from consultation by either 6 months after the date the CD was lodged or 30 days after the Trust Effective Date.
- * After court approves CD, Tribes have 30 days to submit one consolidated list of 3-5 candidates to be considered as the Trustee.
- * September 1st is the starting date for the annual allocation of the Tribal Allocation Subaccount that will last for 6 years



NTAA Next Steps

- * Interested Tribes invited to join the new NTAA VW Settlement Working Group.
- * NTAA/TAMS exploring the option of submitting additional comments to DOJ based on Tribal input specific to the consultation questions on the Tribal Allocation Subaccount
- * NTAA and TAMS leaders will convene first Working Group call on Thursday, September 15th, 2016 at 10 am AK and 2 pm ET
- * NTAA VW Settlement Working Group allow Tribes to help Tribes by producing helpful resources and is a possible venue for Tribes to advise DOJ and EPA on the VW Settlement moving forward.



Questions?
Comments?
Concerns?

VW Settlement Policy Response
Kit found on NTAA's website:
www.ntaatribalair.org