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Texas Commission on Environmental Quality  
Air Quality Division  
Implementation Grants Section, MC-100

RE: Comments pertaining to the use of Volkswagen Environmental Mitigation Trust Funds in Texas and the development of a state Beneficiary Mitigation Plan

March 28, 2018

Dear Commissioner Niermann,

The Air Improvement Resources (AIR) Executive Committee, and the Alamo Area Clean Cities Coalition appreciate the opportunity to comment on the Texas Commission on Environmental Quality's Request for Public Comment regarding the Volkswagen Environmental Mitigation Trust (EMT).

The [AIR Executive Committee](#), staffed by the Alamo Area Council of Governments (AACOG), is a collaboration of local elected officials representing the counties and cities of the San Antonio Metropolitan Statistical Area who strive to improve air quality in our region. In a February 2017 [letter](#), the AIR Executive Committee made initial recommendations regarding the Volkswagen (VW) EMT.

AACOG also administers the [Alamo Area Clean Cities Coalition](#), a program of the Department of Energy's Vehicle Technologies Office. The Clean Cities program advances the nation's economic, environmental and energy security by supporting local actions to reduce the use of petroleum in transportation. The Alamo Area Clean Cities Coalition partners with local and statewide organizations in the public and private sectors to grow the market for alternative fuels and vehicles.

The AIR Executive Committee and Alamo Area Clean Cities Coalition encourage the Texas Commission on Environmental Quality (TCEQ) to consider the following recommendations:

1. **Allow regional governments, such as the Councils of Government (COGs), to administer funds.**
  - a. Councils of Government have strong existing ties with local stakeholders and member governments and therefore have keen insights into local conditions, including the needs of area fleets, resource availability, and funding sources. Additionally, the four largest metroplexes in Texas host Clean Cities Coalitions – [Dallas-Fort Worth Clean Cities](#) (North Central Texas COG), [Houston-Galveston Clean Cities](#) (Houston Galveston Area Council), [Alamo Area Clean Cities](#) (AACOG), and [Lone Star Clean Fuels Alliance](#) (independent nonprofit). Each Clean Cities coalition has existing partnerships with public and private-sector fleets interested in Volkswagen EMT funding and can

- leverage these relationships to maximize the promotion and distribution of funding.
- b. To better implement programs with a regional focus, COGs should be allocated a portion of EMT funds for settlement and outreach. If selected for third party administration, COGs would endeavor to reduce administrative costs. COGs generally have lower overhead costs than state agencies and would be able to increase the amount of funding for projects. Many COGs have already been sub-grantors for state and federal funding and have existing protocols in place to ensure the efficient distribution of funding.
2. **Allocate funding proportionally, according to the number of affected vehicles in each region.**
    - a. The consent decree mandates that the EMT funds be used for “environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated...” Many grants through the Texas Emissions Reduction Plan (TERP) are only awarded to applicants within nonattainment and near-nonattainment areas, largely included in the “Clean Transportation Zone”. Since TERP already provides funding for air quality sensitive areas, Volkswagen EMT funding should not restrict funding to these areas in order to a) reduce funding duplication, b) increase the number of eligible applicants, and c) more equitably distribute emission reductions.
    - b. TCEQ should also consider the air quality impacts of emissions reduction in sensitive neighborhoods and communities. For example, almost all neighborhoods are affected by high-mileage, high-emission vehicles like refuse haulers, school and transit buses, and local freight. Additionally, the consent decree specifically requires that beneficiaries describe how the funding will reduce NOx emissions in communities that have historically borne a disproportionate share of environmental health impacts, such as environmental justice areas.
  3. **Allow for flexible distribution of funds.**
    - a. TCEQ should support the use of “flexible funds”, as allowed under the consent decree. Allowing the broadest possible set of EMT funded projects will give each region the ability to focus on projects that will work within their needs, without undue limitations.
    - b. TCEQ should also consider giving administrators the flexibility to share funds between over and under-subscribed programs. As the market develops and technology advances, the same programs that were popular in the first few years may become less relevant.
  4. **Prioritize low-emission and zero-emission projects.**
    - a. In general, the EMT funds should prioritize high-emission, high-mileage vehicles and equipment. For example, *high-emission*, ocean-going vessels operate 2,000+ hours/year with potential NOx reductions of 123 tons/year. Conversely, *high-mileage*, Class 8 trucks operate between 30-60,000 miles/year with an estimated NOx reduction of .2-1 ton/year per vehicle. Funding projects in both categories, and particularly those that overlap, will produce the most emissions reductions.
    - b. We strongly recommend that the TCEQ limit the amount of funding for diesel-to-diesel replacements and repowers. While alternative fuel vehicles are a growing portion of the market, according to [DMV Registration Data](#), almost three-quarters of registered vehicles in Texas are still powered by gasoline and/or diesel. Since diesel already dominates the fleet market, in order to advance the deployment of alternative fuel vehicles, grants and incentives are needed to reduce the incremental cost of purchasing a cleaner-burning vehicle. Providing an incentive for clean diesel simply pushes up the average fleet’s timeline for replacing the vehicle, rather than incentivizing the purchase of an alternative fuel vehicle.
    - c. The TCEQ should prioritize funding for near-zero and zero emission vehicles. Many vehicle and engine manufacturers now offer California Air Resource Board (CARB)-certified, low-NOx engines for eligible fuel types, including natural gas and propane. For example, the Cummins Westport

8.9L natural gas engine is 90% cleaner, emitting .02 grams of NOx per bhp/hr. Similarly, battery electric vehicles produce zero tailpipe emissions.

**5. Allocate 15% of funding to electric vehicle charging infrastructure.**

- a. Alternative fueling infrastructure can help sustain the use of clean energy in the long-term. Although the Volkswagen EMT project categories primarily target medium and heavy-duty diesel vehicles and equipment, the EVSE infrastructure allocation is an opportunity to target gasoline-powered, light-duty passenger vehicles. According to the EPA National Emissions Inventory, on-road light-duty vehicles comprise 26.91% of emissions in Texas, the bulk of which run on gasoline. A widespread electric vehicle charging infrastructure encourages the adoption of light, medium and heavy duty electric vehicles.
- b. Many agencies – including local municipalities, utilities, state DOTs, and the Federal Highway Administration – have existing plans for deploying electric vehicle infrastructure, therefore the TCEQ should endeavor to incorporate all actors to minimize duplication and maximize access to electric vehicle charging stations.

**6. Accept Diesel Emissions Reduction Act (DERA) funding.**

- a. By participating in the EPA Clean Diesel Grant Program, Texas would have the ability to exercise the “DERA option” outlined in the consent decree, which would allow the state to use VW EMT funds as non-federal voluntary match on diesel reduction grants. The Volkswagen Environmental Mitigation Trust funding does not cover certain high-emitting diesel-powered vehicles and equipment, such as construction equipment, oil and gas drill rigs, mining and agricultural equipment, and certain retrofits. The combination of Volkswagen and DERA funding can capitalize on funding for diesel replacement and emissions reduction projects.

**7. Administer funding quickly, transparently, and using high quality emissions reduction tools.**

- a. Texas has the second highest VW EMT allocation in the nation, so it is in the state’s best interest to quickly administer EMT funding, both for emissions reduction benefits and to increase the likelihood of receiving supplemental funding. Per the consent decree, any beneficiary wishing to supplement its funding must have obligated at least 80% of their allocated funding by the tenth anniversary of the trust effective date. Additionally, any funds that have not been allocated by the fifteenth anniversary of the trust effective date will be returned to the trustee and redistributed to federal agencies with high-NOx emissions.
- b. We highly recommend that the TCEQ ensure transparency in the planned allocation of funds, distribution, and program evaluation. Publicly and readily accessible program data, including comprehensive reporting and user-friendly dashboards, will inform the public, stakeholders, and applicants about the progress and efficacy of the program and inspire confidence that the program is meeting its stated goals.
- c. There are many tools that the TCEQ can use to calculate emissions reductions, including the Environmental Protection Agency’s [MOVES](#) model and [Diesel Emissions Quantifier](#). However, given the consent decrees’ emphasis on alternative fuels, we recommend that the TCEQ use the models developed by the Department of Energy’s Argonne National Laboratory and field-tested by hundreds of Clean Cities coalitions. The [GREET](#) model assesses the full life-cycle of transportation fuels emissions. The [AFLEET](#) tool estimates NOx reductions achieved by replacing diesel vehicles with new diesel or alternative fuel. AFLEET is also regularly updated to include advances in vehicle technology and emissions estimates. The Heavy-Duty Vehicle Emissions Calculator ([HDVEC](#)) was specifically developed for the Volkswagen Settlement and estimates emissions reductions and cost effectiveness of medium and heavy-duty vehicles.

We believe that projects with these attributes will leverage Volkswagen Environmental Mitigation Trust funding to maximize near and long-term air quality and drive innovation in Texas’ alternative energy sector.

Please let us know if you have any questions regarding our comments, and we look forward to working with TCEQ in the future.

Signed,



**Mayor Chris Riley**  
City of Leon Valley  
Chair, AIR Executive Committee



**Councilman Roberto Trevino**  
City of San Antonio  
Vice Chair, AIR Executive Committee