North Central Texas Council Of Governments

April 16, 2018

Texas Commission on Environmental Quality
Air Quality Division
Implementation Grants Section, MC-204
P.O. Box 13087
Austin, TX 78711-3087
ATTN: VW Settlement

Re: Input on Draft Mitigation Plan for the State of Texas

Dear Commissioner Niermann:

Congratulations to the Texas Commission on Environmental Quality (TCEQ) being named the Lead Agency for administration of Environmental Mitigation Trust (the Trust) funds for the State of Texas. The North Central Texas Council of Governments (NCTCOG), which serves as staff to the Regional Transportation Council (RTC), the Metropolitan Planning Organization for the Dallas-Fort Worth (DFW) area, submits the enclosed comments for the TCEQ to consider as it develops the Draft Mitigation Plan for the State of Texas. These comments are supplemental to input previously transmitted on behalf of the RTC and include elaboration on a few previous points, as well as additional feedback based upon staff recommendations.

Leveraging Regional Agencies as Third-Party Administrators of Mitigation Trust Funds

The NCTCOG reiterates the previous RTC recommendation that the TCEQ allow Council of Governments (COGs) or similar peer institutions be allowed to serve as third-party administrators of the Trust in their areas. Per previous comments, the most valuable use of funds varies across the state depending on local needs – both with regard to differences in the types of vehicles and equipment operating in a given area, as well as past access to other funding. For example, the Houston area has highlighted priority for marine and port drayage truck projects, which are less applicable in the DFW area. The Austin area has spoken extensively about interest in using VW funds for their transit fleets, whereas two of the three large transit agencies in DFW have already transitioned to natural gas and have few, if any, VW-eligible activities. This illustrates regional differences. The staffs of regional agencies serve as "boots on the ground" in each area and are in constant communication with local public and private fleets, and are familiar with the projects and priorities for which funds could be used. Thus, regional agencies are well-positioned to identify and fund projects which best meet region-specific needs and priorities.

Furthermore, three of the four Clean Cities Coalitions in Texas are housed within regional COGs; this includes the Clean Cities Coalitions serving the DFW, Houston/Galveston, and San Antonio areas (the Coalition serving the Austin area also works closely with their region's COG). By serving as, or working with, the local Clean Cities Coalition, the COGs gain special staff expertise with regard to the latest available vehicle technologies on the market, as well as access to the national Clean Cities network of coordinators, national laboratories, and Department of Energy staff and contractors. This wealth of Clean Cities resources enables the COGs not only to be able to identify good projects at the outset of awarding funds, but also to troubleshoot any implementation challenges that arise.

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By serving as third-party administrators, the COGs also serve as an extension of the TCEQ's resources, taking on tasks associated with processing reimbursements and monitoring project implementation. This is no less burdensome than awarding funds and is a great value-added service. Finally, it should be noted that NCTCOG possesses extensive financial and grant management resources to serve effectively as a third-party administrator of Mitigation Trust Funds. The NCTCOG has successfully served as a regional or third-party administrator to two major programs: the AirCheckTexas Drive a Clean Machine Program, and the Texas Emissions Reduction Plan (TERP). At the height of the AirCheckTexas Program, NCTCOG maintained administrative costs well below the 10 percent cap allowed at the time, indicating that NCTCOG would be able to administer Trust funds in an efficient manner. In addition, over the past few years, NCTCOG has returned to the TCEQ approximately $1.8 million in third-party TERP funds which were recovered from under-performing projects. This underscores NCTCOG staff capability and commitment to proper stewardship of dollars intended for emissions-reduction projects.

Minimizing Unnecessary Grant-Style Requirements

The Trust presents a unique opportunity to fund worthy projects that may be ineligible for other funding due to grant constraints that are not present in the Consent Decree, or projects which are not submitted due to a perception that the grant program is "too hard". Thus, to ensure that the projects which are most effective at meeting the objectives of the Trust are funded, NCTCOG encourages the TCEQ to streamline implementation by providing a simplified online application opportunity, minimizing the amount of paperwork required, and avoiding addition of conventional grant-style requirements. These requirements, while well-intentioned, often drive away worthy projects. Examples include, but are not limited to, Buy America requirements, requirements regarding procurement process, ongoing reporting of vehicle/equipment use, or age limitations beyond those identified in the Consent Decree. If the TCEQ desires to monitor use of vehicles or equipment funded by the Trust, the NCTCOG recommends use of telematics or other GPS-based remote monitoring be paid for as part of the administrative cost, or that the TCEQ could utilize vehicle registration data to verify ongoing use and operation in Texas.

Maintaining Eligibility for all Project Types Identified in Consent Decree

In keeping with variations in regional priorities and best use of funds, NCTCOG encourages the TCEQ to structure the Draft Mitigation Plan to allow eligibility for all eligible mitigation actions identified in the Trust. For example, in the DFW region, NCTCOG and DFW Clean Cities staff have already identified fleet interest in the following eligible mitigation action categories:

- Class 8 Local Freight & Port Drayage Trucks
- Class 4-8 School Bus, Transit Bus, or Shuttle Bus
- Class 4-7 Local Freight Trucks
- Airport Ground Support Equipment
- Light-Duty Zero-Emission Vehicle Supply Equipment

Setting Aside Maximum Allocation for Electric Vehicle Supply Equipment

Beyond merely making electric vehicle supply equipment (EVSE) an eligible project category for Texas' plan, NCTCOG encourages the TCEQ to set aside the full 15 percent (15%) allocation allowed under the Trust. This particular project type is eligible under few grant programs, giving the Trust an opportunity to facilitate expedited deployment of EVs. The need for expanded infrastructure is great in Texas – increased use of EVs is critical to continuing to reduce mobile source emissions that contribute to ozone nonattainment, particularly in the DFW area. Various market projections suggest that the population of EVs will grow to comprise approximately 30 percent of new vehicle sales by the year 2030. NCTCOG staff evaluated various reports from the National Renewable Energy Laboratory and Electric Power Research Institute and determined that in order to facilitate this market growth, the 10-county DFW ozone nonattainment area needs anywhere from 400-900 additional DC fast-charge EVSE sites. Assuming each new location costs approximately $100,000, the needs of the DFW region alone would be enough to utilize the entire 15 percent allocation for EVSE.

In addition, as many industry stakeholders have indicated that the funding approach through the TERP Alternative Fueling Facilities Program, in which eligibility was based on highway corridors, NCTCOG recommends that a similar corridor-style approach be taken for implementation of any EVSE funding set aside to ensure statewide connectivity between major metropolitan areas. The NCTCOG suggests that the TCEQ work with the Texas Clean Cities Coalitions to develop a statewide EVSE deployment plan, and that funds for this specific eligible mitigation action may best be administered from the state level rather than through regions.

Selecting Projects

After setting aside the 15 percent allocation for EVSE, NCTCOG recommends that the TCEQ or its third-party administrators select projects for funding based upon the following:

- Distribute funds geographically to allocate funds across the state. Please reference comments submitted by the RTC on December 7, 2017, for specific recommendations on geographic distribution.
- Consider cost per ton NO_X reduced as a primary consideration.
- Consider local/fleet goals or priorities (e.g. a master plan to transition an entire fleet to electric vehicles) as well as the priorities reflected in the Trust itself.

For example, the Trust has been structured to place emphasis on zero-emission all-electric technology, and allows EVSE to be eligible along with the cost of a heavy-duty EV project. Once costs for both infrastructure and vehicles are totaled, these projects are likely to be less cost-effective than other fuel types where infrastructure cannot be included. The cost of EVSE needed for heavy-duty EVs may be substantially higher than previous EVSE costs, especially if the EVSE will be expected to support a large number of heavy-duty EVs in the future. Such costs are likely to include needed upgrades in transmission and distribution infrastructure as well as the EV chargers themselves. Thus, a project that reflects a commitment to transition a fleet to EV technology may be quite expensive per ton, but may nevertheless be well-aligned with the goals of the Trust and of local fleets. NCTCOG encourages the TCEQ to ensure that there is adequate flexibility in awarding of funds to allow for a compelling project that meets these goals to receive funding.

NCTCOG also recommends that the TCEQ or its third-party administrators consider whether submitted projects are already well-suited to receive funding under the EPA Clean Diesel or TERP funding programs. Trust funds should be used to fill gaps in cost-effective projects, not duplicate funding already available through more conventional sources.

Leveraging Funding to Accomplish the Most Good

While the Consent Decree allows up to 100% funding for vehicle or equipment projects owned by governmental entities, NCTCOG recommends that the TCEQ set a nominal cost share requirement for government projects to help stretch these valuable Mitigation Trust dollars further and optimize the amount of projects that may be funded. For examples, the TCEQ may wish to consider the minimum cost share requirements of other major national funding programs:

- The Federal Highway Administration Congestion Mitigation and Air Quality Improvement Program requires at least a 20 percent local contribution.
- The EPA National Clean Diesel Funding Assistance Program requirements vary across project types, but generally are at least 25 percent.

Structuring Funding Levels to Guide Interest Towards the Cleanest Available Technologies

The Mitigation Trust clearly prioritizes zero-emission vehicle technology by setting a higher Trust Funding Limit for all-electric technologies. It is recommended that regardless of whether the TCEQ imposes a stricter (lower) reimbursement threshold than that allowed by the Trust, the highest reimbursement levels continue to be reserved for zero-emission vehicle technology. However, the Consent Decree did not distinguish between other fuels when setting funding thresholds for non-electric technologies. As availability of engines certified to meet voluntary California Air Resources Board (CARB) optional low-NO_X emissions standards increases, it is recommended that the TCEQ set reimbursement thresholds in a way to also express prioritization for these technologies. Thus, there could be three different reimbursement rates for each Eligible Mitigation Action:

- Highest Funding Limit: All-Electric Technologies
- Middle Funding Limit: Technologies Powered by an Engine Certified to Meet CARB Low-NO_X Standards
- Lowest Funding Limit: All Other Engines

Estimating Comprehensive Air Quality Benefits

Building upon current TERP methodology, NCTCOG encourages the TCEQ to establish a quantification methodology for projects funded by the Trust that encompasses multi-pollutant air quality benefits so that the impact of these projects can be more comprehensively quantified. Estimated project benefits should be inclusive of reductions in emissions of NO_X, particulate matter, carbon monoxide, hydrocarbons, and greenhouse gases, as well as reductions in gallons of diesel fuel consumed. NCTCOG also recommends that the TCEQ use a quantification approach that is available and recognized on a national level to facilitate an apples-to-apples comparison of the impacts of Texas' Mitigation Plan with that of other states. The National Association of State Energy Officials' Volkswagen Beneficiary Mitigation Plan Toolkit identifies several major nationally-available tools that the TCEQ may wish to evaluate:

- Greenhouse gases, Regulated Emissions, and Energy use in Transportation Model (GREET)
- Alternative Fuel Life-Cycle Environment and Economic Transportation (AFLEET) Tool
- Diesel Emissions Quantifier (DEQ)

The NCTCOG recommends that the TCEQ consider use of the AFLEET Tool for on-road vehicle projects as this tool enables total cost of ownership and lifecycle cost analysis, which is an important educational tool for helping stakeholders understand total impacts of various vehicle purchasing decisions such as multipollutant emissions impacts, long-term financial impacts, and fuel consumption. The TCEQ may wish to contact other state lead agencies to determine the most appropriate, commonly-used quantification methodology to inform a final decision.

Finally, NCTCOG stresses the importance of maintaining separate principles for Mitigation Trust funding, which is implementing projects to rectify Volkswagen's actions – versus those of TERP, which is implementing new projects to achieve emissions reductions above and beyond those already expected to have been accomplished through fleet turnover. Thus, the NCTCOG urges the TCEQ to continue seeking full appropriation of TERP during the legislative session, and not allow the one-time influx of Volkswagen funds to dilute the ongoing importance of TERP.

NCTCOG wishes to convey our commitment to partnership with regard to implementation of these funds. We look forward to collaborating with the TCEQ to maximize the opportunities that these funds bring to the State of Texas. We appreciate your consideration of these suggestions, and will be scheduling a meeting to discuss these points in the event you have any questions. In the meantime, feel free to contact me at (817) 695-9286 or cklaus@nctcog.org.

Sincerely,

Chris Klaus
Senior Program Manager

LPC:ch

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