



September 25, 2018

Chairman John Niermann
Texas Commission on Environmental Quality
Air Quality Division Implementation Grants Section, MC-204
12100 Park 35 Circle Austin, TX 78753

Submitted via email: vwsettle@tceq.texas.gov

Dear Chairman Niermann,

Thank you for this opportunity to provide comments on the proposed Volkswagen settlement Beneficiary Mitigation Plan for Texas. I am submitting these comments on behalf of ScribSolve LLC, an environmental consulting and grant services firm.

I have worked extensively with the Texas Emissions Reduction Plan (TERP) grant programs, the EPA Diesel Emissions Reduction Act (DERA) grant programs, heavy-duty diesel equipment manufacturers and dealers to reduce diesel emissions and improve air quality.

While TCEQ has rightly modeled the proposed mitigation plan on the already successful TERP grants, I see opportunities to better utilize the VW settlement and DERA funds to complement the TERP programs and achieve greater emissions reductions in Texas.

Four key suggested changes are:

- More reasonable allocation of funding – Central Texas should receive funding.
- TCEQ should fully take advantage of available DERA funds, the offered EPA bonus funds, and the ability to use the VW settlement funds to overmatch DERA funds.
- Freight switchers, tugs and ferries should be made eligible to receive Texas VW mitigation funds. Although these high-emitting projects are eligible for TERP funding, the diesel emissions reduction incentives programs are typically substantially over-subscribed.
- The grant process should avoid first-come, first-served programs for high-demand projects.

Fund Allocation

Although Texas is home to three of the top ten most populated cities in the U.S., it was the Austin metro area that had the highest number per capita of registered vehicles deemed to be violating federal emissions standards. This fact alone should have resulted in allocation of funds

to the central Texas region based on TCEQ's statement that "...the VW funding is intended to help mitigate the impact of NOX emissions that should not have previously occurred and were not considered in air quality inventories and planning to ensure compliance with the NAAQS."

Also, Central Texas has long been considered an ozone "near non-attainment" region and was an Early Action Compact region in order to proactively reduce ozone emissions. The region is voluntarily participating in the Ozone Advance Program, one of many actions taken by regional citizens and air quality planners to avoid ozone non-attainment status and protect public health. The citizens of Central Texas should not be punished for having been proactive in protecting air quality.

Even with extensive efforts to remain in attainment with NAAQS ozone standards, Central Texas has experienced at least ten exceedances of the 2015 federal ozone standards during the current ozone season, a trend that could push the region into a non-attainment status. In short, Central Texas may be on the verge of becoming an ozone non-attainment region and should be allocated VW settlement funds to bolster the effort to remain in attainment.

Diesel Emissions Reduction Act Funds

Although the DERA funding available to the state is relatively low in comparison to TERP funds, TCEQ should apply for those funds to best leverage the VW settlement funds. The state can use its' share of the VW funds to match the DERA funds offered and receive a 50% bonus to those funds from EPA. Also, TCEQ can utilize any amount of Texas VW settlement funds desired to provide an "overmatch" of DERA funds, thereby creating a grant program that can be targeted at high-emitting non-road equipment not otherwise eligible for the settlement funds.

While it is true that the TERP program funds the replacement or repower of many types of non-road equipment, there is such high demand for diesel project funding that all of the TERP Diesel Emissions Reduction Incentive programs are routinely substantially over-subscribed. When applicants cannot access funding, they typically keep using or sell their old high-emitting diesel equipment into the lucrative secondary market, causing the state to miss out on emissions reductions that would have otherwise been obtained through the scrapping of the old diesel engines.

Also, there are types of equipment that are not adequately addressed by TERP that could be targeted by a Texas DERA-VW grant program, specifically large 'bull dozers' and small backhoes and skid steer loaders. Due to various criteria within the TERP programs, these types of equipment typically are not eligible for high enough grant amounts for the owners to justify scrapping the old equipment. Even though the DERA program would only allow 25%-35% funding of replacement costs in most cases, that amount would be sufficient for many applicants to justify applying for funds and removing that old equipment from the population.

Grant Process

TCEQ should avoid the First-Come, First-Served (FCFS) grant program structure for high-demand diesel replacement or repower projects such as class 8 trucks and school buses. In the existing FCFS TERP Rebate program, the funds are allocated so quickly that many entities never get a chance to apply. In the last Rebate program during December 2017, \$20 million dollars were allocated within two weeks. The funds available for previous Rebate programs were typically allocated within about six weeks. Even with a 30-day advance notice period, many would-be applicants simply do not have the resources or time to plan or budget quickly enough to pull an application together before the funds have been allocated. While employing pre-determined grant amounts in the programs eases the application process somewhat, that improvement is more than offset when the FCFS format is used. A fairer system for using pre-determined grant amounts might be to set a deadline for all applications, then use a lottery system to allocate funds among the eligible applicants. The FCFS format should only be used for high-demand projects if program funding is sufficient to support an open application period of at least three to six months.

Thank you for your review and consideration of these suggestions.

Sincerely,

Kathi Harris

Principal, ScribSolve LLC