

**Travis County Commissioners Court**  
**Comments on the**  
**Volkswagen Environmental Mitigation Trust**  
**Draft Beneficiary Mitigation Plan for Texas**

**Commissioner Gerald Daugherty**  
**September 26, 2018**

**1. Travis County supports administration of Mitigation Plan funds by TCEQ as described in the Draft Plan. This is reasonable and appropriate.**

However the description of the administrative procedures raises questions. We suggest that the Final Beneficiary Mitigation Plan provide greater detail regarding:

- a. Clarification of procedures for competitive evaluation of projects.
- b. Clarification of when funds will be awarded on a competitive basis vs. a first-come first-served basis.
- c. Conditions on replacement of vehicles. Too often we find that special conditions make our participation in vehicle replacement programs unworkable.
- d. Contingencies for periodic reevaluation of the plan - especially after the first 2 years of implementation.

**2. Travis County supports the 15% earmark for statewide implementation of light-duty electrical charging infrastructure.**

**3. The Designated Priority Areas should include the Austin Round Rock region.**

The Draft Plan is not fair and equitable with respect to allocation of funds among regions and communities in proportion to the number of affected vehicles sold or registered or in proportion to the effect of emissions on populations.

- a. 12.5% of all affected cars registered in Texas were registered in the Austin Round Rock region.
- b. The region stands on the brink of non-attainment largely because of mobile NOx sources.
- c. 67% of ozone-forming emissions in our region come from mobile sources including on-road and off-road vehicles and equipment.

We note that the Beaumont-Port Arthur region does not appear to be an appropriate Designated Priority Area because

1. it has so few (<1%) of the affected vehicles, and
2. is currently in attainment for ozone and has been in recent years.

**4. Allocation of funds among the regions should be based on objective data and the equitability principles inherent in framework of the program --- not politics.**

- a. Prioritizing investment of mitigation funds in nonattainment regions with a large number of affected vehicles is a reasonable approach to maximize the effect of the mitigation measures.
- b. However, the Draft Plan is not equitable with respect to allocation of funds among regions and communities in proportion to the number of affected vehicles sold or registered or in proportion to the effect of emissions on populations. There is no explanation or justification in the plan for the disproportionate allocation of funds among regions.

A better approach is to allocate the funds earmarked for priority areas in proportion to the number of vehicles sold or registered in these areas. For example:

Region	O <sub>3</sub> Attainment v. Nonattainment	Statewide Share of Affected Vehicles %
Dallas-Fort Worth (11-county region)	N	25%
Houston-Galveston-Brazoria (8-county region)	N	23%
San Antonio (4-county region)	N	9%
El Paso (El Paso County)	N <sup>1</sup>	2%
Austin Round Rock	A	12%
Balance of State	A <sup>2</sup>	10%

<sup>1</sup> El Paso is currently “unclassifiable” but the data clearly indicate it will likely be considered nonattainment.

<sup>2</sup> Beaumont Port Arthur is placed with the Balance of the State because it is in attainment, well under the NAAQS, and has less than 1% of affected vehicles.

This approach provides a more equitable distribution of funds consistent with the intent of the Environmental Mitigation Trust to provide for:

1. Environmental mitigation projects that reduce NO<sub>x</sub> emissions where affected VW vehicles were, are or will be operated, and
2. Mitigation projects in areas that are disproportionately affected by air pollution, especially from the affected vehicles.

This approach

- Does not entirely leave out the Austin Round Rock region where a disproportionately large number of affected vehicles were sold or registered AND
- It does not leave out the entire rest of the state where approximately 10% of all affected vehicles were purchased or registered.

The Draft Plan does not provide a rational explanation for a significantly disproportionate allocation of funds to San Antonio, nor does it explain how such an

allocation is consistent with the stated purpose of the Environmental Mitigation Plan. The San Antonio region is much more affected by industrial and utility point sources than mobile sources of NO<sub>x</sub>. If the Final Plan takes this approach, there should be much greater explanation and justification for a disproportionate allocation.

**5. Keep the reimbursement rate for vehicle replacement for governmental entities at 100% as provided for in the national Environmental Mitigation Plan (or at no less than 80%).**

The Draft Plan proposal for a 60% reimbursement cap for governmental entities should be reconsidered. Staff appreciates the principle expressed by TCEQ that participants in the program should have some real investment to demonstrate their commitment to the program. But it does not appear to be an appropriate criterion in this instance. While governmental entities have a public duty to protect the environment, including air quality through their fleet management, they also have a fiduciary responsibility to protect and maximize the value of taxpayer investments. Local governmental agencies will be very hard-pressed to sacrifice the residual value of vehicles that are scrapped and replaced under this program. The 100% reimbursement rate provided for in the national mitigation plan is appropriate for governmental entities. The vehicles will remain in the region unlike vehicles for private entities which may move elsewhere. A 100% reimbursement rate will greatly aid government agencies in making the move to replace vehicles and will have a correspondingly large effect on the success of the program

**6. Maximize the effectiveness of the Mitigation Plan by augmenting it with unused Texas Emissions Reduction Plan (TERP) funds.**

One of the goals stated in the Draft Plan is to “Complement Other Incentive Funding Programs.” The Draft Plan asserts that, “...it is important that the VW funding be used to complement the efforts of the TERP program.”

If TCEQ wishes to make a concerted effort to correct recent or imminent nonattainment issues, the State has in excess of \$1.7 billion in unused TERP funds that may be used for similar or complementary efforts. Texas’ Beneficiary Mitigation Plan would be greatly augmented by an explicit commitment to using these TERP funds in high priority areas in a manner consistent with the intent of both the VW mitigation funds and TERP.

**7. The Draft Plan should explicitly give preference to electric vehicles.**

The Draft Plan does not explicitly demonstrate a preference for electric vehicles over other fuel sources for vehicle replacement. (Of course, the 15% earmark for electric vehicle charging does represent an explicit commitment to electric vehicles.) The preference for electric vehicles as replacement vehicles should be explicit in the plan providing for exceptions where electric vehicles are not available or suitable for a specific purpose.