

Volkswagen Federal Settlement



Carmaker Volkswagen (VW) has admitted to installing illegal “defeat device” software on 2.0 and 3.0 liter diesel vehicles in order to cheat federal emissions tests. The company has reached two settlements with the U.S. Environmental Protection Agency (EPA) that partially¹ resolve its violation of the federal Clean Air Act (CAA).

Consent Decrees

Two partial consent decrees have been filed with the federal court. The consent decrees detail VW’s multi-billion dollar agreement to pay for consumer remedies, light duty zero emission vehicle (ZEV) investments, and to reduce diesel engine pollution.

Washington is eligible to receive \$112.7 million.

As detailed in the settlements, VW has agreed to:

- Provide **Consumer Relief** to owners of VW vehicles that failed to meet federal emissions standards.
- Invest in and develop **Zero Emission Vehicle Infrastructure**.
- Provide **Mitigation Funds** to states and tribes to offset excess nitrogen oxide emissions from the vehicles.

Consumer Relief

There are approximately 590,000 affected 2.0 and 3.0 liter diesel vehicles in the nation. About 22,000 of the vehicles are registered in Washington. Consumer remedies include buy backs, repairs, and cash settlements, depending on the engine size and pollution control equipment of the affected vehicles.

Zero Emission Vehicle Infrastructure

As part of the 2.0 liter partial settlement, VW will invest \$2 billion over the next 10 years in ZEV infrastructure, such as charging stations and the promotion of ZEVs. VW will invest \$800 million in California and \$1.2 billion throughout the rest of the nation. VW will provide an opportunity for public input on the type and locations of the ZEV investments they select. Washington and Oregon jointly submitted a proposal to VW recommending ZEV infrastructure projects in our states.

Examples of ZEV investment projects include:

- Electric vehicle charging stations at multi-unit dwellings, workplaces, and public sites.
- Electric vehicle fast charging stations available to all vehicles using non-proprietary connectors.
- Brand-neutral education or public outreach that increases public awareness of ZEVs.

Mitigation Trust Fund

VW will pay about \$3 billion, in three equal installments, over the next three years into the trust. The funds will be used to pay for past, present, and future harm caused by the excess nitrogen oxide emissions released by the affected vehicles.

All 50 states, Puerto Rico, the District of Columbia, and Indian tribes may elect to become beneficiaries. Each participating beneficiary will receive a specific amount of funds based on the number of affected vehicles registered in their geographic boundaries.

Beneficiaries must submit a mitigation plan that summarizes how the beneficiary intends to use its allotted funds. Beneficiaries have 10 years from the Trust Effective Date to implement mitigation actions and spend their allocation. Tribal beneficiaries have six years from the Trust Effective Date to spend their allocations.

The trustee has 120 days from the Trust Effective Date (sometime in 2017) to file a notice listing the entities that filed beneficiary certifications. Once designated, each beneficiary may submit funding requests to the trustee. Beneficiaries should expect to receive funds about six months after the Trust Effective Date. Beneficiaries are eligible to receive and spend up to one-third of their funds within the first year and up to two-thirds within the second year. They must spend all funds within ten years.

Unused money will be redistributed among beneficiaries that have used at least 80% of their trust funds. These beneficiaries will be given five additional years to use the supplemental funding.

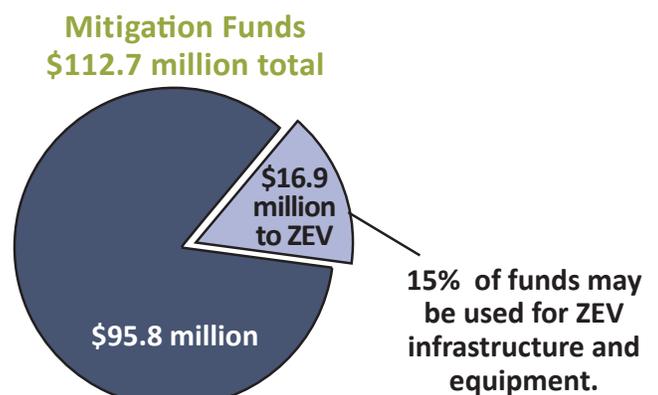
Under the two settlements, Washington is eligible to receive a total of \$112.7 million to mitigate emissions from the nearly 22,000 affected vehicles sold in our state. The governor has identified Ecology as the lead agency in Washington to manage the funds received. Additionally, the governor has asked Ecology and the Washington Department of Transportation to partner on project selection with consideration of the state's Results Washington goal of 50,000 electric vehicles by 2020.

Eligible Use of Mitigation Funds

The mitigation funds can only be used for specific types of vehicles or equipment. Eligible vehicles and equipment may be replaced or repowered with new diesel engines, alternate fueled engines (compressed natural gas, propane, or hybrid), or all-electric engines.

Eligible vehicles and equipment include:

- Class 8 local freight trucks and port drayage trucks.
- Class 4-8 school/shuttle/transit buses.
- Freight switcher locomotives.
- Ferries/tugboats.
- Shorepower for ocean going vessels.
- Class 4-7 local trucks.
- Airport ground support equipment.
- Forklifts and cargo handling equipment at ports.
- Light duty zero emission vehicle supply equipment (limited to 15% of funds).
- Matching funds for projects eligible under the Diesel Emission Reduction Act (DERA).



Case History Summary

1st Notice of Violation 2.0 liter diesel vehicles

The EPA issued VW a notice alleging violations of the federal Clean Air Act. An EPA investigation resulted in the company admitting to installing software that cheated emissions tests for model year 2009 – 2015.

2nd Notice of Violation 3.0 liter diesel vehicles

EPA issued VW a second notice of violation addressing certain model year 2014 – 2016, 3.0 liter diesel vehicles that also cheated emissions test. VW admitted that the defeat device has existed in all of their 3.0 liter diesel models since 2009.

Department of Justice (DOJ) Complaint

In January, 2016 the DOJ filed a complaint, on behalf of EPA, against VW for alleged violations of the Clean Air Act. The complaint describes how VW sold nearly 590,000 affected 2.0 and 3.0 liter diesel vehicles, model years 2009 – 2016. Violating vehicles emit up to 40 times more pollution than federal standards allow.

1st Partial Settlement

VW and EPA entered into a multi-billion dollar settlement based on the sale of 2.0 liter diesel vehicles. The settlement took effect on September 30, 2016.

2nd Partial Settlement

VW and EPA entered into a second settlement to partially resolve alleged Clean Air Act violations based on the sale of 3.0 liter diesel vehicles. Final court approval is pending.

More details about the Mitigation Trust Fund are found in Appendix D of the initial partial Consent Decree.

Public Outreach and Information

Information about the settlement is available on Ecology's website. We'll continue to post updates to ensure people stay informed.

Ecology has been conducting surveys, stakeholder meetings, webinars, creating feedback loops, to seek input on the draft plan to administer the funds. We'll continue to reach out to the public, local governments, public interest groups, and the Legislature for input and to keep them informed.

We are working with the Washington Department of Commerce, Office of Financial Management, the Washington Department of Transportation, and other agencies to shape the process to seek input.

Next Steps

States and tribes must submit certification documents to the court appointed trustee to become a beneficiary. This must be completed within 60 days of the effective trust date. We anticipate that a the trust will be established 4th quarter, 2017.

Once Washington is appointed as a beneficiary of the mitigation funds, we must then submit a plan for use of the funds. That plan must be submitted to the trustee within 120 days of the effective trust date. Washington estimates that plans will be submitted early 2018.

Funding Timeline

Before Washington can receive any mitigation funds several actions must occur.

Below is the projected timing for the mitigation funds:

- **4th quarter, 2017**- Trust becomes effective on date filed.
- **1st quarter, 2018** - States et al. file certification forms to become a beneficiary with trustee.
- **1st quarter, 2018** - Trustee identifies those that filed certification forms and objections may be filed.
- **1st quarter, 2018** - Certification filers without objections become beneficiaries.
- **2nd quarter, 2018** - Dispute resolution begins for certification filers with objections.
- **2nd quarter, 2018** - Beneficiaries must file their Mitigation Plans and may begin requesting funds.

Public Health

Nitrogen oxide pollution contributes to nitrogen dioxide, ground-level ozone, and fine particulate matter. Exposure to these pollutants has been linked with a range of serious health effects, including increased asthma attacks and other respiratory illnesses that can be serious enough to send people to the hospital. Exposure to ozone and particulate matter has also been associated with premature death due to respiratory-related or cardiovascular-related effects. Children, the elderly, and people with pre-existing respiratory disease are particularly at risk for adverse health effects from these pollutants.

Beneficiaries are directed in the consent decree to consider their mitigation actions based on the benefits of reducing nitrogen oxide emissions in communities that have been disproportionately affected by the emissions.

¹ The settlements are “partial” in that they address only what Volkswagen must do to address the cars on the road and the environmental harm from violations. They do not address other aspects of the United States’ complaints.

² Combines \$2.7 billion and \$225 million from the initial, 2.0l partial settlement and the pending 3.0l partial settlement. Accordingly, Washington’s allocation is a combined \$103.9 million and \$8.8 million (pending).



Special accommodations

For ADA accommodations, persons with impaired hearing may call the Washington Relay Service at 711. Persons with a speech disability may call TTY at 877-833-6341. V17.3

Affected Vehicles

Affected 2.0 liter diesel models:

- Jetta (2009-2015)
- Jetta Sportwagen (2009-2014)
- Beetle (2013-2015)
- Beetle Convertible (2013-2015)
- Audi A3 (2010-2015)
- Golf (2010-2015)
- Golf Sportwagen (2015)
- Passat (2012-2015)

Affected 3.0 liter diesel models:

- Volkswagen Touareg (2009-2016)
- Porsche Cayenne (2013-2016)
- Audi A6 Quattro (2014-2016)
- Audi A7 Quattro (2014-2016)
- Audi A8 (2014-2016)
- Audi A8L (2014-2016)
- Audi Q5 (2014-2016)
- Audi Q7 (2009-2016)

Useful Websites

Ecology: www.ecy.wa.gov

EPA: www.epa.gov/vw

For emailed updates to the Volkswagen Federal Enforcement Action sign up for Ecology’s listserv:

<http://tinyurl.com/VWFederalAction>.

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