



Volkswagen Settlement – Proposed Changes to the Partial Consent Decree

A [Motion for Entry of Partial Consent Decree](#) has been filed for the Volkswagen Settlement, and includes a series of proposed changes to Appendix D - the Environmental Mitigation Trust. Redline edits to Appendix D can be [found online here](#), and changes that NASEO finds are particularly relevant to State Energy Offices and other state leads follow:

- **States have more time to file their Beneficiary Mitigation Plans.** In the initial Partial Consent Decree, states had 30 days to submit their Beneficiary Mitigation Plans after being designated as Beneficiaries. The new language stipulates that Beneficiaries will have 90 days from designation to submit their plans.
- **The definition of "government" has been expanded.** Under the proposed changes, the definition of "government" shall mean a state or local government agency, including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority owning fleets purchased with government funds. This expanded definition will allow more public entities to qualify for additional funding through their state's portion of the Environmental Mitigation Trust.
- **The DERA Option has been limited.** Eligible Mitigation Action number 10: *Diesel Emission Reduction Act (DERA) Option* has been updated. The new language states that Beneficiaries may use Trust Funds for their non-federal voluntary match, but that Trust Funds shall not be used to meet the non-federal mandatory cost-share requirements under any DERA grant.
- **Funding has been increased for administrative expenditures.** The new language expands the amount that states may spend on administrative expenditures associated with implementing Eligible Mitigation Actions from 10 percent to 15 percent.
- **"Up-to" language for each Eligible Mitigation Action has been inserted.** The initial language stipulated that Beneficiaries may draw funds from the Trust in the amount of "XX%" for Eligible Mitigation Actions. The proposed changes include "up-to" language before each percentage requirement, which will maximize the use of available funds and accommodate low-cost projects.
- **Eligible Shorepower projects have been expanded to include Great Lakes.** Eligible Mitigation Action number 5: *Ocean Going Vessels (OGV) Shorepower* has been updated. The new language stipulates that Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.

NASEO anticipates that the Volkswagen Settlement will be finalized on October 18, 2016.