Beneficiary Mitigation Plan
Volkswagen, Audi, and Porsche
Clean Air Act Settlements
March 21, 2018

I. Introduction

Volkswagen Group of America and certain related entities (collectively Volkswagen or VW) have admitted they violated the federal Clean Air Act from 2009 to 2016 by selling 580,000 vehicles with 2.0 liter and 3.0 liter diesel engines that emit more air pollution than the Clean Air Act allows and by cheating on federal emission tests to hide the excess pollution. Volkswagen partially settled its civil liability for these violations of the Clean Air Act by entering two judicial consent decrees. Judicial settlements approved on October 25, 2016[1] and May 17, 2017[2] require Volkswagen to pay more than $2.9 billion into an environmental mitigation trust fund (henceforth "the trust"), which will be administered by an independent trustee.[3] States and tribes that elect to become beneficiaries of the trust may receive funds over a period of 3-10 years to offset the excess nitrogen oxide (NOx) pollution emitted by affected Volkswagen and Audi vehicles. In addition, the consent decrees require Volkswagen to repair, buy back, or pay for the early termination of leases of affected vehicles and to make a $2.0 billion National Zero Emission Vehicle (ZEV) Investment. Volkswagen and some of its employees also face civil and criminal liability under a variety of consumer protection, financial, and other laws.

The State Mitigation Trust Agreement (State Trust Agreement) was filed with the Court on October 2, 2017 establishing October 2, 2017 as the Effective Date for the Trust.[4] In accordance with Subparagraph 4.0.2 of the State Trust Agreement, Colorado was provided with the Notice of Beneficiary Designation which was filed with the Court on January 29, 2018[5], officially designating Colorado as a beneficiary of the Volkswagen Diesel Emissions Environmental Mitigation Trust. As a designated beneficiary of the trust, Colorado's initial allocation is a combined $68.7 million for the 2.0L and 3.0L vehicles. The Colorado Department of Public Health and Environment (CDPHE) has been designated as the state's lead agency to oversee the administration of the trust. Colorado, no later than 30 Days prior to submitting its first funding request pursuant to Paragraph 5.2, shall submit and make publicly available its Beneficiary Mitigation Plan.

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[1] Order Granting the United States' Motion to Enter Proposed Consent Decree, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Case No. 3:15-md-02672 (N.D. Cal., Oct. 25, 2016), *available at* www.cand.uscourts.gov/crb/vwmdl (the "October 2016 Consent Decree").
[2] The "May 2017 Consent Decree," *available at* www.cand.uscourts.gov/crb/vwmdl.
[3] On March 15, 2017, the court appointed Wilmington Trust, N.A. as trustee of the environmental mitigation trust.
[4] Available at www.vwenvironmentalmitigationtrust.com.
[5] Available at www.vwenvironmentalmitigationtrust.com.

Pursuant to Appendix D, paragraph 4.1, of the October 2017 State Trust Agreement, the State of Colorado must submit a Beneficiary Mitigation Plan summarizing how Colorado plans to use the mitigation funds. The BMP is intended to provide the public with insight into the State's high-level vision for use of the mitigation funds and information about the specific mitigation actions for which funding is expected to be requested. The BMP is designed to "provide the level of detail reasonably ascertainable at the time of submission." This BMP describes Colorado's overall intentions and its plan for spending approximately $57.0 million of Colorado's allocation. Colorado will allocate the remaining $11.7 million in response to market demand and the uptake of trust funds. The trust allows Colorado to revise its Beneficiary Mitigation Plan. Colorado may adjust its goals and spending plans based on lessons learned during the early years of implementing the trust.

The settlement specifies certain categories of mitigation actions that are eligible to receive funding from the trust. The parties to the State Trust Agreement have determined that each of these eligible mitigation actions achieve sufficient NOx reductions to fulfill the purposes of the trust. Colorado is therefore free to fund any of the eligible mitigation actions in any proportion, except that no more than 15% of the funds may be used for light duty zero emission vehicle supply equipment. When selecting eligible projects for funding, CDPHE and its partner agencies will consider all the benefits of a proposed project, including NOx emission reductions, reductions of other pollutants and improved safety, among other benefits. The categories of eligible mitigation actions that Colorado anticipates will be appropriate to achieve the goals of the trust include:

- Class 8 local freight trucks and port drayage trucks (eligible large trucks)
- Class 4-7 local freight trucks (eligible medium trucks)
- Class 4-8 school bus, shuttle bus, or transit bus (eligible buses)
- Airport ground support equipment
- Light duty zero emission vehicle supply equipment
- Matching funds for projects eligible under the Diesel Emission Reduction Act (the "DERA option")
- Railroad freight switchers
- Forklifts (no fleet owners have yet expressed interest)

The State of Colorado expects to begin soliciting applications for projects and receiving funds in 2018.

II. Public Outreach

a. Initial Public Outreach

The Colorado Department of Public Health and Environment (CDPHE) has coordinated with the Colorado Department of Transportation, Colorado Energy Office, Regional Air Quality Council, and other agencies for public outreach regarding the Mitigation Trust Fund, and will continue to do so. During the fall of 2016, CDPHE and partner agencies started conducting outreach to potential beneficiaries, government officials, transportation organizations, and the public.

Information on the settlement has been available online on CDPHE's Volkswagen webpage, https://www.colorado.gov/cdphe/VW since approximately August 2016. The site allows the public to see up-to-date information regarding the settlement and to submit comments. CDPHE created an email

listserve for the VW settlement. The email listserve includes over 450 vehicle fleet owners, trade groups, transportation agencies, and anyone who asked to receive emails. The address group continues to grow over time.

CDPHE solicited comments and ideas on all aspects of Colorado's implementation of the settlement. A Request for Comment was published on September 30, 2016. A solicitation email was sent to stakeholders statewide and was available on CDPHE's Volkswagen Settlement webpage. Hard copies of the Request for Comment were also available at a public meeting held on November 7, 2016. About 90 individuals and entities submitted written comments to the Air Pollution Control Division (APCD) via email. A summary of the written comments and copies of the comments are available on CDPHE's webpage. Written comments continue to be submitted and reviewed.

CDPHE hosted a public stakeholder meeting on November 7, 2016 in Denver, Colorado. The meeting was announced online, by email to the listserve, and in various public meetings. With over 120 stakeholders in attendance at CDPHE and through a web stream, APCD representatives informed the public about the settlement, answered questions, and listened to stakeholders' comments to guide Colorado's implementation of the settlement. About 30 individuals and organizations provided verbal comment during the public meeting.

CDPHE and its partner agencies met with interested entities and individual stakeholders upon request. These agencies gave approximately 15 public presentations about the VW settlement at numerous events. These agencies described the settlement and the state's anticipated process for implementing the trust at meetings of the General Assembly's Joint Budget Committee, the Statewide Transportation Advisory Committee (STAC), the Freight Advisory Council, the RAQC board, Denver Regional Council of Governments, North Front Range Metropolitan Planning Organization and the Pikes Peak Area Council of Governments, among others.

Governmental entities and the public have expressed a high degree of interest in the trust. While CDPHE received comments on a wide variety of topics, several themes emerged. Formal comments and informal feedback indicate that the public supports using the trust funds to promote electric, zero emission and alternative fuel vehicles. About 44 of the 88 comments Colorado received addressing fuel types favored electric vehicles and 12 favored zero emission vehicles. Colorado received a smaller number of comments supporting other fuel types, such as clean diesel and propane, nine comments opposing natural gas and diesel fuel projects, and 10 comments encouraging Colorado to be fuel-neutral. There is considerable public support for using the trust funds to promote public transportation, with 32 comments in support. Colorado received 52 comments supporting the use of trust funds on ZEV supply equipment and two opposing this. Most of these comments supported spending the maximum allowable 15% on this category. Colorado received 22 comments in favor of using existing programs, such as ALT Fuels Colorado and Charge Ahead Colorado, to distribute the funds.

b. Comments on the Proposed Beneficiary Mitigation Plan

On August 28, 2017 CDPHE and its partner agencies solicited public input on the proposed Beneficiary Mitigation Plan. The proposed BMP was posted on CDPHE's VW website, https://www.colorado.gov/cdphe/VW. Notice of the opportunity for public comment was sent via email to CDPHE's listserve. CDPHE also shared the information through various public and industry outreach methods.

CDPHE held a public comment meeting regarding the proposed BMP on September 18, 2017 at the CDOT headquarters building, 4201 East Arkansas Avenue, Denver, CO 80222. Comments were accepted during the public meeting and in writing until October 13, 2017. Presentations were given to several air quality and transportation planning organizations, such as the North Front Range Metropolitan Planning Organization and the Pikes Peak Area Council of Governments, at their regularly scheduled meetings.

Oral comments were recorded during the public meeting. All oral and written comments are posted on CDPHE's VW website along with a summary of the comments received. CDPHE received 2,424 comments on the BMP. Comments provided covered topics including eligibility issues, incentive levels, expanding the DERA option, removing fleet size limits and scrappage requirements. Over 2,138 grouped citizen comments were in favor of funding electric vehicles and electric vehicle infrastructure. CDPHE and its partner agencies considered all timely comments and made appropriate revisions to finalize the Beneficiary Mitigation Plan. A document summarizing the comments and Colorado's responses is posted on CDPHE's VW website, along with the final Beneficiary Mitigation Plan.

c. Public Availability of Trust Documents

Colorado will implement the trust transparently. Colorado will account for trust expenditures and conduct audits as necessary to ensure compliance with applicable requirements. Colorado will provide appropriate reports to the trustee and the public. Documentation of trust expenses will be made available to the public in accordance with the Colorado Open Records Act (CORA) and trust requirements. Documents submitted by fleet owners and project applicants in support of funding requests and all records supporting expenditures of Eligible Mitigation Action funds will likewise be made publicly available, subject to applicable laws governing the publication of confidential business information and personally identifiable information.

III. Impacts of Volkswagen's Emission Cheating

a. Scope of the Excess Emissions

Volkswagen and certain affiliated companies sold approximately 580,000 diesel vehicles in the United States with software that recognized federal emission test protocols and operated the engine in ways that reduced emissions and overall performance while the vehicles were being tested. This allowed the vehicles to pass federal emission tests. The engines produced more power and performed better during normal driving (when the vehicles were not being tested), but the vehicles' NOx emissions far exceeded the legal limit. The affected diesel vehicles include certain 2.0 and 3.0 liter variants of the 2009-2016 model year Volkswagen Jetta, Touareg, Golf, Passat and Beetle, Audi A3, A6 Quattro, A7, A8L, Q5 and Q7, and Porsche Cayenne.

Although vehicles emit a variety of pollutants into the atmosphere, the primary effect of the illegal software was to alter the operation of emissions control components that regulate the amount of NOx the vehicles emit. The Environmental Protection Agency (EPA) reported that NOx emission levels from the 2.0 liter vehicles are 10 – 40 times higher than emission standards, and NOx emissions levels from the 3.0 liter vehicles are up to nine times higher than the emission standards.[6]

[6] United States Environmental Protection Agency, *Frequent Questions about Volkswagen Violations* (January 12, 2017), https://www.epa.gov/vw/frequent-questions-about-volkswagen-violations.

b. Location of the Excess Emissions

There were approximately 11,140 affected vehicles registered in Colorado at the time the cheating was discovered, out of approximately 3.4 million total vehicles in the state. The distribution of the affected vehicles was:

- 53% - Denver Metro Area (Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson Counties)
- 13% - Pikes Peak region (El Paso County)
- 12% - North Front Range (Larimer, Weld Counties)
- 22% - distributed among the remaining counties statewide

Figures 1 and 2 display the vehicle distribution geocoded by registration address for both 2.0 and 3.0 liter vehicles.

Data compiled by the U.S. Department of Energy conclude that 68.4% of the vehicle miles traveled in Colorado occur on urban roads, versus 31.6% traveled on rural roads.[7] This, in conjunction with the registration data for the affected vehicles, indicates that the preponderance of excess NOx emissions originated in the urban corridors within the Denver Metro/North Front Range ozone nonattainment area and the Pikes Peak region.

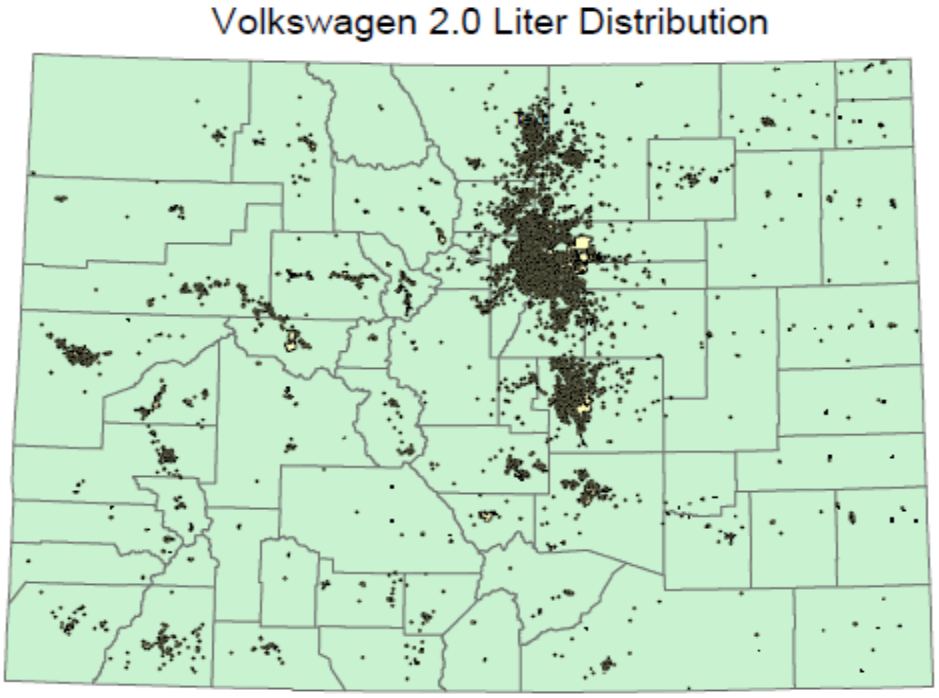

Figure 1. Volkswagen 2.0 Liter Distribution

[7] United States Department of Energy, Office of Energy Efficiency & Renewable Energy, *Fact #902: December 7, 2015 Rural versus Urban Vehicles Miles Traveled by State*, https://energy.gov/eere/vehicles/fact-902-december-7-2015-rural-versus-urban-vehicle-miles-travel-state.

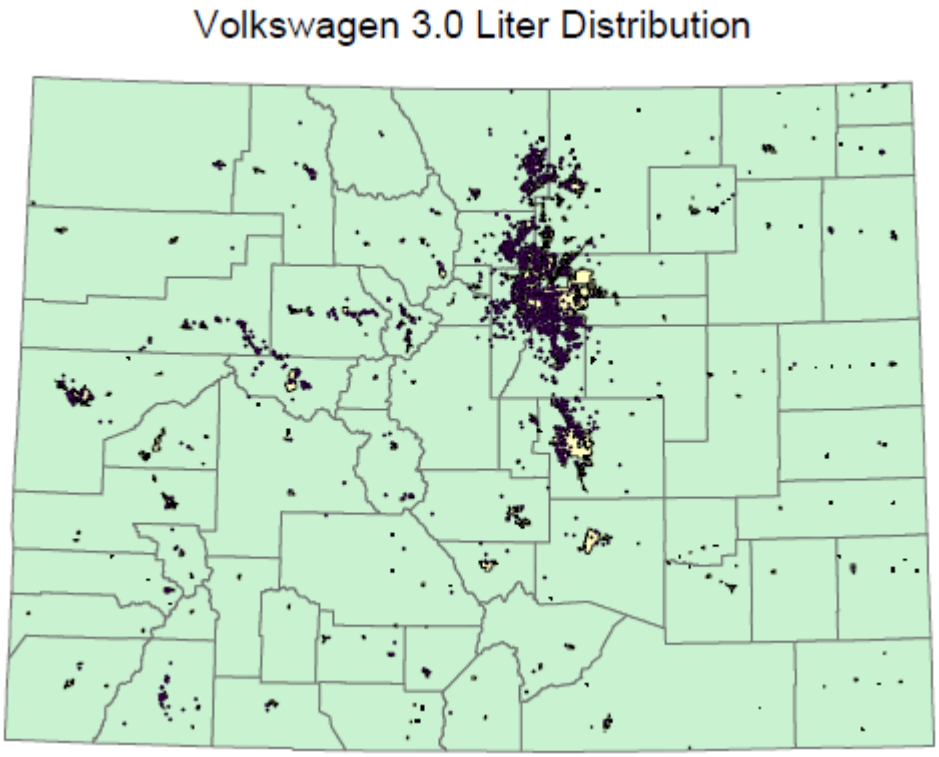

Figure 2. Volkswagen 3.0 Liter Distribution

c. Ozone Nonattainment Area

Ground level ozone is a pollutant that causes health concerns, particularly for sensitive people such as the elderly, young children and those with asthma or other respiratory problems. Ozone can cause chest pains, breathing difficulties, coughing, and stinging in the eyes or throat. Ozone forms in the atmosphere through a chemical reaction between NOx, volatile organic compounds, and to a lesser extent carbon monoxide.

In March 2008, EPA established an 8-hour National Ambient Air Quality Standard for ozone of 75 parts per billion (ppb). Ozone concentrations in the Denver Metro/North Front Range (DMNFR) exceeded 75 ppb so EPA designated the DMNFR as a "marginal" ozone nonattainment area, effective July 20, 2012. The NAA includes all of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas and Jefferson Counties and portions of Weld and Larimer Counties, as shown in Figure 3. The area missed its July 20, 2015 deadline to attain the 75 ppb standard so EPA reclassified it as a "moderate" nonattainment area on May 4, 2016. In response to the reclassification, on October 26, 2016 the Colorado Air Quality Control Commission revised the State Implementation Plan for attaining the ozone standard.

The DMNFR faces numerous requirements as a moderate ozone nonattainment area and may be subjected to additional requirements if it misses the next attainment deadline for the 75 ppb standard. The DMNFR must also attain the 70 ppb ozone standard that EPA adopted in October 2015. The Air Quality Control Commission recommended designating the DMNFR as a nonattainment area under the new standard. EPA has indicated it will designate nonattainment areas by April 2018.

The illegal software used by Volkswagen and certain affiliated companies to cheat on federal emission tests caused the affected vehicles to emit excess NOx. As noted above, approximately 65% of the affected vehicles in Colorado were registered in the ozone nonattainment area. Their excess NOx emissions contributed to ozone formation.

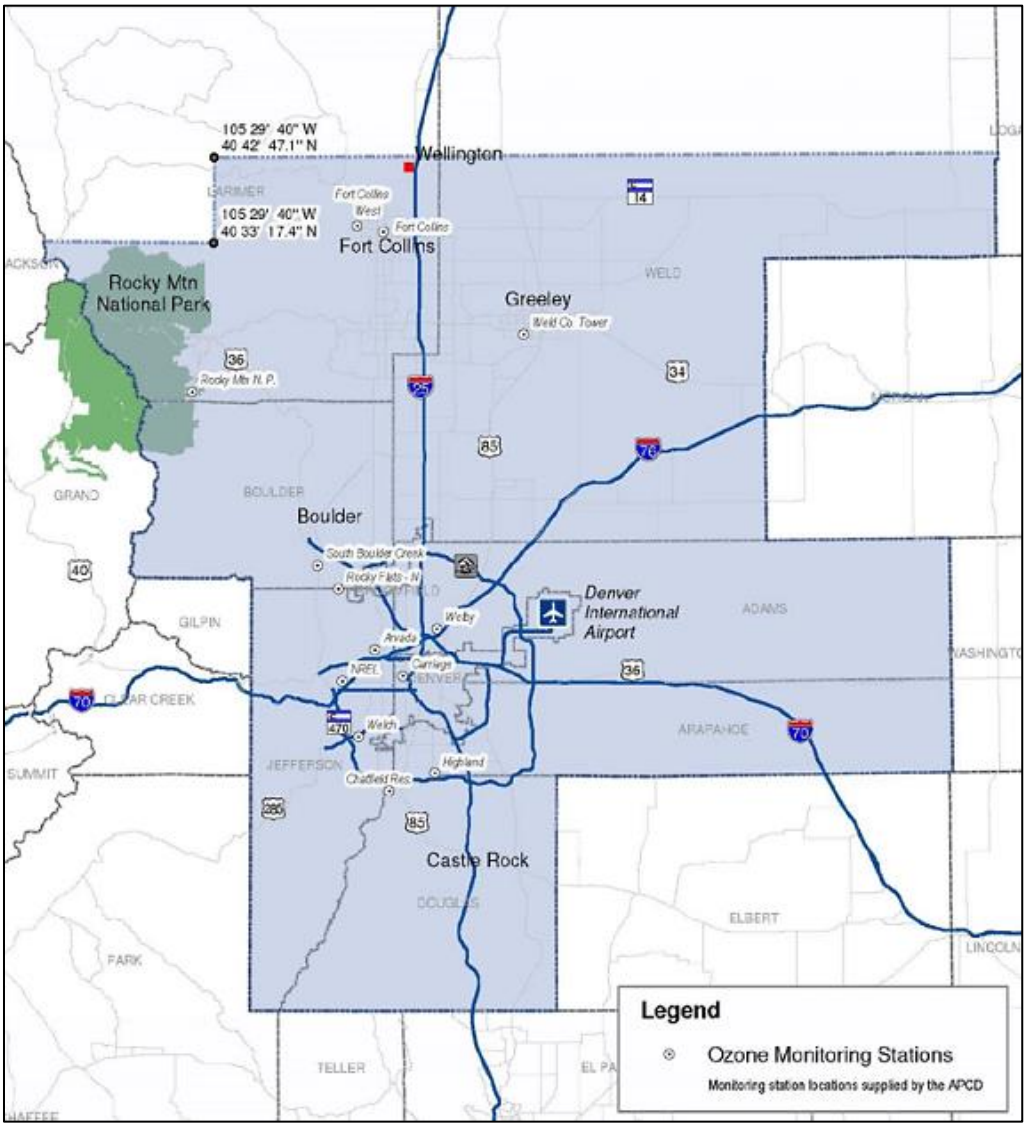

Figure 3. DMNFR Ozone Nonattainment Area

IV. Colorado's Overall Goals and Principles for Using Trust Funds

Colorado's overall goal for the use of the funds is to achieve the maximum air quality benefit for the state of Colorado. CDPHE and its partner agencies have considered the public comments received to date and have developed the following principles for administering the trust funds:

- Maximize the trust's air quality benefits in Colorado, including reductions of NOx, greenhouse gases, and other pollutants;
- Use trust funds to catalyze the adoption of zero emission and alternative fuel vehicles;
- Distribute settlement funds quickly, within approximately five years;
- Award funds through a transparent public process;
- Fully account for all funds and comply with legal requirements;
- Set incentives at an appropriate level that attracts a high level of participation to increase the number of projects funded through this BMP;
- Devote 15% of trust funds (the maximum allowable amount) to light duty zero emission vehicle infrastructure and align these funds with the Colorado Electric Vehicle Plan[8];
- Provide appropriate funding for:
    - Mass transit projects including transit electrification;
    - Eligible projects within areas disproportionately impacted by the VW diesel vehicle emissions, including the Denver/North Front Range ozone nonattainment area and the Pikes Peak region;
    - Emission reductions in communities that have historically borne a disproportionate share of the adverse impacts of such emissions;
    - Projects involving eligible public and private fleets, with greater incentives for fleets owned by government agencies;
    - Non-road diesel engines, including engines eligible for DERA funding;
- Appropriately balance the cost of the project and emission reduction benefits;
- Improve air quality in areas that have historically borne a disproportionate share of the air pollution burden within Colorado;
- Enhance efficiency by utilizing or building on existing processes and programs to select projects and distribute trust funds;
- Minimize and reimburse implementation costs as allowed; and
- Complement any investments in ZEV infrastructure, access or education that Volkswagen makes in Colorado through its nationwide $2 billion Zero Emissions Vehicle Investment Commitment.

Colorado proposes to distribute the trust funds to both public and private fleets using several programs that are already in place. The existing programs will be modified as necessary to fulfill the goals and requirements of the trust. This approach will streamline and expedite the implementation of the trust and allow the state to build on existing expertise. This approach will also reduce the burden on applicants because they will not have to learn a completely new process to apply for funds. Colorado intends to distribute trust funds quickly, within approximately five years after receiving the first application for funds, but is not setting a minimum or maximum period of time to distribute funds. Funds will be allocated as summarized below and shown in Figure 4.

1. Colorado will distribute approximately $18 million, or 26% of its initial allocation of trust funds, to replace approximately 400 - 450 medium and heavy duty trucks, school and shuttle buses, railroad freight switchers, airport ground support equipment, and heavy forklifts with alternative fuel (e.g., CNG, propane, hybrid) or electric vehicles. Older medium duty diesel trucks from businesses with fleet vehicles model year 1992-2001 may be replaced with new

[8] Colorado Energy Office, *Colorado Electric Vehicle Plan* (January 24, 2018), https://www.colorado.gov/governor/sites/default/files/colorado_electric_vehicle_plan_january2018.pdf.

diesel fuel vehicles. These funds will be distributed through the existing ALT Fuels Colorado program administered by the Regional Air Quality Council (RAQC), with appropriate modifications for the VW program. RAQC will implement this program under a contract with CDPHE, in partnership with the Colorado Energy Office (CEO) and the Colorado Department of Transportation (CDOT).

2. Colorado will distribute approximately $18 million, or 26% of its initial allocation of trust funds, to replace Class 4-8 transit buses with alternative fuel (e.g., CNG, propane, hybrid) or electric vehicles and to install charging infrastructure associated with new electric transit buses. These funds will be distributed by the CDOT Division of Transit and Rail through its existing Consolidated Call for Capital Projects.

3. Colorado will distribute approximately $10.3 million, or 15% of its initial allocation of trust funds, to fund the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle (ZEV) supply equipment located in public places, workplaces or multi-unit dwellings. The Colorado Energy Office and the Regional Air Quality Council will implement this program through the existing ALT Fuels Colorado and Charge Ahead Colorado programs.

4. Colorado is setting aside $5 million to reduce emissions from diesel engines eligible for funding through the Diesel Emissions Reduction Act (DERA) option. The Volkswagen settlement's DERA option allows Colorado to match or over-match federal DERA grants with private (non-federal) trust funds. A number of projects to reduce emissions from diesel vehicles and non-road diesel engines are eligible under DERA, including but not limited to emission control retrofits, idle reduction technologies, and engine or vehicle upgrades and replacements. The DERA option makes a wider range of emission reduction actions eligible for funding. CDPHE will coordinate with interested stakeholders to select and fund appropriate DERA projects.

5. Colorado estimates that implementation costs for the Alternative Fuel Vehicle, Transit Bus, light duty ZEV equipment and DERA programs will total approximately $5.7 million if settlement funds are distributed within five years. The project costs for these mitigation actions, plus $5.7 million in administrative costs (e.g., all of Colorado's allocation except the flexible funds) total $57.0 million. The $5.7 million administrative costs are 10% of this amount, which is less than the 15% allowed. Administrative costs associated with the flexible funds will be addressed separately. The administrative costs are shown in Table 1. Colorado is keeping implementation costs low by distributing funds through existing CDOT, CEO, and RAQC programs. These funds will cover the costs of program outreach, soliciting and reviewing project applications, verifying project completion, accounting, audits, legal compliance, recordkeeping, reporting and related costs. Colorado anticipates that some of these functions, such as verifying the destruction of engines and chassis of the vehicles being replaced, may be outsourced to private contractors. This cost estimate is based on the historical costs of administering Alt Fuels Colorado, Charge Ahead Colorado and the Consolidated Call for Capital Projects, and projections for the unique aspects of the Volkswagen settlement. Colorado will report its actual administrative expenditures associated with implementing each Eligible Mitigation Action as part of its regular reports to the Trustee and the public.

6. The remaining $11.7 million, or approximately 17% of Colorado's initial trust allocation, will be allocated among the eligible mitigation actions in response to market demand and the uptake of trust funds. Colorado is retaining the flexibility to distribute these funds in the same

proportion as the other fund allocations or to adjust the distribution after gaining experience with the administration of the trust. These flexible funds will be spent after the initial allocations to other programs. Colorado expects to submit a revised BMP regarding these funds in a future year and will estimate the administrative costs for these funds at that time.

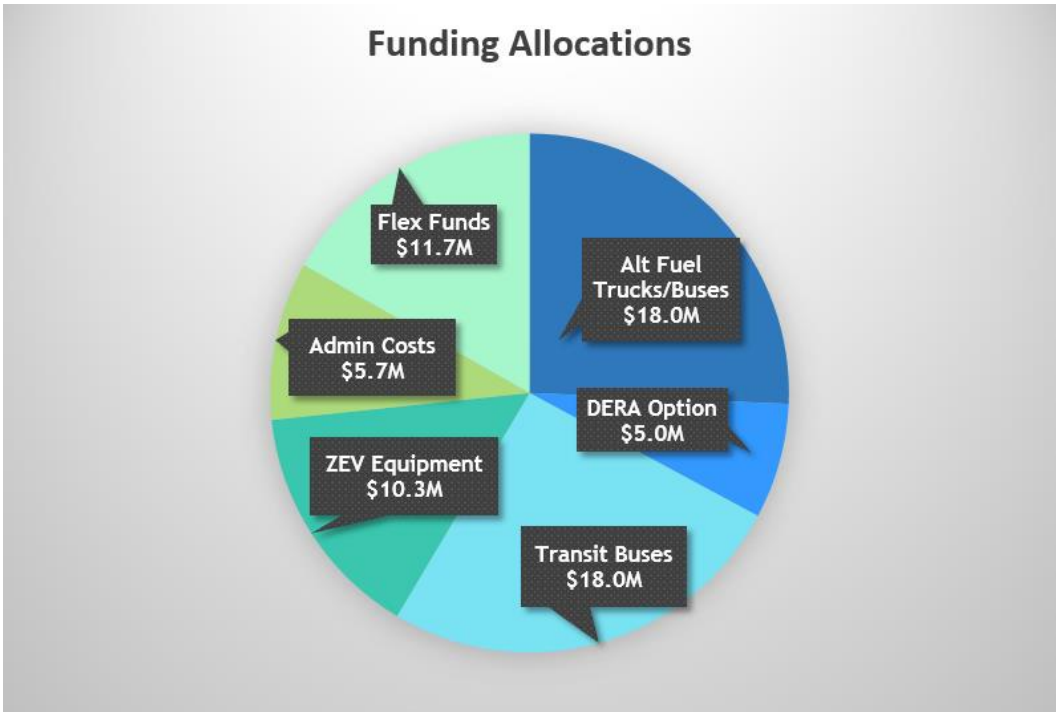

Figure 4. Allocation of Trust Funds

Table 1. Administrative Costs

Program	Recipient	Administrative Cost
ZEV Equipment	CEO/RAQC	$1,545,000
Alt Fuel Vehicle	RAQC	$1,200,000
Transit Vehicles	CDOT	$360,000
DERA	CDPHE	$250,000
CDPHE direct administration, oversight, and audit	CDPHE	$875,000
CDPHE Indirect Costs	CDPHE	$815,000
Outreach	CEO	$657,000
	Total	$5,702,000

The costs shown in Table 1 are the state agency estimates for implementing the Alternative Fuel Vehicle Replacement program, Transit Bus program, ZEV Equipment, and the DERA Option during the first five years. Additional implementation costs may be incurred if the funds for these programs are not spent within five years. The cost estimates in Table 1 do not cover administration of the Flexible Funds.

V. Description of Eligible Mitigation Actions

This section of the BMP describes the categories of Eligible Mitigation Actions that Colorado anticipates will be appropriate to achieve its stated goals and Colorado's preliminary assessment of the funds anticipated to be used for each type of Eligible Mitigation Action.

a. Alternative Fuel Vehicle Replacement Program

Colorado proposes to budget $18 million through Colorado fiscal year 2022 to replace and scrap 1992-2009 model year Class 8 Local Freight Trucks (Heavy-Duty), Class 4-7 Local Freight Trucks (Medium-Duty), and model year 2009 and older Class 4-8 School and Shuttle Buses. Any applications to replace railroad freight switchers, airport ground support equipment, and heavy forklifts would be addressed under this program on a case by case basis. The Alternative Fuel Vehicle Replacement Program would be modeled on the existing ALT Fuels Colorado (AFC) program. The Regional Air Quality Council will implement this program under a contract with CDPHE, in partnership with the Colorado Energy Office and the Colorado Department of Transportation.

AFC began in May 2014 as a partnership between CEO, CDOT and RAQC. The program was designed to provide statewide incentives for CNG, propane and electric fueling stations and incentivize the purchase of vehicles fueled on compressed natural gas (CNG), electricity or propane within an 11 county area spanning Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, Jefferson, Larimer, Weld, El Paso and Teller counties. More information about AFC is available at http://cleanairfleets.org/programs/alt-fuels-colorado. The current AFC program, which utilizes federal Congestion Mitigation/Air Quality (CMAQ) funds, will continue to operate in parallel with the VW program.

The $18 million Alternative Fuel Vehicle Replacement Program will operate statewide in Colorado during approximately FY 2019 - 2023. Unlike AFC, this program will require existing vehicles to be replaced and scrapped as required by the VW trust agreement. The program goals for the VW trust Alternative Fuels Program are to:

- Provide statewide incentives to scrap and replace up to 400 - 450 medium- and heavy-duty trucks, school and shuttle buses, railroad freight switchers, airport ground support equipment, and heavy forklifts with alternative fuel (e.g., CNG, propane, hybrid) or electric vehicles;
- Reduce NOx and other criteria air pollutants and greenhouse gases (GHG);
- Increase demand for original equipment manufacturer (OEM) alternative fuel and zero emission vehicles;
- Improve public safety;
- Older medium duty diesel trucks from businesses with fleet vehicles model year 1992-2001 may be replaced with new diesel fuel vehicles;
- Expand the use of domestic energy sources;
- Gather data and promote fleet sustainability; and
- Promote the replacement of vehicles that operate in communities that have historically borne a disproportionate share of the adverse impacts from air pollution and communities where social, economic and environmental inequities may present risks of adverse health outcomes by conducting outreach to the communities, fleets, and potential partners.

Program criteria include:

- Model year 1992-2009 Class 8 Local Freight Trucks (Heavy-Duty) and model year 2009 and older Class 4-8 School and Shuttle Buses, as defined by Appendix D-2 of the October 2, 2017 final State Trust Agreement, may be replaced with new original equipment manufacturer (OEM) alternative fuel or electric vehicles.
- Model year 1992-2009 Class 4-7 Local Freight Trucks (Medium-Duty), as defined by Appendix D-2 of the October 2, 2017 final State Trust Agreement, may be replaced with new OEM alternative fuel or electric vehicles.
- Model year 1992-2001 Medium-Duty trucks owned by private fleets may be replaced with new OEM alternative fuel, electric, or diesel fuel vehicles.
- Airport Ground Support Equipment (Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment), as defined by Appendix D-2 of the October 2, 2017 Trust Agreement, may be replaced with all-Electric Airport Ground Support Equipment.
- Railroad Freight Switchers (pre-Tier 4 switcher locomotives that operate 1000 or more hours per year) as defined by Appendix D-1 of the October 2, 2017 Trust Agreement, may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Railroad Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Railroad Freight Switcher Mitigation Action occurs.
- One qualifying comparable vehicle must be scrapped (cut the vehicle's frame rails completely in half and cut a 3-inch hole in the engine block) for each new vehicle that is funded.
- Replaced vehicles must be drivable and must have been registered, operated and insured in Colorado for the previous two years.[9] This will help to ensure the program achieves real emission reductions and prevent abuse.
- Public and private fleets are eligible, including federal government fleets.
- The Alternative Fuel Vehicle Replacement Program is limited to vehicle replacements and will not fund engine repowers or non-OEM conversion kits. Repowers and non-OEM conversions can lead to warranty and maintenance concerns. Requiring new vehicle purchases will enhance vehicle safety and invest trust funds in projects with longer service lives.
- The mitigation trust cannot fund CNG or propane fueling infrastructure but Colorado's AFC program currently provides funding for publicly-accessible commercial CNG or propane facilities.[10]
- If mitigation trust funds are awarded for a new electric vehicle, airport ground support equipment, or railroad freight switchers charging equipment associated with that vehicle may also receive trust funds.
- If mitigation trust funds are awarded for new hybrid vehicles, they will be eligible for 50% of the maximum electric vehicle incentive cap due to their lower emissions benefits.

RAQC's implementation of the Alternative Fuel Vehicle Replacement Program will include public outreach, solicitation and evaluation of grant applications, verifying project completion by grant

[9] Government-owned vehicles are eligible for funding if the owner certifies that the vehicle being replaced is operable and the availability of trust funding played no role in the decision to acquire the vehicle or bring it into Colorado.

[10] Since 2014, AFC has awarded $5.7M for 11 CNG stations (one station has co-located electric and propane fueling facilities). AFC funds remain available to incentivize additional CNG or propane fueling stations.

recipients, distributing funds to grant recipients after project completion, recordkeeping and reporting.

RAQC will conduct 3-4 rounds of funding each year and issue a call for applications in each round. Funds will be distributed after the vehicle owner provides proof that the old vehicle has been scrapped and a qualifying new vehicle has been purchased, proof of costs, and other necessary documentation.

The program will provide incentives for public and private fleets designed to cover the incremental cost of the new vehicle plus the lost potential resale price of the old vehicle. For public fleets, the total incentive will be limited to a maximum of 40% of the total cost of the new vehicle and associated electric charging infrastructure (if any) or the cap included in Table 2, whichever is lower. For private fleets, the total incentive will be limited to a maximum of 25% of the total cost of the new vehicle and associated electric charging infrastructure (if any) or the cap included in Table 2, whichever is lower. Project applicants must submit vehicle bids to determine base vehicle pricing and the incremental cost for the new replacement vehicle.

Incentive payments to public fleets are higher in order to partially offset the barriers to public fleet adoption of alternative fuel vehicles and to compensate for the fact that public fleets do not benefit from tax incentives for alternative fuel vehicles. In addition, the VW trust agreement generally limits the funding for non-government owned alternate fuel vehicles to 25% of the cost of a new vehicle while allowing higher percentages for government fleets.

Project applicants are responsible for all project costs not covered by the incentive payment. Project applicants are free to pursue additional cost shares, grants, tax credits, or other incentive payments in accordance with applicable law.

Table 2. Alternative Fuel Vehicle Replacement Program Incentive Caps

	Class 4-8 School/Shuttle Bus**			Class 4-7 Local Freight***				Class 8 Local Freight****		
	Electric	CNG	Propane	Electric	CNG	Propane	Diesel (Pre-2002)	Electric	CNG	Propane
Public Fleet*	$200,000	$50,000	$30,000	$100,000	$45,000	$35,000	NA	$200,000	$80,000	$50,000
Private Fleet*	$100,000	$30,000	$10,000	$50,000	$30,000	$20,000	$25,000	$100,000	$55,000	$36,000

*Public fleets are incentivized at 40% of total vehicle cost or the cap, whichever is lower. Private fleets are incentivized at 25% of total vehicle cost or the cap, whichever is lower.
**Class 4-8 school buses shall mean vehicles with a GVWR greater than 14,001 pounds.
***Class 4-7 Local Freight shall mean vehicles with a GVWR between 14,001-33,000 pounds.
****Class 8 Local Freight/Eligible Large Trucks shall mean truck tractors with a GVWR of 33,000+ pounds (including waste haulers, dump trucks and concrete mixers)
*****Colorado tax incentives for private fleets are $20,000 2017-19; $16,000 in 2020 and $10,000 in 2021

During the comment period there was interest expressed in funding airport ground support equipment (GSE) and railroad freight switchers with Volkswagen trust funds. Many vehicles operated at airports

are eligible for funding such as heavy duty trucks, medium duty trucks, or shuttle buses and such vehicles will be subject to the same criteria as other vehicles in those categories. For airport ground support equipment and railroad freight switchers, CDPHE and RAQC will fund these projects through the Alternative Fuel Vehicle Replacement Program described above. Applications for funding would be handled by the RAQC on a case by case basis. Consistent with the general funding approach under this category, for these eligible mitigation activities, the plan will provide a maximum of 110% of the incremental cost plus the lost resale value of the unit up to a maximum incentive of 40% of the total cost for the new vehicle for public fleets and 25% of the total cost of the new vehicle for private fleets, whichever is lower.

b. Transit Bus Replacement Program

Colorado proposes to budget $18 million to replace Class 4-8 transit buses with alternative fuel and electric vehicles and to install necessary charging infrastructure associated with new electric transit buses. The Transit Bus Replacement program will operate in conjunction with CDOT's existing process for transit capital project grants. The Transit Bus Replacement Program will operate statewide in Colorado during approximately FY 2019-2023. This program will require existing vehicles to be replaced and scrapped.

The CDOT Division of Transit and Rail (DTR) will implement this program under an intergovernmental agreement with CDPHE. DTR currently conducts an annual competitive process known as the Consolidated Capital Call for Projects (CCCP) as a means to identify, evaluate, and select transit capital projects for grant assistance. Eligible capital projects include the acquisition or construction of transit vehicles, equipment, and facilities. Funding programs include FTA Sections 5310, 5311, 5339 and state FASTER Transit funds. Instead of conducting a separate application process for each source of funds it administers, CDOT consolidates the capital funds into a single competitive application process that occurs annually in the fall. DTR staff evaluate projects and, if the project is selected for funding, determines the most appropriate funding program. In 2017, DTR provided $16.6 million in grants to nearly 40 agencies to purchase buses, equipment, and other capital improvements.

The program goals for the VW trust Transit Bus Replacement program are to:

- Provide statewide incentives to scrap and replace diesel transit buses around the state with zero emission (e.g., All-Electric or hydrogen fuel cell vehicles) or alternative fuel vehicles (e.g.,CNG, propane, hybrid).
- Accelerate the future adoption of zero emission or alternative fuel vehicles by demonstrating to transit fleet operators and the public that these vehicles are viable and by allowing transit fleet operators to gain familiarity and expertise with them.
- Remove barriers to the adoption of zero emission transit vehicles.
- Promote the development of zero emission vehicle technologies by expanding the market for large electric buses.
- Allow local transit agencies and members of the general public who use mass transit to benefit directly from Volkswagen trust funds.
- Promote the replacement of vehicles that operate in communities that have historically borne a disproportionate share of the adverse impacts from air pollution and communities where social, economic and environmental inequities may present risks of adverse health outcomes by conducting outreach to the communities, fleets, and potential partners.

Program criteria include:

- Engine model year 2009 or older class 4-8 transit buses may be replaced with new zero emission or OEM alternative fuel vehicles.
- An identified vehicle must be scrapped (cut the vehicle's frame rails completely in half and cut a 3-inch hole in the engine block) for each new vehicle that is funded.
- Vehicles identified for replacement must be drivable and must have been registered, operated and insured in Colorado for the previous two years.[11] This will help to ensure the program achieves real emission reductions and prevent abuse.
- Public, private, for-profit and non-profit fleets used only for the delivery of public transit services that meet all other applicable eligibility requirements.
- The Transit Bus Replacement Program is limited to vehicle replacements and will not fund engine repowers or non-OEM conversion kits. Repowers and non-OEM conversions can lead to warranty and maintenance concerns. Requiring new vehicle purchases will enhance vehicle safety and invest trust funds in projects with longer service lives.
- The mitigation trust cannot fund CNG or propane fueling infrastructure but Colorado's AFC program currently provides funding for publically-accessible commercial CNG or propane facilities.
- If mitigation trust funds are awarded for a new electric vehicle, charging equipment associated with that vehicle may also receive trust funds.

DTR will use a combination of existing funds and Volkswagen funds to incentivize the purchase of electric and CNG transit vehicles. As the CCCP awards typically cover 80% of capital purchases, DTR would fund the equivalent of 80% of a new diesel replacement bus from existing funding streams. DTR's existing funds would be supplemented by funds from the Volkswagen trust in an amount equivalent to 110% of the incremental cost of a new electric or alternatively fueled bus and its associated charging infrastructure, subject to the funding caps established in the trust. Vehicle replacement requests that are not awarded funding with existing federal or state funds are still eligible to receive Trust fund awards for 110% of the incremental cost. Appendix D-2, paragraph 2 of the State Trust Agreement limits reimbursement for non-government owned buses to 25% of the cost of a new alternate fueled vehicle or 75% of the cost of a new electric vehicle. After combining these funds the transit fleet owner's cost for a new electric or alternatively fueled transit bus would be less than the fleet owner would pay for a new diesel transit bus. Tables 3a and 3b provide examples of potential costs and incentive amounts for CNG and electric transit vehicles, with and without associated Federal or State awards. Actual costs depend on a number of factors and will vary.

[11] Government-owned vehicles are eligible for funding if the owner certifies that the vehicle being replaced is operable and the availability of trust funding played no role in the decision to acquire the vehicle or bring it into Colorado.

Table 3a. Funding Examples *with* State or Federal Award

	CNG Bus Funding		Electric Bus and Charging Equipment	
Total Vehicle Cost	$600,000 CNG Bus	$600,000	$800,000 Electric Bus + $100,000 Charging	$900,000
Federal/ State Award	$450,000 (Diesel equivalent)*80%	($360,000)	$450,000 (Diesel equivalent)*80%	($360,000)
VW Award	$150,000 Incremental Cost*110% *($600,000 CNG minus $450,000 Diesel equivalent)*	($165,000)	$450,000 Incremental Cost*110% *($900,000 EV minus $450,000 Diesel equivalent)*	($495,000)
Total Awards	$360,000 Fed/State + $165,000 VW	($525,000)	$360,000 Fed/State + $495,000 VW	($855,000)
Applicant Pays	$600,000 - $525,000	$75,000	$900,000 - $855,000	$45,000

Table 3b. Funding Examples *without* State or Federal Award

	CNG Bus Funding		Electric Bus and Charging Equipment	
Total Vehicle Cost	$600,000 CNG Bus	$600,000	$800,000 Electric Bus + $100,000 Charging	$900,000
VW Award	$150,000 Incremental Cost*110%	($165,000)	$450,000 Incremental Cost*110%	($495,000)
Applicant Pays	$600,000 - $165,000	$435,000	$900,000 - $495,000	$405,000

With estimated vehicle prices, an $18 million program budget used exclusively for electric transit could fund approximately 36 electric buses and associated charging infrastructure. If half of the trust funding is used for electric transit vehicles and associated charging infrastructure and half is used for CNG vehicles, the program would fund approximately 18 new electric buses with associated charging infrastructure and approximately 54 new CNG buses.

c. ZEV Supply Equipment Program

Colorado intends to allocate the maximum allowable portion of trust monies to zero emission vehicle (ZEV) supply equipment, primarily electric vehicle (EV) charging stations. Doing so is consistent with Executive Order D 2017-015, Supporting Colorado's Clean Energy Transition, and the Colorado Electric Vehicle Plan, which directs state agencies to develop a grant program to develop EV fast-charging stations across Colorado's transportation corridor. Public comments submitted to CDPHE strongly supported using trust funds to accelerate the adoption of ZEVs. The settlements provide for setting aside 15% of the state's allocation for light duty ZEV supply equipment, or approximately $10.3 million in Colorado.

Funding for the ZEV Supply Equipment Program will be distributed through the existing Charge Ahead Colorado and ALT Fuels Colorado programs managed in partnership between the Colorado Energy Office and Regional Air Quality Council. CDPHE will enter contracts or intergovernmental agreements with

CEO and RAQC to implement the ZEV Supply Equipment Program. Funds for ZEV supply equipment will be available statewide. Colorado will also monitor developments in the hydrogen fuel cell vehicle industry and as appropriate, review and modify program incentives where needed to accommodate applications for fueling infrastructure in this sector.

Colorado and its partner agencies have substantial data about the electric vehicle market and EV policy. CEO prepared the Colorado Electric Vehicle Market Implementation Study in 2015. RAQC, CEO and the City and County of Denver have completed a study investigating the barriers to charging infrastructure in multi-family housing, the business case for different direct current fast-charging models, desired fast-charging corridor site characteristics and the air quality benefits of EVs. The National Renewable Energy Laboratory, in partnership with RAQC, CDOT and CEO, has conducted a study to determine appropriate locations for charging stations and anticipated consumer demand for fast-charging corridor stations based on a number of scenarios and EV battery ranges. These studies will help to guide the administration of the ZEV Supply Equipment Program.

The Colorado Energy Office will manage fast-charging highway corridor investments through ALT Fuels Colorado with the support of RAQC. Fast-charging stations will be installed along Tier 1 and Tier 2 corridors identified in Colorado's 2016 Statewide Network Plan. As proposed in the plan, EV charging stations may be installed on average every 50 miles. The installation of highway corridor charging stations will reduce the "range anxiety" that accompanies ZEVs and should promote a more rapid transition to ZEV technologies across Colorado.

Fast-charging corridor incentives will range from $220,000 for 2-dispenser station to $380,000 for 4-dispenser stations. In addition to funding allocated through the Trust funds, ALT Fuels Colorado is funded through Congestion Mitigation and Air Quality (CMAQ) funds. CEO anticipates that between these two funding sources grants will be made for a total of 30-35 EV fast-charging stations.

CEO and the RAQC will co-manage community-based charging investments through the Charge Ahead Colorado program. Funding will be used to incentivize EV charging stations in cities and towns and at popular destination points such as ski resorts or national and state parks. Among other locations, EV charging stations will be installed in public parking garages, parking lots, multi-unit dwellings and workplaces. Funding may also be used by owners of multi-unit dwellings, parking garages, and public parking lots to offset the costs of service upgrades necessary to accommodate electric vehicle charging. The program is expected to fund between 260-270 Level II community charging stations and 15-20 community DC fast charging stations. Community charging station incentives are shown in Table 4 below:

Table 4. Community Charging Station Incentives

EVSE Type	Maximum Funding
Level II Dual Port Station	$9,000
DC Fast Dual Protocol Station	$30,000

d. DERA Option

The Diesel Emissions Reduction Act is part of the Energy Policy Act of 2005. DERA allows EPA to distribute State Clean Diesel Grants. The states use this money to incentivize certain eligible diesel emission reduction projects. While some projects are eligible under both DERA and the Volkswagen trust, DERA program criteria allow states to fund a number of projects that are not otherwise eligible under the trust. For example, DERA State Clean Diesel Grant funds may be used to reduce vehicle emissions through exhaust control retrofits, idle reduction projects, and other measures that do not require replacing the vehicle or engine. Certain projects that do not involve vehicles are also eligible. DERA funds may be spent on non-road diesel engines such as construction equipment and engines used in agriculture, mining, or oil and natural gas production. Eligible non-road engines may be replaced with a new diesel, alternative fuel, or electric engine; retrofit with verified exhaust control technologies; or may receive a verified engine upgrade. Depending on horsepower, engines as old as 1985 may be eligible under DERA. Non-road engines are estimated to produce approximately 33% of the man-made NOx emissions in the DMNFR ozone nonattainment area,[12] yet the state's authority to require emission reductions from these engines after they are manufactured and placed in service is quite limited. Colorado views the trust's DERA option as a useful way to address such emissions.

The DERA option allows states to use trust funds to voluntarily match or over-match DERA State Clean Diesel Grants. Matching funds must be spent in accordance with DERA requirements.[13] In recent years Colorado has received DERA grants in the range of $100,000 - $200,000 each year. However, the state's voluntary match may be larger than the DERA grant. Colorado plans to set aside $5 million of trust funds for DERA projects, and may adjust this number as the state gains more experience with the DERA option. Projects that qualify for incentives under both DERA and one of the trust's other eligible mitigation actions will not be funded through the DERA option, and should apply for funds through the Alternate Fuel Vehicle Replacement Program or Transit Bus Replacement Program described in the Beneficiary Mitigation Plan.

Colorado is evaluating DERA-eligible engines to identify cost-effective emission reduction opportunities and establish appropriate incentives. Diesel engines used to drill oil and natural gas wells or to pump hydraulic fracturing fluids appear to be promising candidates. These are large engines that may produce 1,300 to 1,500 or more horsepower, depending on the make and model, and often see heavy use. Natural gas and electric engines are available but are more expensive. Construction equipment and engines used in agriculture also appear to be promising DERA candidates. Colorado would take steps to ensure that engines receiving funds remain in Colorado long enough for the state to realize the benefits of the emission reductions. DERA establishes certain caps on the available incentives. Colorado may choose to offer less than the maximum allowable incentives. CDPHE will implement the DERA option. CDPHE will solicit, evaluate, select and fund project applications based on the projected emission reductions and costs.

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[12] Moderate Area Ozone SIP for the Denver Metro and North Front Range Non-attainment Area, Appendix 4-A. This figure includes estimated 2017 NOx emissions from agricultural equipment, construction and mining equipment, and engines used in the oil and gas sector of all fuel types, divided by total anthropogenic emissions.

[13] A detailed comparison of the trust's eligible mitigation actions and the DERA option can be found in EPA's comparison document, https://www.epa.gov/sites/production/files/2017-01/documents/vw-dera-option-elgble-mitig-compar-2017-01.pdf.

e. Geographic Distribution of Funds

The trust makes all areas of the state eligible to receive funding. The trust also requires the Beneficiary Mitigation Plan to describe how the projects will benefit air quality in "areas that bear a disproportionate share of the air pollution burden."[14] In addition, trust funds are intended to reduce emissions where the non-compliant vehicles were, are, or will be operated.[15]

In Colorado, the Denver Metro/North Front Range (DMNFR) 8-hour ozone nonattainment area bears a disproportionate share of the air pollution burden. The DMNFR, which includes all or parts of Denver, Jefferson, Adams, Arapahoe, Douglas, Boulder, Broomfield, Larimer and Weld Counties, is currently the only part of Colorado that is designated as a nonattainment area for any of the National Ambient Air Quality Standards (NAAQS) under the federal Clean Air Act.[16] NOx is an ozone precursor, meaning that NOx reacts with other pollutants in the atmosphere to form ozone. A large number of affected vehicles covered by the trust are registered in the ozone nonattainment area and their excess NOx emissions made the ozone problem worse. Accordingly, this area has experienced a disproportionate share of air pollution from these affected vehicles as well as from other sources of emissions. It is appropriate to spend trust funds in the ozone nonattainment area.

The vehicles affected by the emissions cheating scandal are clustered in the Denver metro area, Pikes Peak region, and North Front Range. See section III and Figures 1 and 2. The areas with high numbers of registered vehicles coincide with the DMNFR, with the addition of the Pikes Peak region. Spending trust funds in the DMNFR and Pikes Peak region will fulfill two key purposes of the trust by reducing emissions where the non-compliant vehicles were, are or will be operated, and benefiting areas that bear a disproportionate share of air pollution.

Colorado is committed to health equity and environmental justice. While the trust does not speak in terms of health equity or environmental justice, Colorado will conduct outreach to ensure that all communities are aware of the settlement and have sufficient information to provide an equal opportunity to apply for trust funds. The CDPHE Air Pollution Control Division, in conjunction with the CDPHE Office of Health Equity, will coordinate with program partners to conduct outreach to communities where social, economic and environmental inequities may present risks of adverse health outcomes. This includes communities that may experience high concentrations of vehicle traffic, industrial facilities, or other sources of air pollution. CDPHE and its project partners will provide outreach to affected communities and the public and private vehicle fleets operating there.

Additional considerations apply to the geographic distribution of funds for zero emission vehicle infrastructure projects such as electric vehicle charging stations. Charging stations are needed both in an electric vehicle's local operating area and along transportation corridors throughout the state.

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[14] Appendix D, Paragraph 4.1.
[15] Appendix D, Purpose and Recitals.
[16] Parts of Colorado have previously been designated as nonattainment areas for carbon monoxide, particulate matter smaller than 10 microns (PM-10), the 1-hour ozone standard, and an earlier version of the 8-hour ozone standard. However, those areas have been redesignated as attainment/maintenance areas or the relevant NAAQS has been revoked. See the EPA's Green Book at www.epa.gov/green-book for more information.

"Range anxiety" and a lack of charging stations are significant barriers to the adoption of zero emission vehicles.[17] Spending trust funds on statewide ZEV infrastructure will help to reduce range anxiety, support Colorado's statewide electric vehicle plan, and promote the adoption of zero emission vehicles.

Because of the geographic distribution of Colorado's population, vehicle fleets, and vehicle miles travelled (VMT), CDPHE and its partner agencies anticipate receiving a substantially higher number of applications for funding in the DMNFR ozone nonattainment area and Pikes Peak region. This dynamic is expected to channel trust funds toward the areas of disproportionate NOx impact and the areas with non-compliant vehicles without the need to establish formal geographic restrictions. Colorado is not limiting the geographic distribution of funds at this time. Colorado will fund projects in all parts of the state, including but not limited to ZEV infrastructure and projects that promote health equity and environmental justice. If Colorado does not receive enough applications for projects that would benefit areas of disproportionate air quality impacts or areas with non-compliant vehicles, Colorado may develop criteria to rebalance the distribution of trust funds.

f. Estimated Emission Benefits

Colorado estimated the emission reduction benefits that could be achieved from the Alternative Fuel Vehicle Replacement Program, Transit Bus Replacement Program, and ZEV Supply Equipment Program at the proposed funding levels. The estimates were prepared using a hypothetical mix of vehicle categories, model years, fuel types, and charging station capacities. Emission factors were sourced from the Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation (GREET) Model from Argonne National Laboratory. Annual VMT were sourced from the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) Tool from Argonne National Laboratory and current Alt Fuels Colorado reporting data. The estimated emission reductions do not include the benefits of DERA projects because DERA allows a wider range of actions and the projects have not yet been selected. For all eligible mitigation actions, actual emission benefits will vary depending on the specifics of the projects approved for trust funding.

Table 5: Estimated Emissions Benefits

Program	VOC (tons/year)	NO_x (tons/year)	PM10 (tons/year)	PM2.5 (tons/year)	GHG (tons/year)
1. Vehicle Replacement	10-12	100-121	6-7	5-6	3,450-3,570
2. Electric Vehicle Charging Stations	19-20	15-20	1	1	35,000-50,000
3. Transit Vehicle Replacement	1-4	18-34	1-2	1-2	2,870-4,000
Total	30-36	133-175	8-10	7-9	41,320-57,600

[17] Hanley, Steve (January 1, 2017), *60% of Americans Unaware Electric Cars Exist*, http://gas2.org/2017/01/01/60-americans-unaware-battery-cars-exist/.

VI. Project Application, Evaluation and Funding Process

The final State Trust Agreement describes how states may apply for funds[18] and provides initial information about the trustee's process for distributing funds. The trustee has provided some additional information, including example forms that states may use when submitting funding requests. This process may affect the timing of any incentive payments. This section of the BMP summarizes Colorado's current understanding of the funding process. Colorado anticipates that the trustee will provide additional guidance.

Colorado may submit funding requests to the trustee thirty days after submitting this Beneficiary Mitigation Plan. Colorado may not request payout of more than (i) one-third of its initial allocation during the first year after the Settling Defendants make their Initial Deposit into the trust or (ii) two-thirds of its initial allocation during the first two years after the Settling Defendants make their Initial Deposit. The trustee must approve, deny, or request modifications of funding requests within 60 days of receipt. The trustee shall respond to any modified or supplemental submission within 30 days of receipt. The trustee shall begin disbursing funds within 15 days of approval of a funding request "according to the written instructions and schedule provided by the Beneficiary." Appendix D, paragraph 5.2.15.1.

Colorado has established a state account called the "Volkswagen Settlement Fund" to receive and hold disbursements from the trustee until an eligible mitigation action is completed. Colorado will fully track and account for all trust funds in its possession using established accounting mechanisms. Colorado will use program codes and appropriation codes to track the expenditures for each Eligible Mitigation Action and facilitate reporting. Funds must be spent in accordance with state fiscal and contracting laws and regulations.

CDPHE will enter contracts or interagency agreements with partner agencies to administer specific programs. As described above, RAQC will administer the Alternative Fuel Vehicle Replacement Program, CDOT will administer the Transit Bus Replacement Program, and the Colorado Energy Office and RAQC will jointly administer the ZEV Supply Equipment Program. CDPHE will administer DERA projects, publish Requests for Application, and award grants directly to funding recipients.

RAQC, CDOT or CEO will oversee the execution of individual projects, such as the replacement of one or more trucks or buses, or the installation of an electric vehicle charging station. These partner agencies will announce the availability of funds, publish criteria and applicable requirements for receiving funds, solicit applications, determine eligibility, and approve applications for funds.

Alternative Fuel Vehicle Replacement projects and ZEV Supply Equipment projects will be evaluated and awarded through the current Charge Ahead Colorado and ALT Fuels Colorado evaluation and award process. Currently there are seven public organizations represented on the evaluation committee. They include:

- Regional Air Quality Council
- Colorado Energy Office
- Colorado Department of Transportation

[18]October 2, 2017 Environmental Mitigation Trust Agreement For State Beneficiaries, Appendix D, para. 5.2.

- Colorado Department of Public Health and Environment
- Colorado Department of Labor and Employment
- Colorado Department of Local Affairs
- National Renewable Energy Laboratory

Additional evaluation team members will be considered as necessary. Once projects are approved for funding, staff will provide mandatory awardee training before any projects are authorized to proceed.

For Transit Bus Replacement projects, DTR will use their existing CCCP evaluation and award process. CDOT staff evaluates applications and eligibility to determine funding levels and the allocation of federal or state funds for awarded projects.

After a project is completed, the grant applicant will submit receipts and any other necessary documents to the RAQC, CDOT or CEO, who will submit a payment request to CDPHE. If the request satisfies the terms of the trust and the contract or intergovernmental agreement, CDPHE will make a payment to the RAQC, CDOT or CEO, who will then pay the grant applicant.

It is not yet clear whether the trustee will disburse funds to Colorado for the programs described in Section V before grant applicants complete their projects. If so, CDPHE would have funds on hand and could make payments fairly quickly after the projects are completed. If the trustee requires Colorado to submit documentation of the completion of individual projects before the state receives money from the trustee, it would take longer to reimburse grant applicants.

The funding requests CDPHE submits to the trustee will include allowable implementation costs. CDPHE, the RAQC, CDOT and CEO will be periodically reimbursed for implementation costs. All expenditures will be reported to the trustee and audited as required. Reports will be made available to the public.