

Joint Energy Committee

O'Toole Testimony

November 2, 2017

VW Settlement Update

Introduction

- September 2015, VW publicly admitted to equipping their vehicles with software that allowed diesel passenger cars to pass emission standard testing, but to exceed the standard for emissions of nitrogen oxides (NOx) during normal in-use operation.
- This software, also known as a defeat device, allowed cars to emit 40 times the standard for NOx emissions.
- Pursuant to the Clean Air Act, Vermont has adopted stricter motor vehicle emission standards, and it is a violation of the Vermont law to deliver for cars for sale in the state that do not comply with applicable standards. Vermont law also prohibits the installation and use of defeat devices in motor vehicles. VW violated state and federal law when it manufactured and delivered for sale the cars equipped with the defeat device.
- Emissions from motor vehicles is the leading source of air pollution in Vermont. Diesel emissions in particular pose serious health risks from the NOx and particulate matter present in diesel exhaust, and also because NOx is a precursor to ozone pollution, which has been found to cause serious respiratory disease. A recent report found that 1 in 6 premature deaths worldwide is caused by air pollution.

VW Environmental Mitigation Trust

- In June of 2016, EPA and VW announced a partial settlement, part of which was for VW to fund an Environmental Mitigation Trust to be allocated to state beneficiaries and spent in accordance with a Trust Agreement.
- Vermont is an eligible beneficiary of the Trust, with an initial allocation of \$18.7 million.
- Vermont is not a party to this settlement, just a beneficiary of the Trust.
- Vermont completed the legal steps to be certified as a beneficiary of the Trust on November 1st.
- Once certified by the Trustee (Wilmington Trust) as a beneficiary, and after Vermont files its required Beneficiary Mitigation Plan with the Trustee, we will have access to the \$18.7 million allocation.
- The Beneficiary Mitigation Plan is a document required by the Trust Agreement, and is intended to communicate high level goals for spending Vermont's allocation to the Trustee and to the public.
- Vermont's draft goals, as stated in the Beneficiary Mitigation Plan are to:
 - o REDUCE NOx emissions from mobile sources, eligible for replacement or repower, in the most cost-effective way possible;
 - o DEMONSTRATE market viability of all-electric or other NOx mitigating alternatively fueled heavy-duty and transit vehicles; and
 - o MAXIMIZE public and private investment in electric vehicle charging infrastructure.

- Projects eligible to be funded, pursuant to the Trust Agreement, include replacement and repower of certain heavy and medium duty trucks and buses, forklifts, airport ground support equipment, locomotive freight switchers, and ferries; installation of light duty electric vehicle charging equipment; and all projects eligible under the Diesel Emission Reduction Act grant program administered by Vermont.
- ANR has been delegated authority by the Governor to act as the lead beneficiary for the State of Vermont.
- ANR is currently preparing a draft Beneficiary Mitigation Plan for release for public review and comment, and is also working on setting up a grant program to receive, review, and fund project proposals to be funded by the Trust.

State VW Settlement

- In early 2017, Vermont and VW reached a \$4.2 million settlement related to violations of state motor vehicle emission standards.
- The legal procedural steps related to this settlement are nearing completion, and we are waiting for the Washington County Superior Court to approve the settlement. Once this occurs, the \$4.2 million will go into the general fund.