OKLAHOMA VOLKSWAGEN BENEFICIARY MITIGATION PLAN

June 8, 2018

LEAD AGENCY:

OKLAHOMA DEPARTMENT OF ENVIRONMENTAL QUALITY

OVERSIGHT AGENCY:

OKLAHOMA OFFICE OF THE SECRETARY OF ENERGY AND ENVIRONMENT

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The goal of the Oklahoma Beneficiary Mitigation Plan is to cost-effectively reduce mobile Nitrogen Oxides (NOx) emissions throughout the State.

I. BACKGROUND

On October 25, 2016 and May 17, 2017, respectively, the Court entered the First and Second Partial Consent Decrees in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, MDL Case No. 2672 CRB (JSC). Pursuant to the Consent Decrees and entry of the subsequent Environmental Mitigation Trust Agreement on October 2, 2017, an Environmental Mitigation Trust was created for the purpose of funding actions mitigating excess Nitrogen Oxides (NOx) emitted by affected Volkswagen 2.0 L and 3.0 L diesel vehicles (Subject Vehicles). Wilmington Trust, N. A. has been named Trustee of the Volkswagen State Mitigation Trust. The initial settlement allocation for the State of Oklahoma is $19,086,528.11 for 2.0 L vehicles and $1,835,957.01 for 3.0 L vehicles, amounting to a total initial allocation of $20,922,485.12.

The Oklahoma Beneficiary Mitigation Plan (BMP) expresses the intent of the State of Oklahoma to accept the allocated Trust funds as set forth in the State Trust Agreement. The purpose of the Oklahoma BMP is to provide the public with insight into Oklahoma's high-level vision for use of the Trust funds and information about the specific uses for which funding is expected to be requested. As stated in Section 4.1 of the State Trust Agreement, the BMP is not binding, nor does it create any rights in any person to claim an entitlement of any kind. Oklahoma may adjust its goals and specific spending plans at its discretion and, if it does so, shall provide the Trustee with updates to the Oklahoma BMP.

Oklahoma Executive Order 2017-33, signed on October 30, 2017, designates Oklahoma Department of Environmental Quality (DEQ) as the Lead Agency to act on behalf of and legally bind the State of Oklahoma with respect to the State Mitigation Trust, with oversight provided by the Oklahoma Office of the Secretary of Energy and Environment (SOEE).

Public Stakeholder Process

DEQ initiated a stakeholder process on November 3, 2017. On this date, an official public comment period was opened through which DEQ requested comments prior to drafting the BMP. Stakeholders were notified of the public comment period through the DEQ website, email newsletters, social media, and collaboration with other interest groups. Written comments were accepted into the public record until December 5, 2017. The public comment period concluded with a public listening session on December 5, 2017, during which DEQ and the SOEE presented information on the Volkswagen Trust and accepted oral and written comments from stakeholders. Upon conclusion of the first public comment period, all stakeholder comments were considered in creating the BMP.

The first draft of the BMP was published on the DEQ website on April 24, 2018. On this date, comments were invited on the proposed BMP. Stakeholders were notified of the comment period through the DEQ website, email newsletters, social media, and collaboration with other interest groups. Written comments were accepted into the public record until May 24, 2018. During the comment period, a meeting was held on May 8, 2018, during which DEQ presented an overview of the BMP and accepted oral and written comments.

All BMP comments received by the May 24th deadline were reviewed and considered by DEQ and SOEE staff. The decision was made to finalize and submit the proposed BMP without changes, reserving the right to amend the BMP at a later date, as necessary, pursuant to Section 4.1 of the State Trust Agreement. In addition, all comments received from stakeholders will continue to be taken into consideration during program planning and future stages of Oklahoma's participation in the Volkswagen State Mitigation Trust.

II. SELECTED MITIGATION ACTIONS

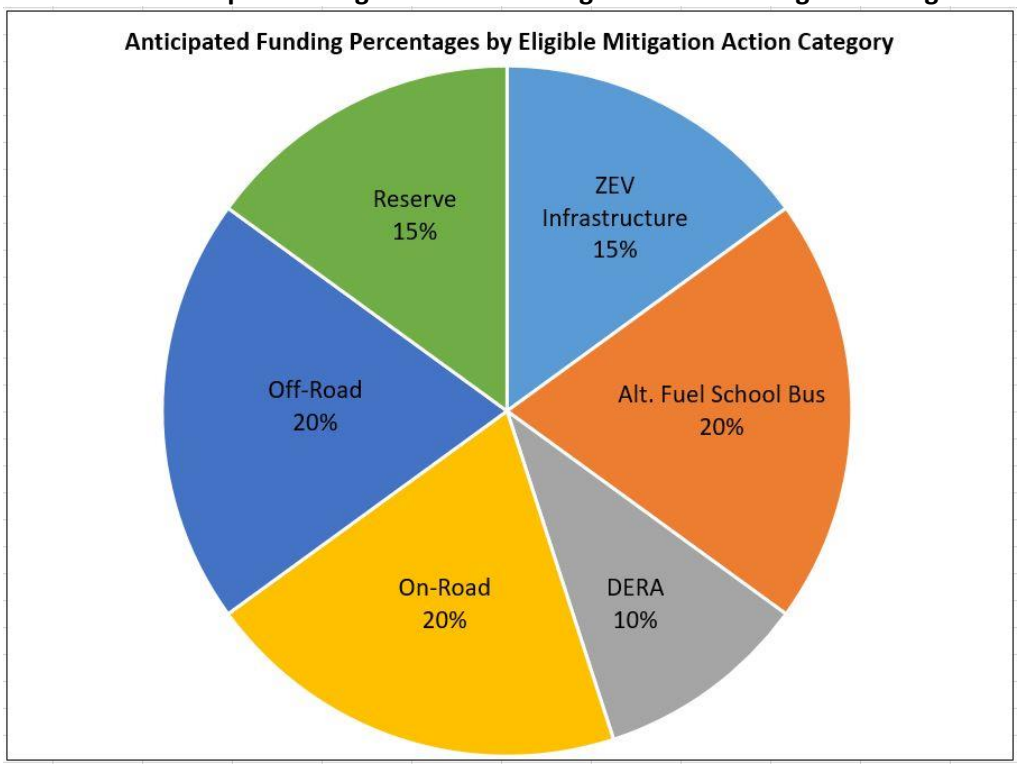
Oklahoma will consider all Eligible Mitigation Actions listed in Appendix D-2 to the State Trust Agreement except for Ocean Going Vessels Shorepower, but priority will be given to those projects which most closely support the State's goal. It is impossible to gauge future opportunities for Eligible Mitigation Projects over the ten-year planning period, but Table 1 and Chart 1 contains an estimation of funding percentages for each mitigation action category. A more detailed description of each funding category follows.

Table 1: Anticipated Eligible Mitigation Action Categories and Funding Percentages

Eligible Mitigation Action Category	Funding %
Alternative Fuel School Bus Program	20%
DERA Grants • Diesel School Buses • Retrofits and other DERA-only projects	10%
On-Road Program • 1: Class 8 Local Freight Trucks and Drayage Trucks • 2: Class 4-8 Shuttle Bus or Transit Bus • 6: Class 4-7 Local Freight Trucks	20%
Off-Road Program • 3: Freight Switchers • 4: Ferries/Tugs • 7: Airport Ground Support Equipment • 8: Forklifts and Port Cargo Handling Equipment	20%
Light Duty Zero Emission Vehicle Supply Equipment	15%
Reserve Flex Funding	15%
TOTAL	**100%**

When the On-Road Program, DERA, and Alternative Fuel School Bus Program are combined this results in a grand total of 50% funding going towards on-road projects. This is a little more than twice as much as the 20% reserved for the Off-Road Program, and therefore reflective of expected project applications and comments received.

Chart 1: Anticipated Mitigation Action Categories and Funding Percentages



ZEV Infrastructure: 15%

Oklahoma will utilize the maximum allowable of 15% of Trust funds to be spent towards *Category 9, Zero Emission Vehicles Supply Equipment*. In this way, the State can reduce emissions from On-Road non-Diesel Light Duty Vehicles, a sector that contributes significant quantities of NOx to Oklahoma's annual emissions inventory. During the stakeholder process, near unanimous support was given to use all 15% allowed towards publicly accessible ZEV electric charging stations. It is therefore expected that the full 15% will go towards electric charging rather than Hydrogen fuel cell infrastructure.

Alternative Fuel School Bus Program: 20%

During the stakeholder process, many comments were received supporting the use of Trust funds for school buses. 20% of Trust funds will be allocated towards funding a variety of alternative fuel school bus projects described under Eligible Mitigation Action Category 2, Appendix D-2 of the State Trust Agreement. Funding for diesel school bus projects will remain available under the existing Diesel Emissions Reduction Act option. Separation of alternative fuel school bus projects from the DERA program will also allow more flexibility in setting match requirements for this type of project. For example, under the Volkswagen Trust Fund it may be possible to provide a larger percentage of funding per project to offset the higher cost of alternative fuel projects.

Diesel Emissions Reduction Act Match Funding: 10%

In many of the past funding cycles, DEQ has used the Diesel Emissions Reduction Act (DERA) grant program to fund school bus projects. A few comments were also received supporting the use of technologies such as retrofits, which are accepted under the DERA program, but are ineligible under other Eligible Mitigation Action categories listed in Appendix D-2 of the State Trust Agreement. Using the DERA option of Appendix D-2 allows Trust funds to be used as a State match in order to leverage additional monies, making DERA a cost-effective option and increasing project opportunities.

Because alternative fuel school buses will be funded under the new Alternative Fuel School Bus Program, the money reserved for the Oklahoma DERA program will be used exclusively for new diesel school bus projects and projects which are ineligible under other Trust fund categories.

On-Road Program: 20%

The On-Road Program funding allotment includes Categories 1, 2, and 6 of Appendix D-2. However, because diesel school bus projects are included in the 10% of funding allocated for the DERA option and the Alternative Fuel School Bus program has been allocated 20% of available funds, school buses will not be eligible under the 20% allocated for On-Road Projects. All other potential projects described under Categories 1, 2, and 8 of Appendix D-2, including shuttle and transit buses, will be eligible to receive a portion of this 20%.

Because On-Road Heavy Duty Diesel Vehicles contribute the most NOx to Oklahoma's emissions inventory, more funds will be reserved for projects reducing emissions from those sources. In addition, DEQ expects to receive twice as many project applications for On-road projects than Non-road projects based on comments received during the stakeholder process.

Off-Road Program: 20%

The Off-Road Program funding allotment includes all potential projects as described in Categories 3, 4, 7 and 8 of Appendix D-2. Several comments were received supporting projects involving freight switchers, airport ground support equipment, and forklifts and port cargo handling equipment. Each of these projects would be eligible under the Off-Road Program.

Although Oklahoma is not known for marine transport and Commercial Marine Vessels are not highly ranked as a contributing sector to Oklahoma's ambient NOx levels, this category will not be eliminated as a potential project. During the stakeholder process, comments were received supporting ferry boat projects. While such a project would not rank highly according to the National Emissions Inventory Target Sectors described in Section IV, it is possible that such a project would be selected over other project applications if it ranks highly on *Mobile NOx Emissions Reductions in Historically High Ozone Areas*, *Mobile NOx Emissions Reductions in Registered Volkswagen Vehicle Areas,* and/or *Cost Effectiveness*.

Reserve Flex Funding: 15%

The remaining 15% of Trust funds will be set aside as Reserve Flex Funding. These funds are not to be used until after all of the other Trust-associated programs have been launched and each Trust program has been active for at least one year. DEQ will assess opportunities that result from response to the program, changing market conditions and technology advancements, and allocate Reserve Flex Funding accordingly. All Reserve Flex Funding allocations will be assessed and allocated consistent with the goals and priorities set within the BMP. Administrative costs may be taken from this amount if needed and only when in accordance with requirements in the State Trust Agreement.

III. ESTIMATED EMISSIONS BENEFITS

Anticipated emissions benefits from these projects will vary widely and will depend upon the details of each individual project. For vehicle replacement and retrofit projects, factors which may affect emissions calculations include vehicle classification and weight rating, horsepower, year of engine manufacture, fuel, and details of operation (gears, miles, hours of use, speed, etc.). For ZEV infrastructure projects, factors which may affect emission reduction calculations may include amount of use/charges given, types of vehicles being replaced, types of vehicle miles being driven, and fuel mix of the power pool. Because many of these details can only be obtained after individual vehicles and projects have been identified and selected, current emission reduction estimations must rely on broad descriptions and project examples. More precise calculations can be performed after project selection and completion.

While the majority of eligible mitigation actions will garner co-benefits of emission reductions for many pollutants, projects will be analyzed primarily based upon mobile NOx emission reductions because the Volkswagen Settlement Trust Fund was created specifically to mitigate excess emissions of this pollutant. Very basic estimated mobile NOx emissions benefits for each project category, along with reductions from example projects, are as follows:

Category 1: Class 8 Local Freight Trucks and Drayage Trucks

Depending on the specific project and heavily variable by fuel type and EMY, a project which replaces or repowers a Class 8 diesel truck may expect to see NOx emissions reductions which range from 35-100%.

Category 1 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
Class 8 Diesel Freight Truck, EMY 2008	Replace with Class 8 Diesel Freight Truck, EMY 2018, CARB low-NOx certified (0.05) engine	92.3*

*Example calculated by ERG Diesel Funding Optimizer.

Category 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus

Depending on the specific project and heavily variable by vehicle class and EMY, a project which replaces or repowers a Class 4-8 diesel bus may expect to see NOx emissions reductions which range from 29-100%.

Category 2 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
EMY 2010 Diesel Transit Bus	Replace with EMY 2018 CNG Transit Bus	69*

*Example calculated by ERG Diesel Funding Optimizer.

Category 3: Freight Switchers

Depending on the specific project and heavily variable by Tier, fuel type, and operating hours, a project which replaces or repowers a locomotive freight switcher may expect to see NOx emissions reductions which range from 78-100%.

Category 3 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
Tier 3 Locomotive Switcher using 19,400 gallons of fuel per year	Repower with 2018 All-Electric Engine	100*
Tier 2 Locomotive Switcher	Repower with 2018 Tier 4 engine	86*

*Calculations are from EPA's Diesel Emissions Quantifier.

Category 4: Ferries/Tugs

Depending on the specific project and heavily variable by Tier, fuel, and technology type, a project which replaces, repowers, or upgrades a ferry or tugboat may expect to see NOx emissions reductions which range from -10-100%. The possible negative and 0% NOx emission reductions would occur after installation of a few selected EPA-verified engine upgrade kits. While most engine upgrade kits produce significant reductions in NOx emissions, a few of these kits produce zero or an increase in NOx emissions while reducing emissions other than NOx. However, projects which do not produce NOx emission reductions will not be eligible under Oklahoma's Volkswagen settlement funding programs.

Category 4 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
Tier 2 Diesel Ferry Boat	Install EPA certified engine upgrade kit: Caterpillar Emissions Upgrade Group	37*

*Calculated manually from federal emission standards.

Category 6: Class 4-7 Local Freight Trucks

Depending on the specific project and heavily variable by vehicle class, fuel type, and EMY, a project which replaces or repowers a Class 4-7 freight truck may expect to see NOx emissions reductions which range from 78-100%.

Category 6 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
EMY 2001 Class 4 Diesel Truck	Replace with EMY 2018 Class 4 Diesel Truck	91*

*Example calculated by ERG Diesel Funding Optimizer.

Category 7: Airport Ground Support Equipment

Because only all-electric replacements and repowers are eligible, NOx emission reductions from eligible airport ground support equipment are 100%.

Category 7 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
Certified 5 g/bhp-hr spark-ignition airport ground support equipment	Replace with all-new electric ground support equipment	100*

*Although it is understood that some emissions will be emitted upstream by electric generation, calculations depicted reflect zero emission vehicle exhaust.

Category 8: Forklifts and Port Cargo Handling Equipment

Because only all-electric replacements and repowers are eligible, NOx emission reductions from eligible forklifts and port cargo handling equipment are 100%.

Category 8 Project Example		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
Forklift with 8000 lb capacity	Repower with electric engine	100*

*Although it is understood that some emissions will be emitted upstream by electric generation, calculations depicted reflect zero emission vehicle exhaust.

Category 9: Light Duty Zero Emission Vehicle Supply Equipment

Emission reductions resulting from the installation of ZEV supply equipment will be difficult to quantify. The most accurate reduction estimates will be based on vehicle miles displaced by use of the charging station as well as the fuel mix of the electric grid at a given point in time. Emission reductions will vary dependent upon number and type of vehicle miles, as well as vehicle classification and fuel type. It is likely that emission reductions from these charging stations will be low initially but grow over time as people become more aware of the locations of the charging stations and as electric vehicles become more prevalent. “Free ridership,” or the number of ZEV miles that would have occurred regardless of the existence of the project-funded charging station, cannot be avoided or quantified. However, the increase in ZEV purchases that result from the existence of project-funded charging stations and any emission reductions from those extra vehicles which occur statewide will also not be quantifiable. We will be able to create much more accurate emission reduction estimates for these projects after they are completed. For the purposes of this BMP, because all projects are removing miles traveled by an emissions-generating vehicle and replacing it with miles driven by a ZEV, NOx emission reductions are assumed to be 100%.

Category 9 Project Example	
Project Description	% NOx Emission Reductions
Installation of 4 electric fast-charge stations in front of a local theater venue	100

* Although it is understood that some emissions will be emitted upstream by electric generation, calculations depicted reflect zero emission vehicle exhaust.

Category 10: DERA Grants

Depending on the specific project and heavily variable by project type, EMY, and GVWR, a project which replaces, repowers, or retrofits a DERA-eligible vehicle may expect to see NOx emissions reductions which range from 20-100%.

Category 10 Project Examples		
Vehicle/Equipment Description	Project Description	% NOx Emission Reductions
School Bus, Diesel Fuel, EMY 1997	Replacement with EMY 2018 Diesel Fuel vehicle	96

*Calculations are from EPA's Diesel Emissions Quantifier.

IV. PRIORITIES

The goal of the Oklahoma Beneficiary Mitigation Plan is to cost-effectively reduce mobile NOx emissions throughout the State. The methods by which Oklahoma intends to meet this goal are described in the priorities below.

Cost-Effectiveness

In order to achieve the greatest overall tonnage of mobile NOx emissions reduction, Oklahoma will prioritize projects that are most cost effective in terms of cost per ton of mobile NOx reduced. Cost effectiveness will be determined by the estimated reductions, the price and technology type of each proposed project, and the percentage of project match offered by applicants.

Mobile NOx Emissions Reduction

Oklahoma will give priority to projects that fall within geographical areas and emission sectors that have the greatest impact on Oklahoma's overall mobile NOx emissions as described below.

Mobile NOx Emissions Reductions in Historically High Ozone Areas

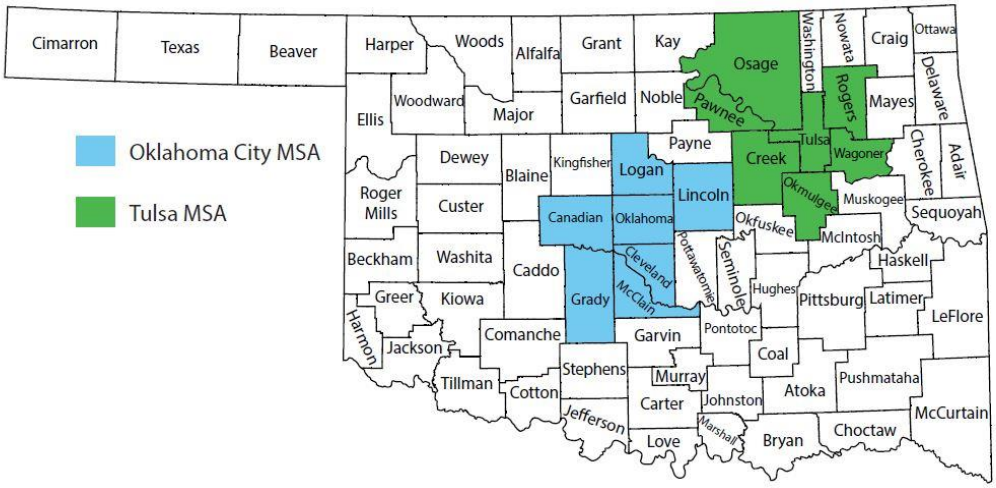
Within Oklahoma, the most significant negative impact of mobile NOx is its contribution to the formation of ambient ozone, Oklahoma's primary pollutant of concern. Thus, geographical areas with high ozone design values will be targeted.

While Oklahoma does not have difficulty maintaining compliance with the National Ambient Air Quality Standards (NAAQS) for NOx, certain factors create a challenge in maintaining ozone levels compliant with the NAAQS, including: Oklahoma's topography, climate, spread-out centers of population, and proximity to upwind population centers.

Because formation of ozone is the State's most significant negative impact from NOx pollution, Oklahoma will favor Eligible Mitigation Actions that propose to reduce ambient ozone in counties with the most likelihood of exceeding the ozone NAAQS. These counties (Map 1), which make up the Oklahoma City and Tulsa Metropolitan Statistical Areas, are identified by observed high ozone design values as well as the frequency and occurrence of Ozone Watch and Ozone Alert Days.

Map 1

Oklahoma City and Tulsa Metropolitan Statistical Areas

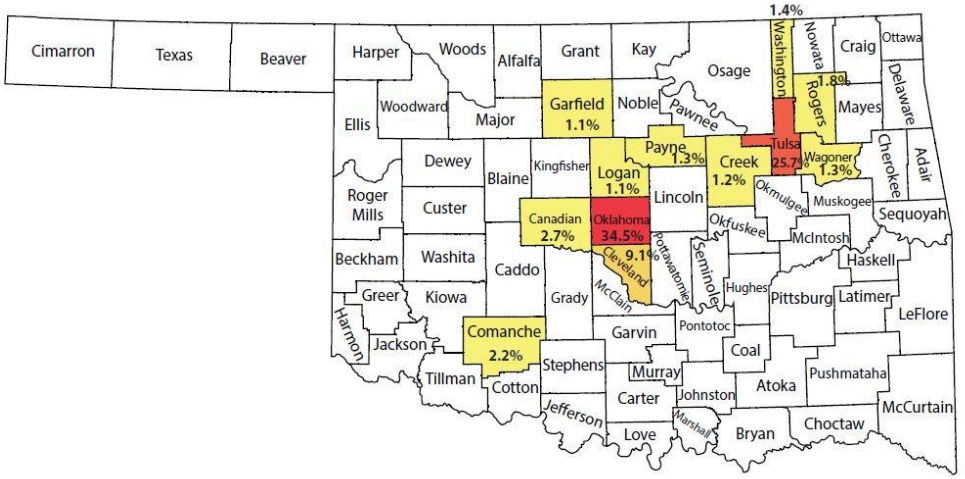


Mobile NOx Emissions Reductions in Volkswagen Registration Areas

Given existing databases, an exact count of Subject Vehicles by area is difficult to accurately gauge. The Oklahoma Attorney General reported that there were 3,855 Subject Vehicles in Oklahoma (Petition Complaint at ¶17, *State v. Volkswagen AG, et al.*, No. CJ-2016-3047 (Dist. Ct. Okla. Cty. Okla. June 15, 2016)). Based on Oklahoma Tax Commission data and filtering by year and model, it was determined that there were 5,894 gasoline and diesel Volkswagen, Audi, and Porsche vehicles registered statewide in 2016. A reasonable estimate for the location of Subject Vehicles has been derived from the number of Volkswagen, Audi, and Porsche vehicle registrations in each county for Subject Vehicle years (Map 2). Mobile-source projects funded in these counties will assist in mitigating existing impacts previously emitted from Subject Vehicles.

Map 2

Counties with >1% of Estimated Affected VW (et al.) Vehicles



Mobile NOx Emissions Reductions in National Emissions Inventory Target Sectors and Areas

In addition to targeting geographical areas with high ozone values, Oklahoma also intends to target Eligible Mitigation Actions on mobile source sectors and areas contributing the most NOx to the 2014 National Emissions Inventory (NEI) v1. This inventory represents the most recent data.

A summary of NOx emissions from Oklahoma's mobile source sectors can be seen below in Table 2, Chart 2, and Chart 3. The NEI sectors do not precisely match the Eligible Mitigation Action categories described in Appendix D-2 of the State Trust Agreement, but they correlations can still be drawn. In the NEI, Heavy Duty Vehicles begin at 8,501 lbs. For comparison to terminology used in the State Trust Agreement, this includes vehicles of Gross Vehicle Weight Rating (GVWR) 2 and above.

Based on the following 2014 NEI data, project priorities will include the top four emission sectors: On-Road Diesel Heavy Duty Vehicles, On-Road non-Diesel Light Duty Vehicles (to be targeted tangentially through *Category 9: ZEV Supply Equipment*), Locomotives, and Non-Road Diesel Equipment.

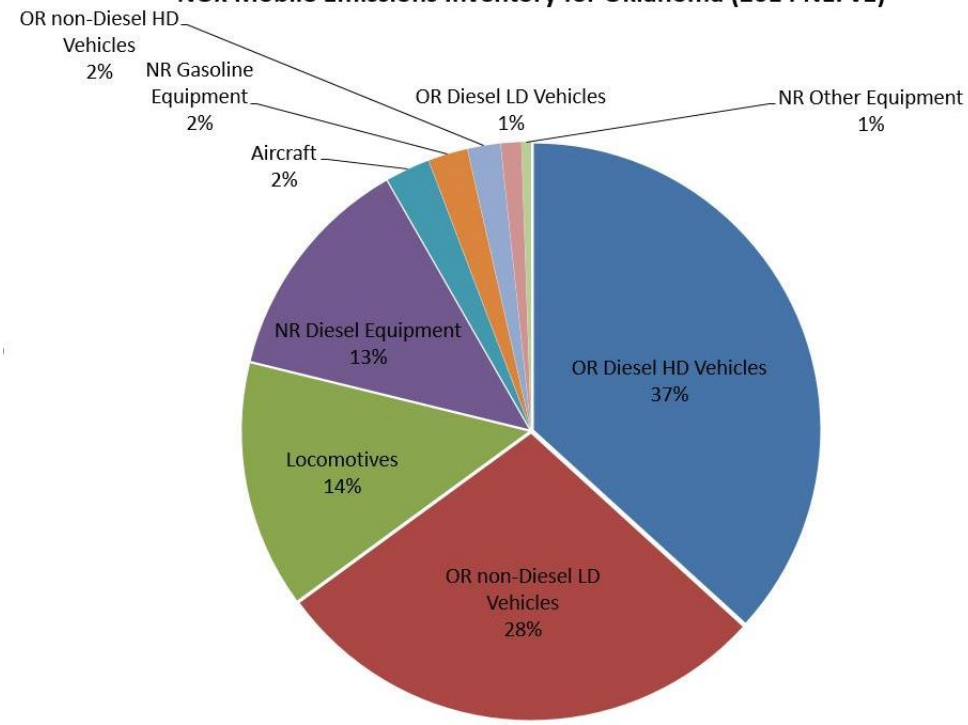
It is not required that Eligible Mitigation Action Projects impact these sectors in order to receive funding. Projects which impact emissions from other sectors may be funded if they rank highly in *Mobile NOx Emissions Reductions in Geographical Target Areas, Mobile NOx Emissions Reductions in Volkswagen Registration Areas,* and *Mobile NOx Emissions Reductions in Cost Effectiveness*.

Table 2: Oklahoma 2014 NEI v1 Mobile Source NOx Emissions and Correlating App. D-2 Categories

SECTOR	NOx (tons)	App. D-2 Category Correlation
On-Road Diesel Heavy Duty Vehicles	49,741	Categories 1, 2, 6
On-Road non-Diesel Light Duty Vehicles	38,124	Category 9
Locomotives	18,785	Category 3
Non-Road Equipment - Diesel	17,443	Categories 7,8
Aircraft	3,394	n/a
Non-Road Equipment - Gasoline	3,011	Categories 7,8
On-Road non-Diesel Heavy Duty Vehicles	2,499	Categories 1, 2, 6
On-Road Diesel Light Duty Vehicles	1,555	n/a
Non-Road Equipment - Other	738	n/a
Commercial Marine Vessels	320	Category 4

Chart 2*

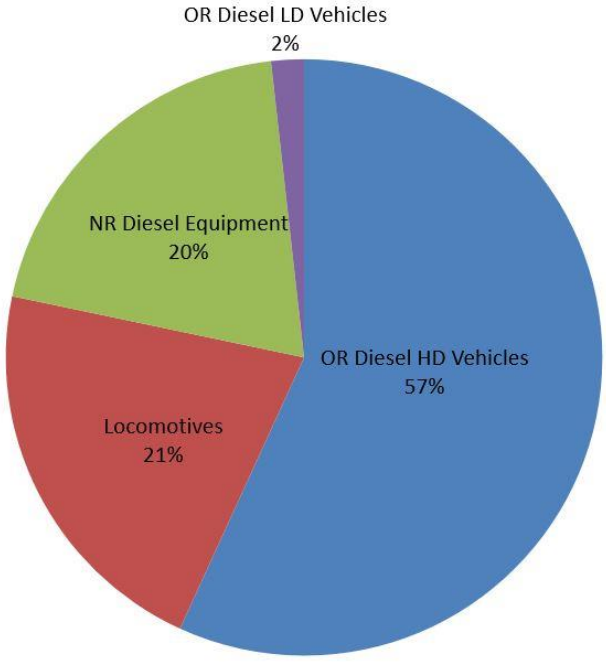
NOx Mobile Emissions Inventory for Oklahoma (2014 NEI v1)



*Where OR=On-Road, NR=Non-Road, HD=Heavy Duty, and LD=Light Duty

Chart 3*

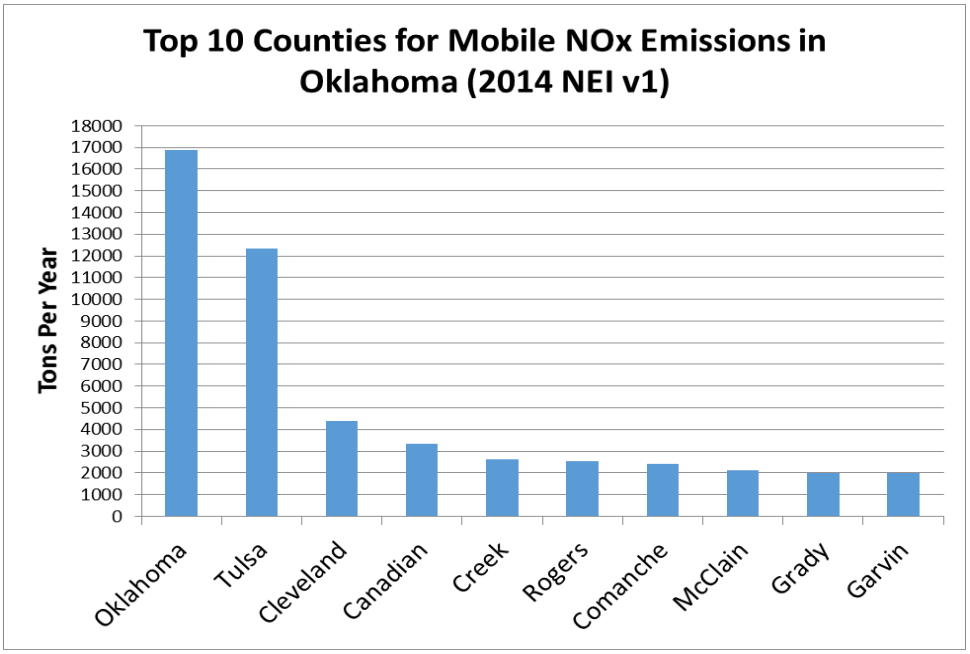
NOx Mobile Diesel-Powered Emissions Inventory for Oklahoma (2014 NEI v1)



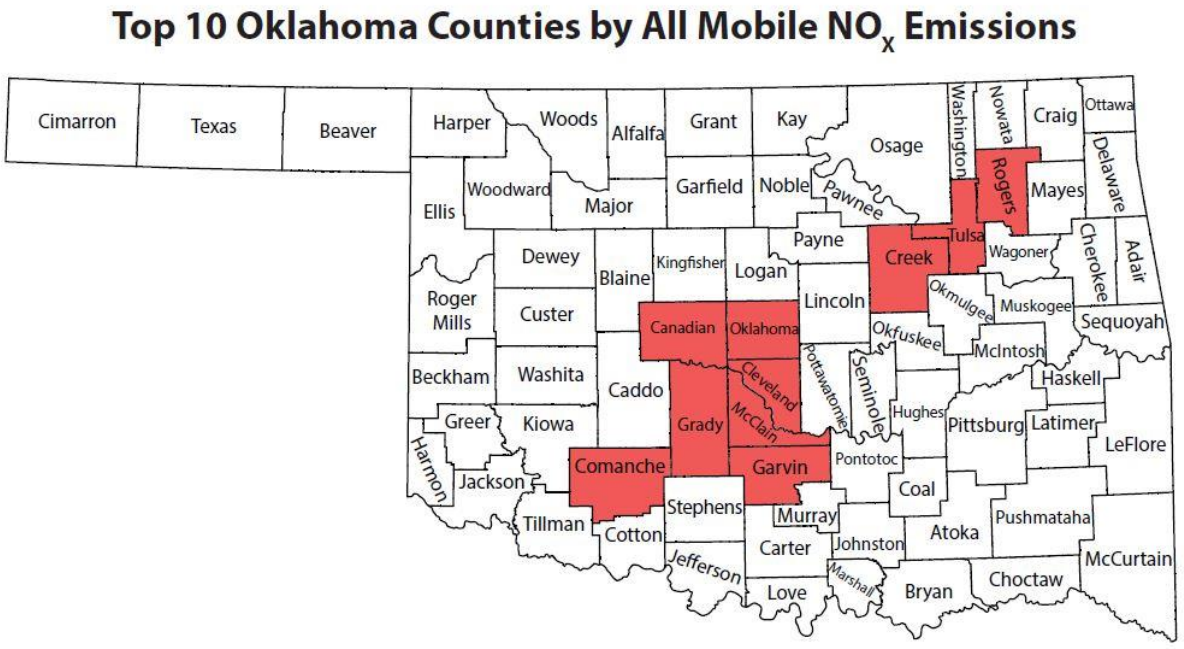
*Where OR=On-Road, NR=Non-Road, HD=Heavy Duty, and LD=Light Duty

The National Emissions Inventory can be used to identify Oklahoma counties with the most mobile NOx emissions. Oklahoma will give greater consideration to projects occurring in those counties that comprise the top 10 contributors of this sector as depicted below in Chart 4 and Map 3.

Chart 4



Map 3



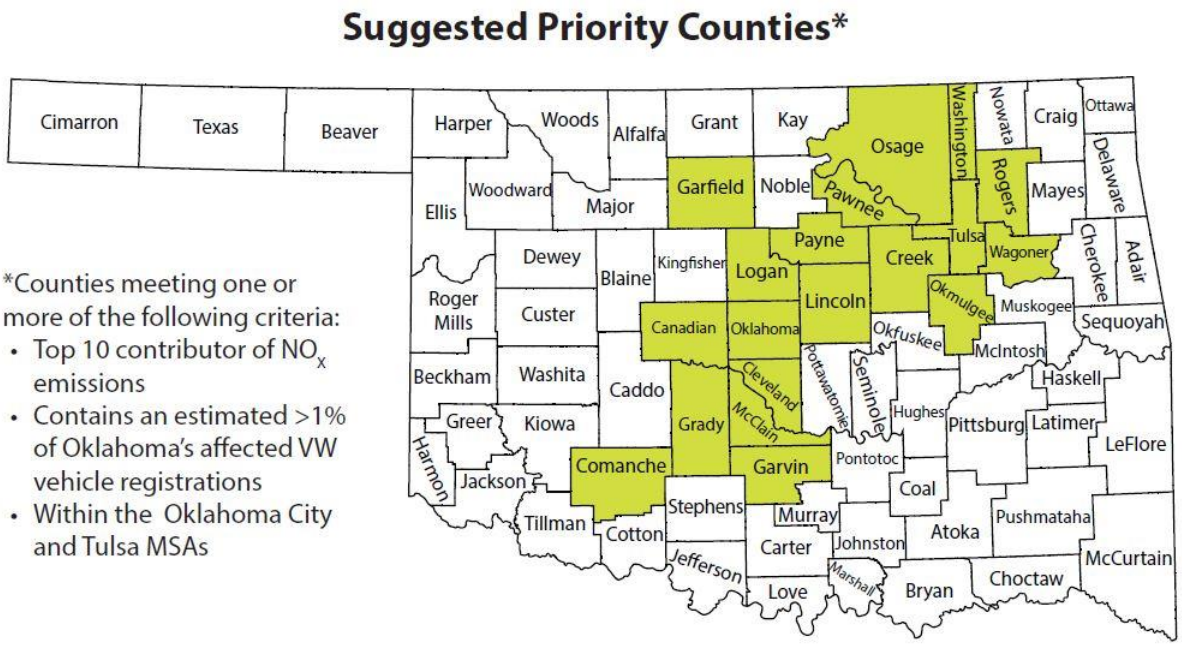
Geographic Overview of Mobile NOx Emissions Reductions

Funding is not limited to the counties identified in the above analyses. However, greater consideration may be given to said counties during the selection process. A summary of these counties is given in Table 3 and Map 4.

Table 3

Oklahoma City MSA	Tulsa MSA	>1% VW Registration	Top 10 Mobile NOx
Canadian	Creek	Canadian	Canadian
Cleveland	Okmulgee	Cleveland	Cleveland
Grady	Osage	Comanche	Comanche
Lincoln	Pawnee	Creek	Creek
Logan	Rogers	Garfield	Grady
McClain	Tulsa	Logan	Garvin
Oklahoma	Wagoner	Oklahoma	McClain
		Payne	Oklahoma
		Tulsa	Rogers
		Wagoner	Tulsa
		Washington	

Map 4



Extra Considerations for Mobile NOx Emissions Reductions

Projects that occur outside of target counties but focus on a geographical area bearing a disproportionate share of the air pollution burden will also receive priority. DEQ considers areas bearing a disproportionate share of air pollution burden to include counties that show historically high ozone concentrations, counties in which the greatest number of Subject Vehicles have been registered, and

areas that receive a disproportionate share of traffic from diesel fleets. Section V herein contains more detail on what locations may necessitate extra consideration for bearing a disproportionate share of air pollution burden.

Geographical location will be important in the ranking and selection of projects but will not be considered a funding requirement. Projects that do not demonstrate any of the above geographical priorities will also be considered. Such projects occurring outside of target areas may be selected for funding if they rank highly in National Emissions Inventory Target Sectors and *Cost Effectiveness*.

V. ENVIRONMENTAL IMPACT

DEQ will consider the potential beneficial impact of Eligible Mitigation Actions on air quality in areas within its jurisdiction that bear a disproportionate share of the air pollution burden by giving funding priority to certain geographical areas. For more detail, see *Section II, Mobile NOx Emissions Reductions*.

In addition, Oklahoma also considers those air quality locations which bear a disproportionate share of air pollution burden from diesel fleets to be those which meet the following criteria:

- The I-40, I-35, and I-44 traffic corridors
- Truck stops
- Ports
- Rail yards
- Terminals of freight or passenger lines
- Construction sites
- Bus Depots/yards
- Distribution centers

VI. PUBLICLY AVAILABLE INFORMATION

As Oklahoma moves forward with utilizing these funds, the State commits to make publicly available all funding requests and related records submitted by the State to the Trustee for mitigation projects, along with details on all expenditures of Trust Funds. These records will be made available by either direct posting of the document or a link to the document on the DEQ website. This BMP will also be made available through one of those methods.

DEQ will submit semiannual progress reports to the Trustee for each Eligible Mitigation Action, no later than six months after receiving the first disbursement of Trust Assets, and thereafter no later than January 30 and July 30 of each year. More about the contents of semiannual reports appear in Section 5.3 in the State Trust Agreement.

VII. CLOSING STATEMENTS

The Eligible Mitigation Actions outlined within this BMP represent the best and most cost-effective methods to mitigate negative impacts of excess mobile NOx emissions from affected Volkswagen vehicles. This BMP is intended to be broad enough and flexible enough to last the duration of the Trust; however, Oklahoma retains the right to adjust goals and amend the BMP at some future date as permitted in Section 4.1 of the State Trust Agreement.

DEFINITIONS AND ACRONYMS

"Appendix D-2" shall mean Appendix D-2 to the State Trust Agreement, which lists eligible mitigation actions.

"Beneficiary" shall mean the State of Oklahoma, acting as the governmental entity determined to be a Beneficiary pursuant to Section IV of the Environmental Mitigation Trust Agreement for State Beneficiaries.

"Court" shall mean the United States District Court for the Northern District of California.

"Eligible Mitigation Action" shall mean any of the actions listed in Appendix D-2 to the State Trust Agreement.

"EMY" shall mean Engine Model Year.

"DEQ" shall mean the Oklahoma Department of Environmental Quality.

"Design Values" shall mean the ozone design value used by EPA to designate and classify an area as to whether it attains or does not attain the National Ambient Air Quality Standard (NAAQS). In 2015, EPA lowered the ozone NAAQS to an 8-hour standard of 0.070 parts per million (ppm) to be calculated as described in 40 CFR Part 50. A monitoring site attains the 8-hour ozone standard when the last 3-year average of the annual fourth-highest daily maximums is less than or equal to 0.070 ppm.

"GVWR" shall mean "Gross Vehicle Weight Rating"

"Lead Agency" is the lead for purposes of the Beneficiary's participation in the Environmental Mitigation Trust ("Trust") as a beneficiary, and has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

"State Trust Agreement" shall mean the final, executed Environmental Mitigation Trust Agreement for State Beneficiaries filed with the Court on October 2, 2017 in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation*, MDL Case No. 2672 CRB (JSC).

"State Mitigation Trust" or "Trust" shall mean the Environmental Mitigation Trust established for State Beneficiaries.

"Subject Vehicles" shall mean: (i) the "2.0 Liter Subject Vehicles," as defined in the First Partial Consent Decree in *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1); and (ii) the "3.0 Liter Subject Vehicles," as defined in the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

"Trust Effective Date" or "TED" shall mean the date that the United States filed the fully executed final version of the State Trust Agreement with the Court, which was October 2, 2017.

"Trustee" shall mean Wilmington Trust, N.A., acting solely in its role as the Trustee of the State Mitigation Trust as appointed in accordance with Paragraph 3.0 of the State Trust Agreement, or a successor trustee pursuant to subparagraph 3.7.2 of the State Trust Agreement. Each reference to the Trustee shall include the Trustee and its officers, directors, and employees.

"ZEV" shall mean Zero Emission Vehicle