



VW Settlement Webinar DERA Option

United States Environmental Protection Agency

December 12, 2016



Overview

- Today's presentation will:
 - Summarize the partial settlement
 - Explain Appendix D
 - Explain how Eligible Mitigation Action #10 (DERA Option) will work
 - Answer questions
- Today's presentation is a summary, the legal documents control the settlement.



Overview of Partial Settlement

- On June 28, 2016, the United States lodged with the court a settlement that partially resolves allegations that Volkswagen violated the Clean Air Act by the sale of approximately 500,000 vehicles containing 2.0 liter diesel engines equipped with defeat devices
- The partial settlement was finalized on October 25, 2016
- Under this settlement, VW is required to:
 - Buyback or perform an emissions modification on at least 85 percent of the affected vehicles (Appendices A & B)
 - Invest an additional \$2 billion to promote the use of zero emission vehicles and infrastructure (Appendix C)
 - Provide \$2.7 billion to fully remediate the excess NO_x emissions from the affected vehicles (Appendix D)

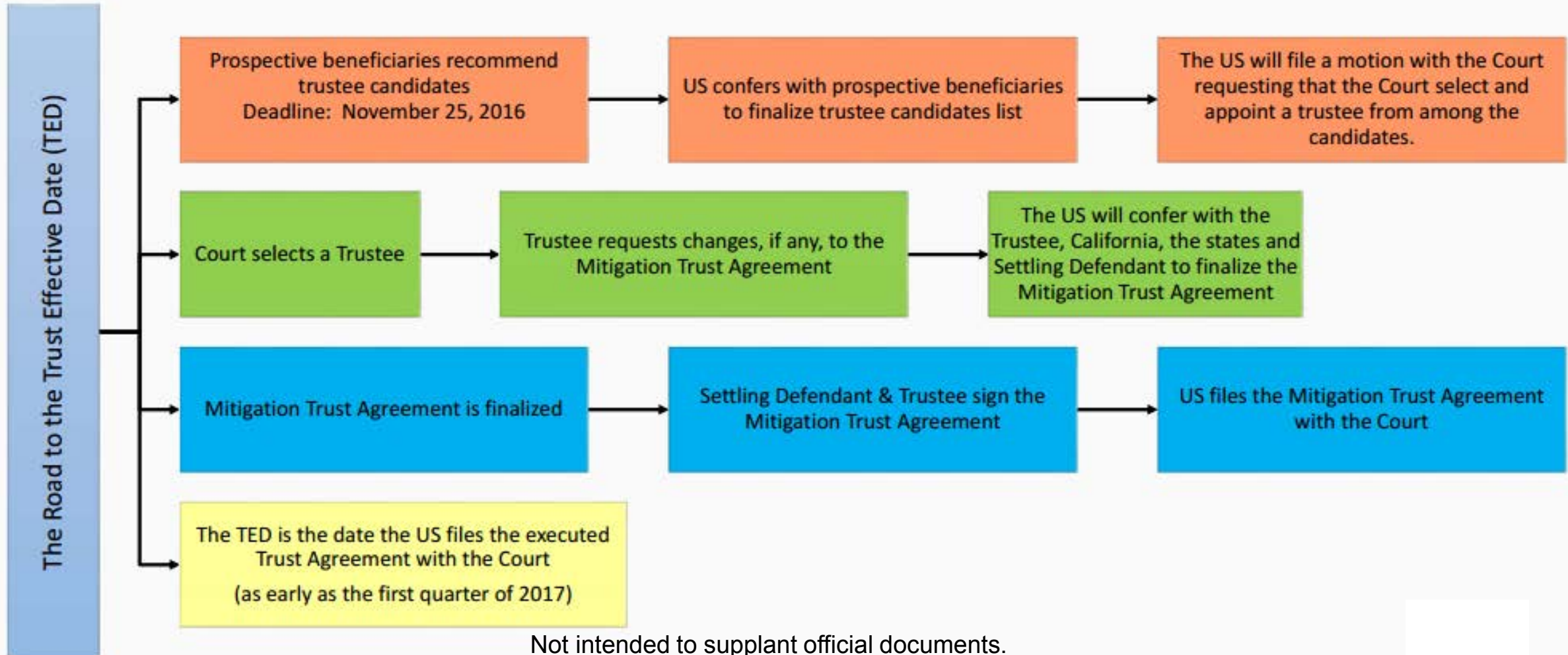


Appendix D: Mitigation Trust Fund

- VW will fund a \$2.7 billion mitigation trust to fully mitigate the total, lifetime excess NO_x emissions from the 2.0 liter vehicles
- 50 states, DC, Puerto Rico, and federally recognized tribes are eligible to become beneficiaries
 - Each beneficiary will receive a specific allocation of funds that can be used for any of the listed eligible mitigation actions
 - The allocation structure is primarily based on the number of registered illegal Volkswagen vehicles within the boundaries of the beneficiary



Appendix D- How the Trust Effective Date (TED) is Established

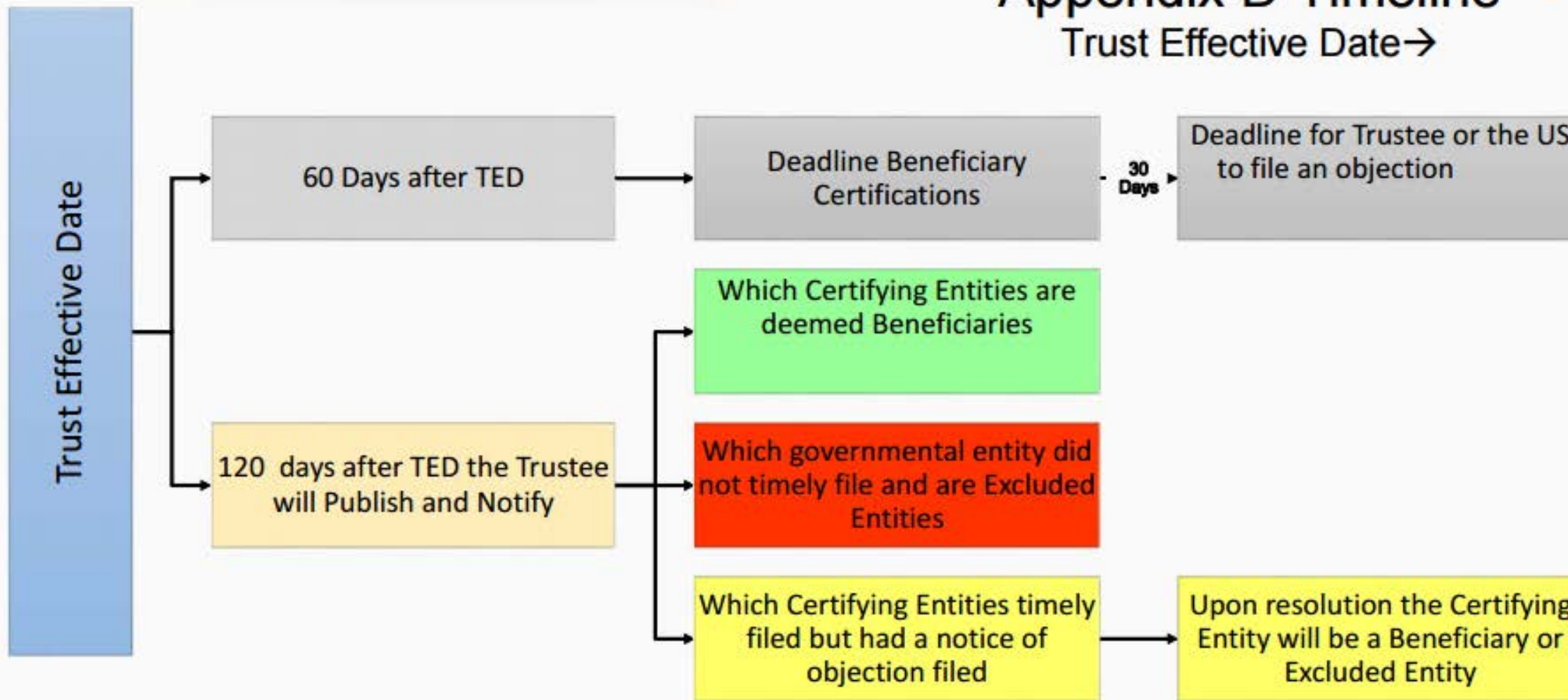


Not intended to supplant official documents.



Appendix D Timeline

Trust Effective Date →





Trust Effective Date

- The Trust Effective Date (TED) is the date the United States files with the Court a finalized Trust Agreement that has been signed by VW and the Trustee
- The TED is important because the deadlines in the Mitigation Trust flow from the TED
- TED + 60 → DEADLINE for potential Beneficiaries to submit the paperwork to become Beneficiaries
 - States have 90 days after becoming a Beneficiary to write Mitigation Plans



Mechanics of the Mitigation Trust

- VW establishes and funds the mitigation trust
- An independent Trustee administers the trust
- Every state, the District of Columbia, Puerto Rico and federally recognized Tribes may become Beneficiaries if they follow the mandated procedures
 - Potential Beneficiaries must take action to become a Beneficiary within 60 days of the TED
 - Beneficiaries receive allocations to fund specified and pre-approved mitigation projects
 - Beneficiary Mitigation Plans must be submitted within 90 days of becoming a Beneficiary



Beneficiary Mitigation Plan

- Each Beneficiary must submit to the Trustee and make publicly available a Beneficiary Mitigation Plan
 - Plan must explain overall goal for the use of Trust funds, describe estimated NOx reductions, list the categories of projects, consider benefits to air quality in communities with disproportionate air pollution burden, seek and consider public input
- A Beneficiary may split Trust funds between Eligible Mitigation Actions 1-9 and the DERA Option
- Two or more Beneficiaries may submit a joint request
- A Beneficiary may submit its State DERA Workplan to the Trustee for Trust funds used for the DERA Option



Reporting Requirements

- A Beneficiary who chooses the DERA Option must submit DERA Quarterly Programmatic Reports and a Final DERA Programmatic Report to EPA as required under the DERA grant terms and conditions
- A Beneficiary may submit its DERA reports to the Trustee to fulfill its reporting requirements for any portion of its Trust funds using the DERA Option



Timeline for DERA Option Implementation

Fall 2016	<ul style="list-style-type: none">• Prepare guidance/info for states and tribes• Outreach to potential beneficiaries
Winter 2017	<ul style="list-style-type: none">• State DERA grant program launches*• Possible Trust Effective Date**
Spring 2017 and beyond	<ul style="list-style-type: none">• States certify as beneficiaries• States submit Beneficiary Mitigation Plan• Adjust DERA Tribal RFP timing as needed• Assist states and tribes using DERA option

*Dependent on DERA Reauthorization and/or 2017 Appropriation

**Trust Effective Date may be later, pushing timeline back

Not intended to supplant official documents.



Eligible Mitigation Projects

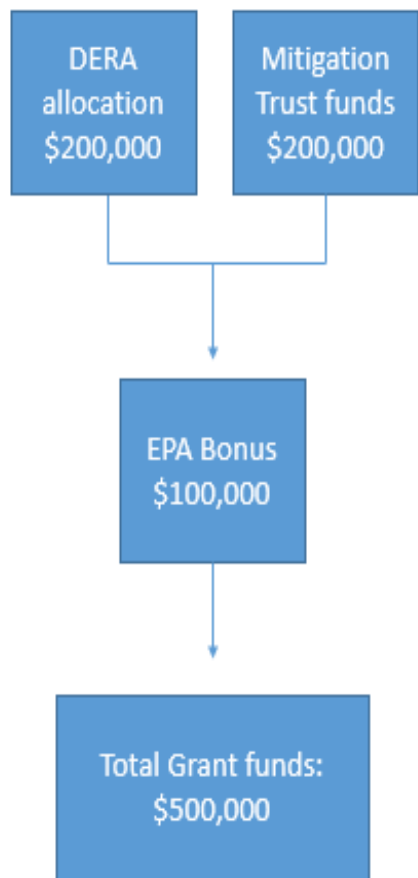
1. Class 8 local freight trucks and port drayage trucks
2. School/shuttle/transit bus
3. Locomotive switchers
4. Ferries/tugboats
5. Ocean going vessels shorepower
6. Class 4-7 local trucks
7. Airport ground support equipment
8. Forklifts and cargo handling equipment at ports
9. Light duty ZEV supply equipment (up to 15% of allocation)

DERA Option (#10)

- Option to use Trust Funds for actions not specifically listed but otherwise eligible under DERA
- Beneficiaries may use Trust Funds for their DERA non-federal voluntary match
- State and tribal DERA grants only

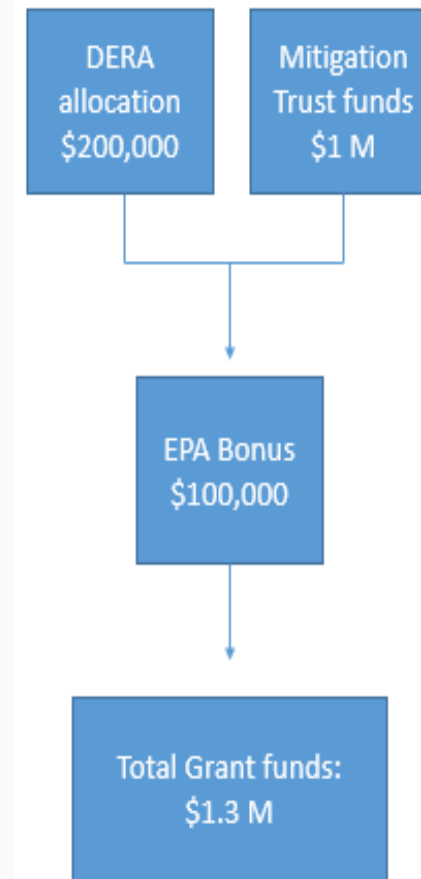
DERA Option- States

Example A



- Trust funds can be used to match the EPA base funding for State DERA grants
 - **Example A:**
 - State’s DERA allocation in FY2017 is ~\$200,000
 - State uses \$200,000 in Trust funds as the 1:1 voluntary non-Federal match
 - State bonus is 50% of the base amount \$100,000
 - Total State grant is \$500,000
 - State will receive - \$300,000 from DERA and \$200,000 from the Trust
 - **Example B:**
 - State’s DERA allocation in FY2017 is ~\$200,000
 - State may use a larger amount - \$1,000,000 in this example - in Trust funds
 - State bonus DERA amount of \$100,000
 - State’s DERA Clean Diesel Grant program for FY2017 would be \$1.3 million
 - - \$300,000 from DERA and \$1,000,000 from the Trust.

Example B





Non-Federal Mandatory Cost-Share Requirements

- Many of the eligible project types under the DERA Option allow Trust funds to pay for only a certain percentage of the project
- In addition, DERA grants often require a mandatory cost-share
- Trust funds cannot be used to meet this non-federal mandatory cost-share requirement
- Mandatory cost-share funds cannot count towards the state's voluntary matching funds to qualify for the matching incentive



2017 State Clean Diesel Grant Program Applications

- Timing of DERA State FY2017 grants will not match up with availability of trust funds
 - Grantees can add voluntary funds (Trust funds) later to FY2017 grants or wait until FY2018 grants
- If DERA funding is not available in FY2017, the Trust funds will not be available for the DERA Option until DERA funding is appropriated



DERA Option- Tribes

- Federally-recognized Tribes can become Beneficiaries
- Tribes can implement Eligible Mitigation Actions 1-9 directly with the Trustee or utilize the DERA Option
- DERA Option: Trust funds can be used as a voluntary match for grants for the DERA Tribal RFP
 - Trust funds cannot be used for mandatory cost-shares
- Tribes submit a *Notice of Intent to Participate* in DERA by Sept 1 of each year to “reserve” funds
- DOJ is responding to Tribal Consultation



Resources on the Mitigation Trust:

- <https://www.epa.gov/cleandiesel/volkswagen-vw-settlement-dera-option>
 - Consent decree
 - Settlement highlights
 - FAQ for Beneficiaries
 - Presentation for Prospective Beneficiaries

Resources on the DERA Option:

- cleandiesel@epa.gov
- 1-877-623-2322
- www.epa.gov/cleandiesel
 - State and Tribal program guidance