

# **VW Settlement DERA Option**

NACAA

May 1, 2017





## Overview

- Today's presentation will:
  - Summarize the partial settlement of the VW Consent Decree
  - Explain Appendix D
  - Explain how Eligible Mitigation Action #10 (DERA Option) will work
  - Answer questions
  
- This 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 and other actions, 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<sub>x</sub> emissions from the affected vehicles (Appendix D)

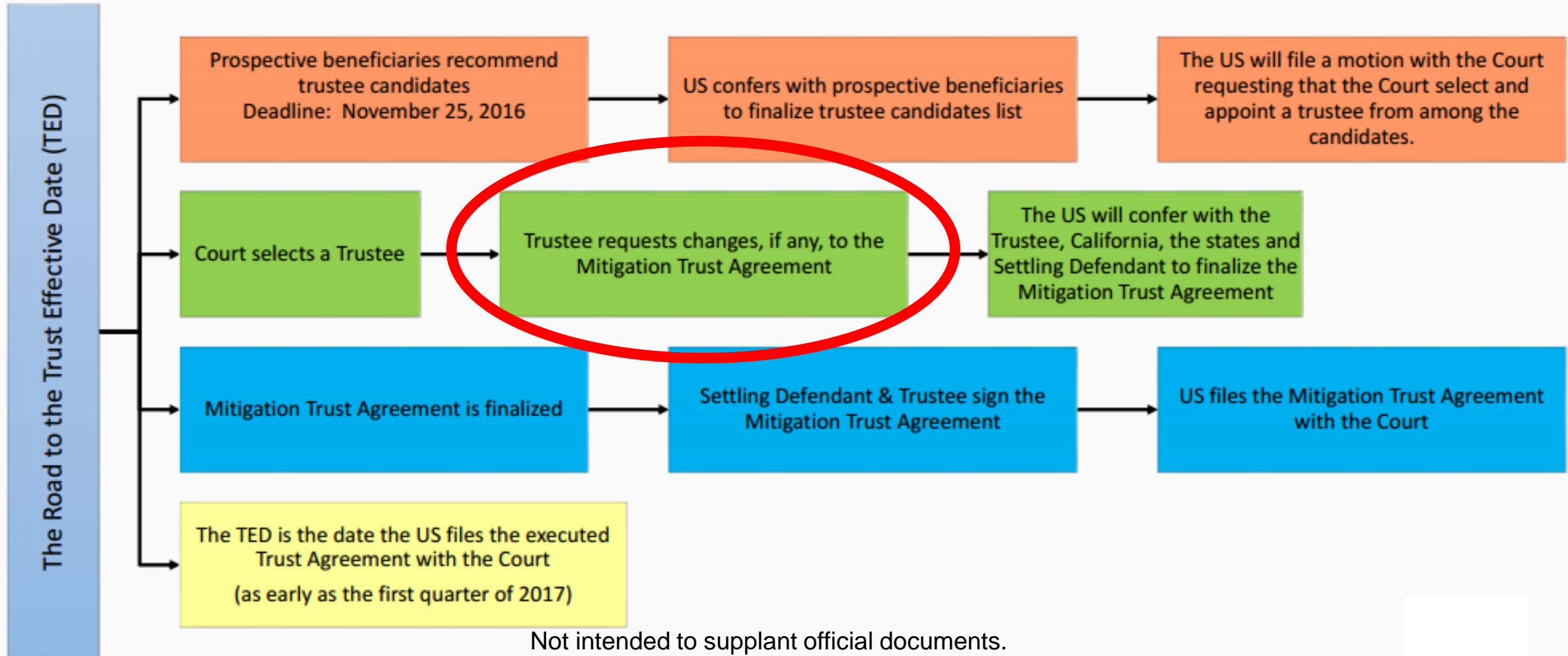


## Appendix D

- VW will fund a \$2.7 billion mitigation trust to fully mitigate the total, lifetime excess NO<sub>x</sub> emissions from the 2.0 liter vehicles
- 50 states, DC, Puerto Rico, Federally Recognized Tribes and Native Villages 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 tribal allocation is \$49.6 million
  - 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.



## 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 start from the TED
- State beneficiaries must submit Beneficiary Mitigation Plans within 60 days of the TED
  - Beneficiary Mitigation Plans must be submitted 90 days after becoming a beneficiary



## 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

[link to DERA Option fact sheets](https://www.epa.gov/cleandiesel/vw-settlement-dera-option-supporting-documents7)



## How States Access Trust Funds

- Beneficiaries identify projects in Beneficiary Mitigation Plan
- Beneficiaries submit funding requests for Eligible Mitigation Actions 1-9 to the Trustee
  - Trustee approves within 60 days
- Beneficiaries choosing the DERA Option must participate in the DERA State Grant Program
  - FY17 has already opened, States are working now with EPA regions on work plans
  - Next opportunity for states to participate will be in FY18, pending a DERA appropriation

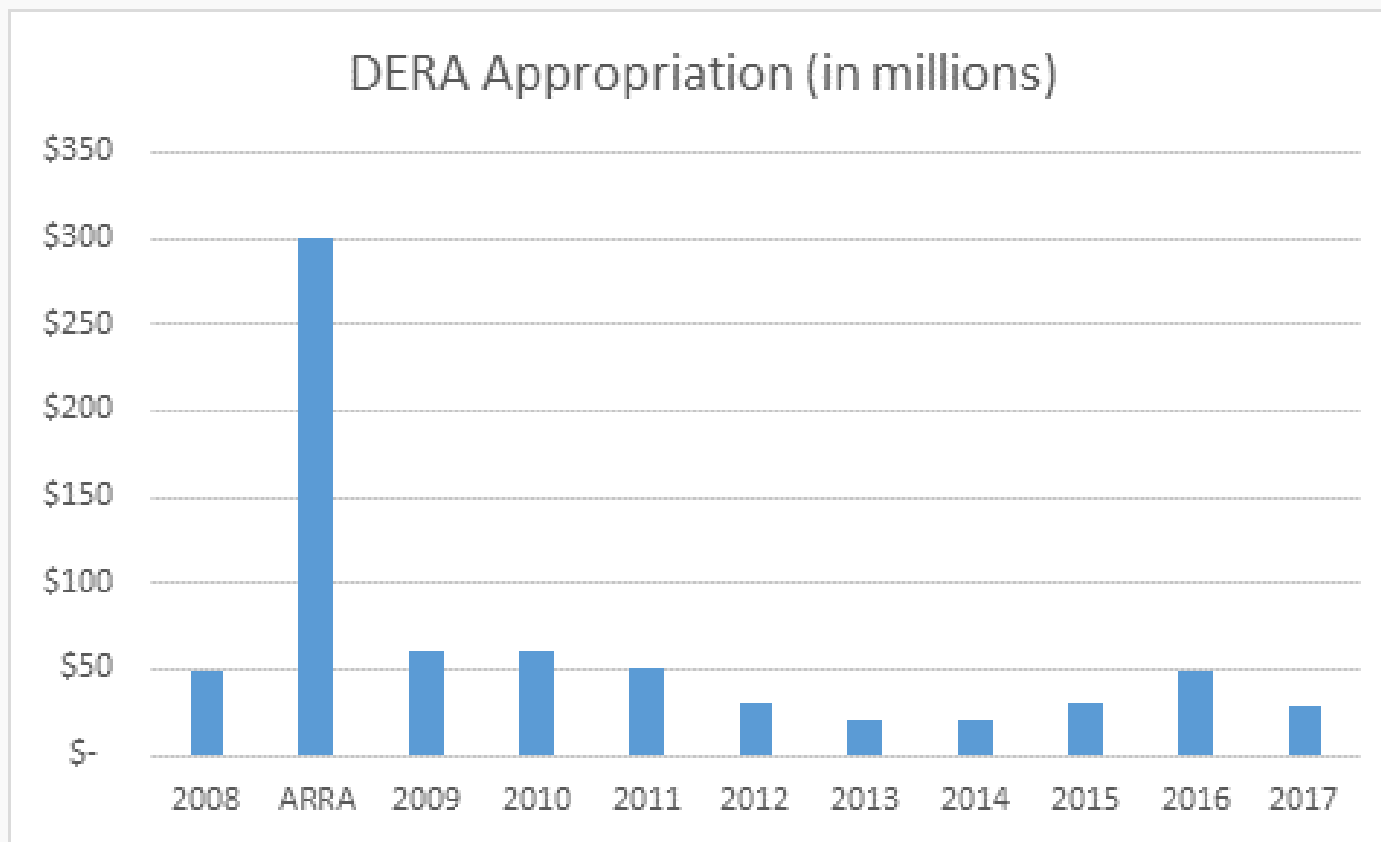


# “DERA Option” -- What is DERA?

- Diesel Emissions Reduction Act (DERA) originally authorized under the Energy Policy Act of 2005
- Amended and reauthorized by the Diesel Emissions Reduction Act of 2010 (Public Law 111-364)
  - Passed with unanimous consent, bi-partisan support
- Provides funding, on a competitive basis, to eligible entities, to achieve significant reductions in diesel emissions in terms of pollution produced and diesel emissions exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas
- Projects must use an EPA or California -certified engine configuration or a verified technology (aka retrofit)



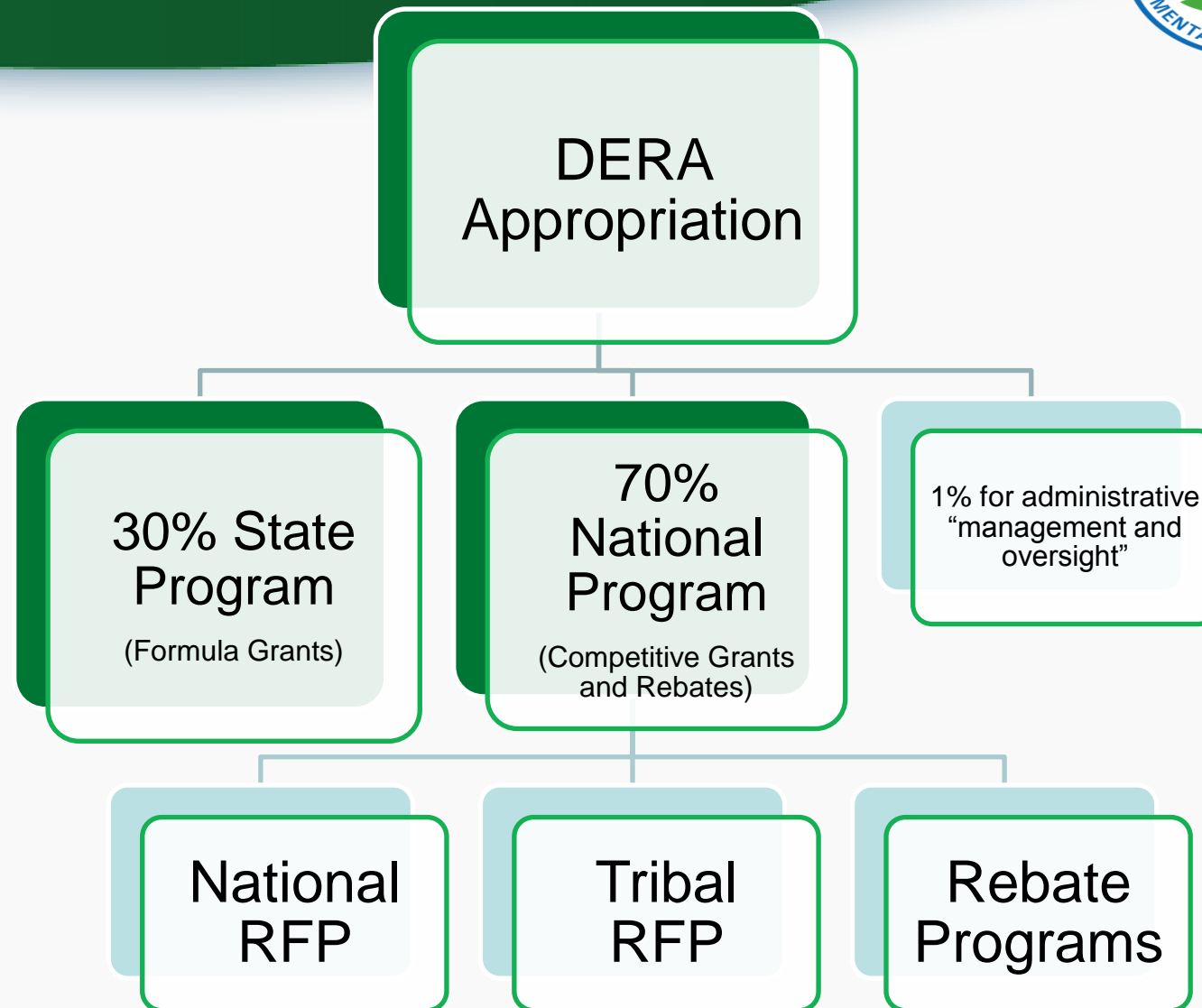
## DERA Funding – Annual Appropriations





As of January 2017:

\$668M = 1145 Awards  
- 270 Rebates  
- 875 Grants





## DERA Option- States

- 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
  - Trust funds can be greater than the 1:1 voluntary match above
    - 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.
- Forty-nine states will participate in the FY2017 DERA State Program
  - Twenty-five states will use trust funds on their state grants
  - 16 will voluntarily match greater than 1:1



## DERA Option- Tribes

- Federally-recognized Tribes and Alaskan Native Villages become Beneficiaries at time of applying for “first funding request”
  - Deadline is September 1 annually
- Tribes can implement Eligible Mitigation Actions 1-9 directly with the Trustee and/or utilize the DERA Option with EPA
- DERA Option: Trust funds can be used as a voluntary match for grants for the DERA Tribal RFP
- **DERA Tribal RFP will open in June 2017**



# DERA Cost Share Requirements

<b>DERA Eligible Activities</b>	<b>DERA Funding Limits (DERA Funds + Voluntary Match)</b>	<b>Minimum Mandatory Cost-Share (Fleet Owner Contribution)</b>
Exhaust Control Retrofit	100%	0%
Engine Upgrade / Remanufacture	40%	60%
Highway Idle Reduction	25%	75%
Locomotive Idle Reduction	40%	60%
Marine Shore Power	25%	75%
Electrified Parking Space	30%	70%
Engine Replacement – Diesel or Alternative Fuel	40%	60%
Engine Replacement – Low NOx	50%	50%
Engine Replacement – All-Electric	60%	40%
Vehicle/Equipment Replacement – Diesel or Alternative Fuel	25%	75%
Vehicle/Equipment Replacement – Low NOx	35%	65%
Vehicle/Equipment Replacement – All-Electric	45%	55%

Note: Project eligibility criteria and applicable funding limits for the DERA Option are subject to change pending final program guidance issued by EPA for the State Clean Diesel Grant Program



## 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
  - Fact Sheet on DERA Option
  - Detailed Table of Project Eligibility

## Resources on the DERA Option:

- [cleandiesel@epa.gov](mailto:cleandiesel@epa.gov)
- 1-877-623-2322
- [www.epa.gov/cleandiesel](http://www.epa.gov/cleandiesel)
  - Tribal program guidance



Thank you!

Jennifer Keller

Office of Transportation and Air Quality

[Keller.Jennifer@epa.gov](mailto:Keller.Jennifer@epa.gov)

202-343-9541