

Opening Remark:

Good afternoon. I am Alec Messina, Director of the Illinois EPA. Thank you for the opportunity to present testimony regarding the Illinois EPA's draft Beneficiary Mitigation Plan or BMP, which addresses the manner in which Illinois, as Beneficiary, and the Illinois EPA, as Administrator, under the VW Environmental Mitigation Trust Agreement, propose to allocate VW Trust Funds.

Background:

By way of background, the VW Settlement is a multi-billion dollar settlement resulting from VW installing emissions cheating software in certain diesel vehicles. The Settlement includes a Vehicle Recall and Repair Program or VRR Program, a \$2 billion Zero Emission Vehicle Investment Commitment or ZEV commitment, and an Environmental Mitigation Trust for States. The VRR Program provides redress to the individual motorists who owned the vehicles at issue. The \$2 billion ZEV program provides for electric infrastructure. The Trust provides redress for the air quality impacts from VWs actions. More specifically, the express purpose of the Trust is to provide funds to project applicants to reduce nitrogen oxide (NOx) emissions where the VWs were located. Illinois' allocation for this purpose is \$108.6 M.

BMP:

Illinois is required to submit a BMP to the Environmental Mitigation Trustee detailing its plan to allocate the Trust Funds. States may revise their BMP as necessary; and therefore, it is a living document.

The draft BMP identifies 3 priority areas in which to spend funds. These areas were selected and are prioritized with regard for where the affected VWs were located and where there is a disproportionate share of air pollution burden:

PA #1 is the Chicago NAA with 69.5% of affected VWs and with 79.3% of State's EJ population

PA#2 is the Metro East NAA with 5.4% of affected VWs and with 4.1% of State's EJ population

PA#3 is the Attainment counties with 10.1% of affected VWs- 7 named counties each with 1% or greater of the affected VWs (Champaign, DeKalb, LaSalle, McLean, Peoria, Sangamon, Winnebago)

The draft BMP identifies eligible project categories and maximum funding levels with the intent of driving NOx emissions reductions:

1st – the off-road project category is eligible for up to 65% of Illinois' allocation with projects including locomotives, switchers and tug boats, and includes all fuel types, electric and electric infrastructure. This allocation was arrived at due to the significant NOx emissions reductions from such projects bearing in mind the requirements and goals of the Trust to reduce NOx emissions as well as the fact that these projects are often the most cost effective. Locomotive and tug projects can result in 20-40 tons per year, per engine of NOx emissions reductions contrasted with bus projects that often result in less than 1 ton per year, per vehicle of NOx emissions reductions. Notably, when the VW settlement was first announced, a project involving Metra transit locomotives was highlighted in a Chicago Tribune news article as an ideal project for use of VW funds. In the article, Mr. Brian Urbaszewski, Director of Environmental Health Programs at the nonprofit Respiratory Health Association of Greater Chicago, was

quoted as saying: “given the number of people exposed to exhaust from these old Metra locomotives, replacing them is probably the best use of the money.”

2nd - the on-road project category is eligible for up to 20% of Illinois’ allocation with projects including class 4-8 medium and heavy-duty trucks, school and transit buses, and includes all fuel types, electric and electric infrastructure. This allocation was arrived at as the projects in this category generally do not yield the level of NOx emissions reductions as off-road projects. Also, many of these projects are costly especially in light of the emissions reduced. For example, an electric transit bus costs approximately \$800k compared to \$350k for a diesel counterpart.

3rd – the all-electric school bus category, which includes infrastructure, is eligible for up to 10% of Illinois’ allocation. This allocation was borne of expressed interest from environmental advocacy groups with the realization that project applicant interest was low and costs are comparatively high. For example, an electric school bus costs \$300k, excluding infrastructure, in contrast to a clean diesel bus at \$75k.

Also, there is an Administrative expenditures category for up to 5% of Illinois’ allocation.

Electric:

Illinois’ perspective on electric charging and electric vehicles must be put in factual context. Illinois is fuel neutral as are the vast majority of other states with BMPs. Thus, Illinois’ draft BMP allows for projects involving clean diesel, alternative fuels and electric infrastructure and electric vehicles. This approach precludes no fuel options and leaves the decisions on vehicle technology to the project applicants who are best situated to decide what technology, costs, and risks best suit their respective fleet based on such factors as mileage and fuel consumption, financial picture and risk tolerance. Illinois EPA has received input in this regard – input against electric and for fuel neutrality. It is from this perspective that Illinois EPA has decided, at this juncture, that it would not be prudent to dedicate 100% or even a majority of available funding to EV projects. However, should applicants desire electric projects, Illinois EPA has afforded up to 95% of funding toward such projects.

Notwithstanding Illinois’ neutral stance on fuel, in addition to affording eligibility of electric projects under the general on and off-road categories, and realizing the interest in all-electric school bus projects from environmental advocacy groups, Illinois has afforded eligibility under a wholly electric school bus category, which most states have not. Nonetheless, Illinois EPA is obligated to satisfy the purpose of the Trust – to reduce NOx emissions. EV charging alone does not reduce emissions. Further, funding projects solely involving infrastructure does not secure electric vehicles and could lead to stranded assets. As such, Illinois EPA has taken a pragmatic approach to electric infrastructure funding in concert with electrical vehicle projects. It is from this perspective that Illinois EPA decided, at this juncture, to forego the 15% set aside for light duty EV infrastructure. However, it must be noted that Illinois has been designated a state slated to receive funding for light duty electric charging infrastructure under the \$2 billion ZEV commitment. Also, it is important to note that not all states with BMPs have allocated funds for light duty electric charging infrastructure.

One final point regarding electric projects is that the technology is new. Its availability and viability is not certain. And, electric vehicles and infrastructure are costly – the least cost-effective options across the project spectrum. If Illinois were to dedicate 100% of the funds to EV projects – specifically electric transit, it would only be able to fund approximately 135 buses and realize approximately 68 tons of NOx

emissions reductions annually. With 100% dedication of funds to electric school buses, it could only fund 360 buses and realize 22 tons of NOx emissions reductions. Whereas if the money was solely dedicated to locomotive and tug projects, it could realize over 2000 tons per year in NOx emissions reductions. Further, the interest among potential applicants is debatable. The latter is critical as applicants will drive the projects that result in Illinois. It is from this perspective that Illinois EPA has decided, at this juncture, to limit the % of available funding for EV projects.

BMP – Cost sharing

The draft BMP establishes cost sharing – at least 25% for government applicants and at least 50% for non-government applicants. Matching was intended to maximize funds and afford more communities the opportunity to access funds for additional NOx emissions reductions. What may be viewed by some as an impediment to project performance is in fact a measure to provide equity and ensure equal access by all to funding. In simplest terms, absent cost sharing or ceilings on project costs, the dollars simply will have limited reach and will have limited impact.

The Agency intends to award funds in multiple rounds. We are endeavoring to make the first round of funding available this fall so as to expeditiously realize NOx emissions reduction benefits in the State.

BMP Public Input Period:

The Illinois EPA is accepting Public Input through April 20th on the draft BMP, a 51-day public input period. The average public input period of states regarding administration of VW funds is 38.6 days. However, we will continue to receive feedback and to communicate with interested stakeholders throughout the entirety of Fund Administration. Further, the Agency expects the draft BMP to be revised from its current form and the finalized BMP to be revised in the future based on continued public input and market demand for projects.

Outreach:

The obligation under the Trust was to solicit input on a draft BMP. The Trust did not prescribe the process for seeking the requisite public input. As a result, states have had varying approaches.

Outreach must be put in factual context. First, the Trust Agreement was only finalized October 2, 2017. Second, Illinois was only named Beneficiary and Illinois EPA Administrator on January 29, 2018. The draft BMP and survey were made available to the public on February 28th, with an initial public input period of 44 days which was since extended one week. The Illinois EPA afforded a timeframe for review and input that has now exceeded by three weeks the regulatorily established formal time frames for commenting on the most complex and controversial Agency matters. The Agency's approach is consistent with its historical approach whereby public outreach and comment has taken the form of Agency edification and analysis followed by a specific informed draft document/plan for review and public feedback. This approach has proven successful in eliciting meaningful comment. Without some specific document/plan to react to, it is difficult for the public to understand the topic at issue and to provide relevant comment. It is the Agency's role to educate the public on the requirements and goals of the Trust - principally NOx emissions reductions, and how to best achieve such goals through a draft plan. The Illinois EPA is the Agency charged with protection of air quality, and as such has expertise in how to best achieve emissions reductions. The Illinois EPA takes its responsibility seriously and to this end tendered a draft plan for public review and input. The draft BMP is the product of a great deal of deliberation and is

consistent with the purpose of the Trust. The draft BMP focuses on reducing NOx emissions in areas where the affected VWs are registered and on maximizing emissions reductions and maximizing funding.

For more than a year prior to and since making its draft BMP available for public review and input, the Agency has engaged interested stakeholders. In this regard, the Illinois EPA created a dedicated webpage with information regarding the Settlement, which it has updated as additional information has become available. This webpage was made available to the public in summer 2017. Further, within 30 days of the Trustee's determination naming Illinois and Illinois EPA the Trust Fund Beneficiary and Trust Fund Administrator, respectively, Illinois EPA made a proposed BMP and survey available for public input and response. The Illinois EPA has communicated with, and taken comments on the use of funds from numerous stakeholders including advocacy groups, schools, transit and planning organizations, governmental bodies, trade groups, utilities, consultants, manufacturers/vendors, businesses and citizens.

Illinois was one of the first States to post a draft BMP. Currently, 17 states have BMPs. Illinois' draft BMP is comparatively more detailed. Illinois is far from the only State to have addressed stakeholders through means other than broad based outreach sessions. Of the 17 states with BMPs, Illinois EPA understands that only 5 of them have had outreach sessions in advance of BMP issuance and the majority had only 1 session. Additionally, not all of these 17 states with BMPs had a formal comment period in advance of BMP issuance. Of the 34 states that do not yet have a BMP, only 9 of them have had outreach sessions. 15 states with BMPs have had post-BMP outreach sessions with the majority having only 1 session. Where attendees were disclosed, the Illinois EPA understands that the majority of attendee groups were not individual citizens but advocacy groups, academics, industry groups, utilities, municipalities, schools, manufacturers, consultants, and other businesses – the same groups that Illinois has had face-to-face meetings and phone calls with for more than a year. Thus far, Illinois has had 9 outreach sessions (or presentations) on its BMP and more are scheduled. Illinois' comment period aligns with or exceeds that of the States that have posted draft BMPs. Illinois EPA has satisfied its obligation under the Trust and in very timely fashion. It would be imprudent to delay fund awards and in turn realization of NOx emissions reductions merely to tally more days on an outreach clock before beginning to fund projects especially given the fact that there will be multiple funding rounds, continued input received and stakeholder engagement, and likely revisions to the BMP based on continued input and market demand for projects.

Conclusion:

In summary, Illinois has drafted the requisite BMP and afforded public review and input of the plan. It has engaged stakeholders and has provided for an open and transparent input process on its draft BMP. Illinois' draft BMP complies with the Trust requirements for public input and for achieving NOx emissions reductions, takes a pragmatic approach to funding projects, and is fuel neutral affording up to 95% of funding towards electric projects if applicants have a desire for such projects. Ultimately, it is applicants who will drive and deliver on VW projects. Illinois EPA, in the draft BMP, simply creates an initial structure that will maximize NOx emissions reductions and spread the VW funds, but that is clearly fuel neutral for the benefit of any and all potential project applicants. There will be multiple funding rounds, and opportunities for ongoing stakeholder engagement. The Agency respectfully advocates for no delay in VW projects and the timely realization of the greatest number of NOx emissions reductions for the benefit of the health and welfare of the citizens of Illinois.