

The Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico and The District of Columbia

Does the State Trust Agreement prevent a State from using State Trust funds alongside funds from Federal grant programs?

The Volkswagen Diesel Emissions Mitigation Trust is not a Federal Grant Program and it has its own requirements and legal obligations that must be complied with in order to receive funding for Eligible Mitigation Actions. Any State that receives funds from the State Trust is responsible for accounting for these funds to ensure that it meets the requirements of the State Trust to obtain the funds, and should not “co-mingle” them with funds from Federal grant programs or other programs, which are subject to different rules. This is particularly important since the State Trust requires a State to return to the Trust any funds that it has received and not used for the purpose approved in a Appendix D-4 Funding Request.

This does not preclude a State from seeking funding from any other source, including its own State funds or Federal grant programs, to pay for a portion of an EMA which is only partially funded with funds received from the State Trust. For example, if a State has an overall “plan” (which is different from the Eligible Mitigation Plan described in and required by the State Trust) to install electric charging stations statewide, it might choose to fund some of those charging stations or some portion of them with some funds from the State Trust and some from available Federal grant programs. These programs can be used alongside one another but States must comply with the requirements of the State Trust to obtain Trust funds, and separately comply with the requirements of the particular Federal program. This includes separately accounting for the funds received from the State Trust, and returning any funds not used in accordance with an approved Appendix D-4 Funding Request. Additionally, the State Trust Agreement was not written to work in coordination with the funding cycles of any Federal grant program or other source of funding, with the exception of DERA. States are responsible for ensuring that they time Appendix D-4 Funding Requests appropriately so that EMAs using money from multiple sources are funded during the appropriate State Trust funding cycle. The Trustee will not consider or take into account any expected funds that a State hopes to receive from any of these Federal Programs in connection with their approval process under the State Trust.

Finally, the Trustee is not responsible for monitoring Federal grant programs or sources of funding other than the State Trust and DERA. Any questions that States have about sources of funding other than the State Trust should be directed to those programs and not to the Trustee.

Information regarding this and other Frequently Asked Questions related to the Volkswagen Mitigation Trusts may be found at: <https://www.epa.gov/enforcement/faqs-beneficiaries-vw-mitigation-trust>

Please contact Michael Bochanski Jr. with any inquiries at mbochanski@wilmingtontrust.com or (302) 651-8608.

BY: Wilmington Trust, N.A., as Trustee for the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico and The District of Columbia

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