

STATE OF INDIANA
EXECUTIVE DEPARTMENT
INDIANAPOLIS

EXECUTIVE ORDER 17-22

FOR: ESTABLISHING THE INDIANA VOLKSWAGEN ENVIRONMENTAL MITIGATION TRUST FUND COMMITTEE

TO ALL WHOM THESE PRESENTS MAY COME, GREETINGS.

WHEREAS, over the course of six years, Volkswagen sold nearly 600,000 vehicles in the United States, which it marketed as being environmentally friendly, fuel efficient and high performing; however, unbeknownst to consumers and regulatory authorities, Volkswagen installed a “defeat device” in these vehicles that allowed them to cheat emissions tests and violate the Clean Air Act;

WHEREAS, Volkswagen admitted that it violated the law and entered into two judicial consent decrees, along with a settlement that requires Volkswagen to pay the sum of \$2.7 billion into an environmental mitigation trust fund (“VW Fund”) to be administered by an independent trustee;

WHEREAS, the VW Fund may be used by states to help offset the excess nitrogen oxide (NOx) pollution that was emitted by the affected vehicles, and the State of Indiana’s share of the VW Fund is \$40.9 million (the “Indiana VW Funds”);

WHEREAS, in early 2017, the State of Indiana began the process of developing a plan for the use and distribution of the Indiana VW Funds, and has participated in various meetings, roundtables, and presentations around our State to discuss and explain the VW settlement;

WHEREAS, for many months, representatives of Indiana Department of Environmental Management (“IDEM”) have met with various parties and other stakeholders who have expressed an interest in learning about the VW Fund;

WHEREAS, at this point in the process, it is appropriate and necessary to establish a committee that will have certain responsibilities relative to the Indiana VW Funds;

WHEREAS, it is also appropriate, at this point, to identify and designate IDEM as the “lead agency” for purposes of the State of Indiana’s participation in the environmental mitigation trust (“Trust”) as a beneficiary, with the delegated authority to act on behalf of and legally bind our State for purposes of the Trust and the VW Fund;

WHEREAS, IDEM, as the lead agency, shall also make available, for public comment, a draft Beneficiary Mitigation Plan (“BMP”), which will summarize how our State may use the Indiana VW Funds, after which there will be a series of public meetings for the solicitation of public input and comments; and this proposed BMP may be revised based on the public comments received; and

WHEREAS, to ensure that this process is transparent, the above-referenced committee shall be subject to the Indiana Open Door Law (Indiana Code § 5-14-1.5 *et seq.*) and the Access to Public Records Act (Indiana Code § 5-14-3 *et seq.*);

NOW, THEREFORE, I, Eric J. Holcomb, by virtue of the authority vested in me as the Governor of the State of Indiana, do hereby order that:

1. The Indiana Volkswagen Environmental Mitigation Trust Fund Committee is hereby established (the “Committee”).

2. The Committee shall be comprised of the following eleven (11) voting members:
 - a. Five residents of the State of Indiana, to be appointed by the Governor.
 - b. Six members, or their respective designees, appointed by the Governor from the following state agencies:
 - i. Commissioner of the Indiana Department of Environmental Management;
 - ii. Commissioner of the Indiana Department of Transportation;
 - iii. Director of the Indiana Department of Agriculture;
 - iv. Secretary of Commerce of the Indiana Economic Development Corporation;
 - v. Chief Executive Officer of the Ports of Indiana; and
 - vi. Director of the Indiana Office of Energy Development.
3. The Commissioner of the Indiana Department of Administration and Director of the Indiana State Budget Agency, or their respective designees, shall be advisory, non-voting members of the Committee, and will provide expertise and other appropriate support. In addition, IDEM is hereby designated as the lead agency for purposes of the State of Indiana's participation in the Trust as a beneficiary, with the delegated authority to act on behalf of and legally bind our State for purposes of the Trust.
4. Each Committee member, voting and non-voting, shall serve a term of four (4) years, which shall continue until such time as said member is either reappointed or replaced by a successor appointed by the Governor. If a vacancy occurs on the Committee, then, in such event, the Governor shall promptly appoint a new member to fill such vacancy, and said new member will serve the remainder of the unexpired term (as applicable). The Governor may remove a member if he determines that there is good cause to do so.
5. The chair and vice-chair of the Committee shall be appointed by the Governor. A majority of the voting members shall constitute a quorum, and the affirmative votes of said majority of members is required in order to make decisions and otherwise conduct business.
6. The Committee's responsibilities shall include, without limitation, the following:
 - a. Establish reasonable and appropriate processes and procedures for the timely and efficient administration, use, and distribution of the Indiana VW Funds;
 - b. Engage with the Lead Agency in the development of the proposed BMP to be released to the public for consideration and comments. The proposed BMP may include, by way of example, a description of the types of projects that could be eligible for funding, a list of the proposed application requirements, the scoring and evaluation process to be utilized by the Committee, and the applicable time periods and filing deadlines;
 - c. Develop a schedule and host a series of public meetings around our State for the purpose of soliciting public comments and ideas about the proposed BMP and all of the aspects of our State's implementation of the VW settlement and use of the Indiana VW Funds. Make appropriate revisions and modifications to the proposed BMP based on the public comments received;
 - d. Ensure that there is appropriate transparency in connection with the work of the Committee as well as the administration, use, and distribution of Indiana VW Funds; and
 - e. Perform such other duties and responsibilities as necessary and appropriate under the circumstances.

7. The Indiana Department of Environmental Management is hereby designated as the lead agency for the State of Indiana relative to the VW Fund (the “Lead Agency”). The Lead Agency shall provide administrative and other appropriate staff support to the Committee in connection with the implementation of this Executive Order. In addition, the Lead Agency’s Office of Air Quality shall provide technical support as needed.
8. The five residents who are voting members shall be entitled to reimbursement of their reasonable, necessary, and documented expenses that result directly from their service and duties in connection with the Committee.
9. In order to ensure appropriate transparency, the Committee shall be subject to, and will comply with, the Indiana Open Door Law (Indiana Code § 5-14-1.5 *et seq.*) and the Access to Public Records Act (Indiana Code § 5-14-3 *et seq.*).
10. All state agencies, departments, commissions, and other instrumentalities of state government, shall cooperate and provide assistance to the Committee as well as the Lead Agency in implementing this Executive Order, to the fullest extent permitted by law.
11. This Executive Order shall be effective October 4, 2017, and will remain in effect until amended, rescinded, or superseded.



IN TESTIMONY WHEREOF, I, Eric J. Holcomb, have hereunto set my hand and caused to be affixed the Great Seal of the State of Indiana on this 4th day of October, 2017.

Eric J. Holcomb

Eric J. Holcomb
Governor of Indiana

Connie Lawson

ATTEST: Connie Lawson
Secretary of State