

The seal of the State of South Dakota is a circular emblem with a serrated outer edge. It features a central landscape scene with a river, fields, and mountains. The text "STATE OF SOUTH DAKOTA" is arched across the top, and "GREAT SEAL" is arched across the bottom. The year "1889" is at the bottom center. A banner across the middle reads "UNDER GOD THE PEOPLE RULE".

**DANR'S RESPONSE TO COMMENTS
RECEIVED ON
Draft Proposed Revisions to
South Dakota's
Volkswagen Beneficiary
Mitigation Plan**

**South Dakota Department of
Agriculture and Natural Resources
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1.0 Introduction

On January 24, 2016, the United States and the State of California filed a lawsuit against Volkswagen alleging it had manufactured diesel cars sold and operated in the U.S. beginning in 2009 with systems intended to defeat emissions tests. These systems allowed vehicles to emit nitrogen oxide (NO_x) pollution at levels that significantly exceeded the amounts allowed under the Clean Air Act.

As part of the settlement, Volkswagen (VW) was required to fund an Environmental Mitigation Trust in the amount of \$2.925 billion to be used to offset the lifetime excess air pollution emitted by the non-compliant vehicles. The fund was distributed among states, territories and federally-recognized tribes based on the proportion of affected VW diesel vehicles registered in each jurisdiction.

South Dakota's allocation from the Trust was \$8.125 million. A Beneficiary Mitigation Plan (Plan) was developed that summarizes how the State allocation of mitigation funds will be distributed among the various eligible mitigation actions to reduce nitrogen oxide emissions. After a public input process, South Dakota's Plan was approved by the Board of Minerals and Environment (BME) on August 16, 2018.

Staff for the Department of Agriculture and Natural Resources (DANR) has evaluated implementation of the Plan after each year of funding and provided a summary to the BME. Part of this evaluation is to determine whether any revisions to the Plan and funding levels for each of the Eligible Mitigation Actions are appropriate or necessary. During the December 2020 BME meeting, the BME recommended that DANR consider and recommend changes to the plan.

On March 5, 2021, DANR released a draft of proposed revisions to the Plan. The public comment period ran through April 9, 2021. Forty-seven comments were received.

This document summarizes the comments received during the public notice period followed by DANR's responses to those comments. The comments received in response to the draft proposed revisions to the Plan and this response to comments are available to all interested parties at the DANR office in Pierre and they may also be viewed on DANR's VW website.

2.0 Comments and Responses

1. **Comment:** Forty-five comments were received in favor of increasing the funding for electric vehicle charging stations.
 - a. Three commenters specified they wanted a set amount of funding for category 9 at 15% and to not have a range.
 - b. Three commenters wanted the funding to be greater than 15%.

Response: South Dakota's draft proposed revisions to the Plan currently increase funding for electric vehicle charging stations.

- a. A range of funding per category is preferred to avoid making additional revisions to the Plan. If the funds spent on category 9 do not end up exactly at 15% (due to changes in estimated project costs, trying to ensure a minimum rebate amount, lack of applications, etc), provisions of the Plan would require DANR and the BME to adjust the percentages again.
- b. The VW Trust limits the amount of funds to be used for category 9 to a maximum of 15%. As such, DANR and the BME may not exceed the 15% threshold for category 9.

DANR is not recommending any changes to the proposed revisions at this time based on these comments.

2. **Comment:** Two commenters were not in favor of increasing the funding for electric vehicle charging stations.
 - a. 'Absolutely not unless you are going to subsidize actual gasoline and not just ethanol. The free market will determine if electric vehicles are a viable transportation method or just a flash in the pan.'
 - b. 'Tax payers shouldn't be paying for them, convenience stores should be putting them in if they want to keep open. Unless they are solar/wind powered, they aren't environmentally worth it. \$50 that EV vehicles will pay for their tags won't recover the lost gas tax money that we won't get from tourist to drive on our roads.'

Response: The majority of commenters are in favor of increasing the funding for electric vehicle charging stations. In addition, the two commenters did not recommend which of the other categories the funds should be used. In the alternative, DANR considered that these two commenters preferred the funding allocations would stay the same as original approved. If DANR is able to minimize the amount of funding for Administration of the program, the majority of the increase of funding will go from Administration of the Program to the electrical vehicles. Therefore, the total funding for the other projects will be similar. DANR is not recommending any changes to the proposed revisions at this time based on these comments.

3. **Comment:** Several comments were received that did not pertain to revising the Plan, but dealt with program guidelines. Some of these included:
- a. Chargers should be located along I-90.
 - b. Chargers should be located along I-29.
 - c. Chargers are needed in locations other than along the Interstates.
 - d. More chargers should be added to western side of the state.
 - e. Chargers should be located at rest stops.
 - f. Chargers should be located at tourist attractions and places to eat.
 - g. Funding should be used for L3 DC fast chargers.
 - h. Funding should be used for L2 chargers.
 - i. Chargers should have plugs for all three standards: CCS, CHAdeMO, & Tesla.
 - j. Use any additional funding for charging stations in a single additional round.
 - k. Extend application window in future rounds.
 - l. The charging station program requires too much financial commitment in advance for the applicants.

Response: DANR will consider these comments when developing future application guidelines and selection criteria. DANR is not recommending any changes to the proposed revisions at this time based on these comments.

4. **Comment:** Two comments were received that were outside the eligible funding categories allowed by the Trust:
- a. Use funds for a lithium study using modern mining techniques in the Black Hills.
 - b. Instead of registration fees on electric vehicles to make up for gas tax, put a usage fee on charging.

Response: These comments are outside the scope of the proposed Plan revisions. DANR is not recommending any changes to the proposed revisions at this time based on these comments.

5. **Comment:** There were inconsistencies between the recommendation and the table for the changes to administrative funds.

Response: DANR has updated the proposed revisions to fix the inconsistencies.

6. **Comment:** Since the time the draft was made available to the public, the Department of Environment and Natural Resources (DENR) and the Department of Agriculture have merged creating the new Department of Agriculture and Natural Resources (DANR).

Response: DANR has updated the proposed revisions with the new name.