

**APPENDIX D-4**  
**Beneficiary Eligible Mitigation Action Certification**

State of New York  
New York State Department of Environmental Conservation - New York State Energy Research and  
Development Authority, Cooperative Agreement #CA11434  
Eligible Mitigation Action Item 1.: Class 8 Local Freight Trucks and Port Drayage Trucks  
Advance Funding Request #1

**BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION**

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Beneficiary State of New York

Lead Agency Authorized to Act on Behalf of the Beneficiary: New York State Department of Environmental Conservation (NYSDEC)

*(Any authorized person with delegation of such authority to direct the Trustee delivered to the Trustee pursuant to a Delegation of Authority and Certificate of Incumbency)*

<b>Action Title:</b>	NYSERDA NYTVIP EMA 1: Class 8 Local Freight and Port Drayage Trucks
<b>Beneficiary's Project ID:</b>	CA11434.MA11
<b>Funding Request No.</b>	<i>(sequential)</i> 1
<b>Request Type: (select one or more)</b>	<input type="checkbox"/> Reimbursement <span style="float: right;"><input checked="" type="checkbox"/> Advance</span> <input type="checkbox"/> Other (specify): _____
<b>Payment to be made to: (select one or more)</b>	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>New York State Energy Research and Development Authority</u>
<b>Funding Request &amp; Direction (Attachment A)</b>	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

**SUMMARY**

<p><b>Eligible Mitigation Action Type</b> Appendix D-2, Mitigation Action 1. Class 8 Local Freight Trucks and Port Drayage Trucks</p>
<p><b>Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):</b> VW funding will provide incentives to replace older diesel-powered trucks with new, all-electric, hybrid electric, alternative fueled or new diesel trucks as stated in New York's Beneficiary Mitigation Plan (BMP). Up to \$11.5 million in New York's allocation from the VW Mitigation Trust has been proposed for EMA 1: Class 8 Local Freight and Port Drayage Trucks replacement projects. See: <a href="https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf">https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf</a> (pp. 1, 16, and 18.)</p>
<p><b>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):</b> Truck replacement incentive funding made available through the NYSERDA New York Truck Voucher Incentive Program (NYTVIP) will replace older trucks that often operate in Potential Environmental Justice Areas. The new Class 8 replacement trucks will be equipped with engines certified to much lower emissions standards resulting in significantly decreased NOx emissions and improved local air quality. Existing, older NYS-registered diesel-powered trucks will be scrapped.</p>
<p><b>Estimate of Anticipated NOx Reductions (5.2.3):</b> The projected vehicle lifetime NOx emission benefits from replacing an estimated 70 older diesel trucks with all-electric, CNG, propane, hybrid, and plug-in hybrid trucks is estimated to be 197 tons. In addition, greenhouse gases will be reduced from these truck replacement projects. Final NOx emission reductions will be calculated based on projects completed under this mitigation action.</p>



**Identification of Governmental Entity Responsible for Reviewing and Auditing Expenditures of Eligible Mitigation Action Funds to Ensure Compliance with Applicable Law (5.2.7.1):**

New York State Energy Research and Development Authority

**Describe how the Beneficiary will make documentation publicly available (5.2.7.2).**

New York State submitted an Appendix D-3, Certification for Beneficiary Status Under Environmental Trust Agreement, on November 1, 2017, in which the State of New York (NYS) agreed to maintain and make publicly available all documentation and records:

- (i) submitted by it in support of each funding request; and
- (ii) supporting all expenditures of the Trust Fund by the State of New York, each until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust Agreement. These records will be made accessible to the public through the lead agency, New York State Department of Environmental Conservation (NYSDEC), website at: <http://www.dec.ny.gov/chemical/109784.html>

Documentation will be available to the public in an easy to access, publicly available webpage. Links to the documents will be contained in a table developed by the NYSDEC utilizing Appendix D-2 eligible mitigation action categories in chronological order based on DEC submission date to the Trustee. All expenditures made by the Trustee to designated NYS recipients will be formatted in a similar manner. DEC will update the webpage within 10 days of a funding request made to the Trustee, or receipt of a Trustee payment. All necessary or publicly available records associated with DEC funding requests and Trustee payments will be provided in adobe PDF format or equivalent as determined by the DEC website administrator.

The DEC website will make these records available to the public through a link on the NYSDEC main webpage. The NYSDEC VW Settlement site can also be easily located through a search engine result of entering "NYSDEC VW Settlement."

**Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).** VW funding, provided through NYTVIP, will fund a portion of the cost of an eligible, new replacement truck. The level of VW funding will depend on the NYS county of vehicle registration, vehicle type (e.g., fuel type, weight class), and/or availability of alternate funding sources (e.g., CMAQ).

A NYTVIP incentive schedule (e.g., table) will be established prior to the program launch and will be displayed on NYSERDA's public NYTVIP website. The vehicle-specific (by make/model) incentive amount will be based on, the lesser of either:

- i) a percentage of the new vehicle incremental cost, or
- ii) a weight class-based (i.e., Class 8) cap.

New vehicle incremental cost is defined as the cost difference between a new diesel truck and the equivalent eligible new, all-electric, or alternative fueled truck.

The outstanding balance of the new replacement vehicle after the NYTVIP incentive will be provided by the vehicle owner or lessee.



**Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).**

NYSDEC (lead agency) notified the U.S. Government agencies as prescribed in 5.2.9 via email on February 9, 2018. See attached Notice of Availability of Mitigation Action Funds.

**If applicable, describe how the mitigation action will mitigate the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions (5.2.10).**

New York State's Beneficiary Mitigation Plan, Clean Transportation NY, describes the overall goals of improving air quality and accelerating the transition to zero emission transportation through funding made available under the Volkswagen Trust. These air quality improvement goals include reducing nitrogen oxides (NOx), greenhouse gases, particulate matter, hydrocarbon, and mobile source air toxics emissions throughout the state. Funding those projects described in the Plan will result in significant NOx reductions while accelerating the transformation to a zero-tailpipe emission transportation system. Projects will be located throughout New York State, with a particular focus on communities and neighborhoods subject to a disproportionate amount of air pollution from diesel-powered vehicles and equipment. NYTVIP will conduct targeted outreach to fleets with trucks domiciled in, or operated near, DEC defined potential environmental justice areas and will report on the award of incentives for trucks in these areas.

This Class 8 truck replacement project will lower NOx emissions and improve local air quality by replacing older diesel powered, higher emitting Class 8 local freight trucks that frequent commercial and industrial areas. These replacement trucks are certified to much lower emission standards and will improve local air quality in communities that have historically borne a disproportioned share of the adverse impact of diesel exhaust emissions.



**ATTACHMENTS**  
**(CHECK BOX IF ATTACHED)**

- |                                     |              |  |
|-------------------------------------|--------------|--|
| <input checked="" type="checkbox"/> | Attachment A | Funding Request and Direction.   |
| <input checked="" type="checkbox"/> | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).   |
| <input checked="" type="checkbox"/> | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).   |
| <input checked="" type="checkbox"/> | Attachment D | Detailed cost estimates from selected or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6). [Attach only if project involves vendor expenditures exceeding \$25,000.] |
| <input type="checkbox"/>            | Attachment E | DERA Option (5.2.12). [Attach only if using DERA option.]  |
| <input type="checkbox"/>            | Attachment F | Attachment specifying amount of requested funding to be debited against each beneficiary's allocation (5.2.13). [Attach only if this is a joint application involving multiple beneficiaries.] |

**CERTIFICATIONS**

By submitting this application, the Lead Agency makes the following certifications:

1. This application is submitted on behalf of Beneficiary State of New York, and the person executing this certification has authority to make this certification on behalf of the Lead Agency and Beneficiary, pursuant to the Certification for Beneficiary Status filed with the Court.
2. Beneficiary requests and directs that the Trustee make the payments described in this application and Attachment A to this Form.
3. This application contains all information and certifications required by Paragraph 5.2 of the Trust Agreement, and the Trustee may rely on this application, Attachment A, and related certifications in making disbursements of trust funds for the aforementioned Project ID.
4. Any vendors were or will be selected in accordance with a jurisdiction's public contracting law as applicable. (5.2.5)
5. Beneficiary will maintain and make publicly available all documentation submitted in



support of this funding request and all records supporting all expenditures of eligible mitigation action funds subject to applicable laws governing the publication of confidential business information and personally identifiable information. (5.2.7.2)

DATED: 4 Oct 2019

  
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**Steven Flint, P.E.**  
**Division Director, Division of Air Resources**

New York State Department of Environmental Conservation

\_\_\_\_\_  
[LEAD AGENCY]

for  
State of New York

\_\_\_\_\_  
[BENEFICIARY]



**ATTACHMENTS B, C, D TO APPENDIX D-4**

**ATTACHMENT B TO APPENDIX D-4**

**Action Title: NYSERDA NYTVIP – Class 8 Truck Replacement**

**Eligible Mitigation Action Management Plan including Detailed Budget and Implementation and Expenditures Timeline. (5.2.4)**

**Implementation and Expenditures Milestones and Timeline**

<b>Milestone</b>	<b>Date</b>
DEC and NYSERDA sign Cooperative Agreement for VW Funding for truck replacement projects	07/18/19 (actual)
NYSERDA provides DEC with Project Budget Plan as required in Cooperative Agreement	08/08/19 (actual)
DEC submits Project Certification and Funding Direction to Trustee for 33.3% of Advance Funding available under this Cooperative Agreement	10/08/19 (actual)
Trustee Acknowledges Receipt of Project Certification and Funding Direction	10/11/19 (est)
Trustee allocates Advance Funding to NYSERDA	11/16/19 (est)
NYSERDA posts information and application material on NYSERDA NYTVIP website; NYSERDA provides outreach efforts to notify stakeholders of availability of funds	09/26/19 (actual)
Review of submitted applications begins	10/15/19 (est)
Initial notification of approved voucher applicants begins	10/22/19 (est)
Formal approval of approved voucher applicants begins	10/29/19 (est)
NYSERDA completes projects representing 25% of total funding available under this Cooperative Agreement and submits documentation to DEC	10/01/20 (est)
DEC submits Funding Direction to Trustee for additional 33.3% of Advance Funding available under this Cooperative Agreement	10/01/20 (est)
NYSERDA completes projects representing 50% of total funding available under this Cooperative Agreement and submits documentation to DEC	09/01/21 (est)
DEC submits Funding Direction to Trustee for remaining balance of Advance Funding available under this Cooperative Agreement	10/01/21 (est)
Deadline for completion of truck replacement projects	01/18/23 (est)
NYSERDA provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to DEC to support final project accounting	03/18/23 (est)
NYSERDA returns any unused funds to Trustee	04/6/24 (est)
NYSERDA certifies project completion	01/18/26
DEC reports project completion	03/15/26



## Project Budget

**(Mitigation Action Item #1)** - Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks). Large trucks eligible to be replaced include 1992-2009 engine model year Class 8 Local Freight or Drayage trucks.

Item #1 Incentive Costs: \$3,600,000

Item #1 Administrative Costs (Capped at 10%): \$360,000

Funding Method: Advance

Procurement Method: Voucher Incentive

DEC will direct VW Settlement funding to the NYSERDA NYTVIP truck replacement program in three equal advance payments at 1/3 of the total amount payable as project completion milestones are met. 1/3 of the funding will be available at the start of the truck replacement project, the next 1/3 of funding becomes available when 25% of the truck replacement projects are complete, and the final 1/3 of funding becomes available when 50% of the truck replacement projects are complete.

## Total Project Budget

Project	Truck Funding Amount	Administrative Costs	Total Project Cost
EMA 1: Class 8 Trucks	\$3,600,000	\$360,000	\$3,960,000

## Funding Milestones

Initial Advance Funding Amount	\$1,320,000
Second round of funding when 25% of projects completed	\$1,320,000
Third round of funding when 50% of projects completed	\$1,320,000
<b>Total Project Cost</b>	<b>\$3,960,000</b>



## ATTACHMENT C to APPENDIX D-4

### Action Title: NYSERDA NYTVIP – Class 8 Truck Replacement

#### Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11)

New York State Department of Environmental Conservation will meet the requirements of Appendix D to the Partial Consent Decree, section 5.3:

**5.3 Beneficiary Reporting Obligations:** *For each Eligible Mitigation Action, no later than six months after receiving its first disbursement of Trust Assets, and thereafter no later than January 1 and July 1 of each year, each Beneficiary shall serve upon the Trustee, a semiannual report describing the progress implementing each Eligible Mitigation Action during the six-month period leading up to the reporting date (including a summary of all costs expended on the Eligible Mitigation Action through the reporting date). Such reports shall include a complete description of the status (including actual or projected termination date), development, implementation, and any modification of each approved Eligible Mitigation Action.*

*Beneficiaries may group multiple Eligible Mitigation Actions and multiple sub-beneficiaries into a single report. These reports shall be signed by an official with the authority to submit the report for the Beneficiary and must contain an attestation that the information is true and correct and that the submission is made under penalty of perjury. To the extent a Beneficiary avails itself of the DERA Option described in Appendix D-2, that Beneficiary may submit its DERA Quarterly Programmatic Reports in satisfaction of its obligations under this subparagraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the Trust's public-facing website upon receipt.*

DEC will post its semiannual reports made to the Trustee on the public-facing website for New York's Volkswagen Settlement at <https://www.dec.ny.gov/chemical/109784.html>.



**ATTACHMENT D to APPENDIX D-4**

**Action Title: NYSERDA NYTVIP – Class 8 Truck Replacement**

**Detailed Costs Estimates from Selected Potential Vendors for Each Proposed Expenditure Exceeding \$25,000 (5.2.6)**

DEC will direct VW Trust funding to the NYSERDA NYTVIP truck replacement program in the form of advance payments for Class 8 Truck replacement project incentives. Cost estimates from selected trucks vendors will be part of the NYSERDA NYTVIP truck replacement program. Preliminary cost estimates for Class 8 trucks (all-electric, CNG/propane, hybrid, plug-in hybrid) are provided in the table below.

**Preliminary Class 8 Trucks Cost Estimates**

<b>Class 8 Truck Category</b>	<b>Number of Units</b>	<b>Cost Range per Unit</b>	<b>Total Cost Range</b>
All-Electric	45	\$20,000 to \$185,000	\$900,000 to \$3,600,000
CNG/Propane	10	\$40,000 to \$60,000	\$400,000 to \$600,000
Hybrid	10	\$30,000 to 55,000	\$300,000 to \$550,000
Plug-in Hybrid	5	\$60,000 to \$120,000	\$300,000 to \$600,000
		<b>Total Budget</b>	<b>\$3,600,000</b>



NOTICE OF AVAILABILITY OF MITIGATION ACTION FUNDS



# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Air Resources  
625 Broadway, Albany, New York 12233-3250  
P: (518) 402-8452 | F: (518) 402-9035  
www.dec.ny.gov

FEB - 9 2018

*Return Receipt Requested*

National Park Service  
Air Resources Division  
VW Settlement  
PO Box 25287  
Denver, CO 80225-0287

RE: Volkswagen Settlement (Case No. MDL 2672 CRB), Notice of Availability of Mitigation Action Funds

Dear Sir/Madam:

On November 1, 2017, New York State Governor Andrew Cuomo signed the Notice of Filing of Certification for Beneficiary Status Under the Environmental Mitigation Trust Agreement for the State of New York. Further, the New York State Department of Environmental Conservation was designated as the Lead Agency for purposes of the Beneficiary's participation in the Environmental Mitigation Trust and was delegated the authority to act on, behalf of, and legally bind the Beneficiary for purposes of the Trust.

On January 29, 2018, Wilmington Trust, N.A., as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the State Trust"), included the State of New York as a Designated Beneficiary under the State Trust.

In accordance with paragraph 4.2.8 of the Trust Agreement, "[each] Certifying Entity will provide a copy of the State Trust Agreement with Attachments to the U.S. Department of the Interior, the U.S. Department of Agriculture, and any other Federal Agency that has custody, control, or management of land within or contiguous to the territorial boundaries of the Certifying Entity and has by then notified the Certifying Entity of its interest hereunder, explaining that the Certifying Entity may request Eligible Mitigation Action funds for use on lands within that Federal Agency's custody, control, or management (including, but not limited to, Clean Air Act Class I and II areas), and setting forth the procedures by which the Certifying Entity will review, consider, and make a written determination upon each such request.

The New York State Department of Environmental Conservation (DEC) has not received notice from any federal agency regarding projects to be funded by the Volkswagen Environmental Mitigation Trust. As such, this letter is being sent to the designated United States Departments of the Interior and Agriculture contacts to fulfill



Department of  
Environmental  
Conservation



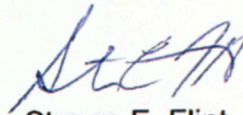
our reporting requirements listed under paragraph 4.2.8 of the Trust Agreement. Please find attached the required documentation:

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES (Document 51-1, Filed 10/02/17)

APPENDIX D-3, CERTIFICATION FOR BENEFICIARY STATUS UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT (New York State, 11/01/17)

If you should have any questions related to this notice, please contact Mr. James Clyne, P.E, Director, Bureau of mobile Sources and Technology development at (518) 402-8292.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Flint", is positioned above the printed name.

Steven E. Flint, P.E.  
Director, Division of Air Resources