

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 #CA11725
Eligible Mitigation Action Item 2.: Class 4-8 Transit Buses
Advance Funding Request #3

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

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)

Action Title:	NYSERDA NYTVIP EMA 2: Class 4-8 Transit Buses
Beneficiary's Project ID:	CA11725.MA12
Funding Request No.	<i>(sequential)</i> 3
Request Type: (select one or more)	<input type="checkbox"/> Reimbursement X Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary X Other (specify): <u>New York State Energy Research and Development Authority</u>
Funding Request & Direction (Attachment A)	X Attached to this Certification <input type="checkbox"/> To be Provided Separately

SUMMARY

<p>Eligible Mitigation Action Type Appendix D-2, Mitigation Action 2. Class 4-8 Transit Buses</p>
<p>Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1): VW funding will provide incentives to replace older diesel-powered transit buses with new, all-electric transit buses as stated in New York's Beneficiary Mitigation Plan (BMP). At least \$52.4 million in New York's allocation from the VW Mitigation Trust has been proposed for EMA 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses) replacement projects. See: https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf (pp. 1, 16, and 19.)</p>
<p>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): Transit bus replacement incentive funding made available through the NYSERDA New York Truck Voucher Incentive Program (NYTVIP) will replace older diesel powered transit buses that often operate in Potential Environmental Justice Areas. The new, all-electric Class 4-8 replacement transit buses will decrease NOx emissions and improved local air quality. Existing, older NYS-registered diesel-powered transit buses will be scrapped.</p>
<p>Estimate of Anticipated NOx Reductions (5.2.3): The projected vehicle lifetime NOx emission benefits from replacing an estimated 50 older diesel transit buses with new all-electric transit buses is estimated to be 63.5 tons. In addition, greenhouse gases will be reduced from these transit bus 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 transit bus. The level of VW funding will depend on the vehicle weight class.

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 transit bus and the equivalent eligible new, all-electric transit bus.

The outstanding balance of the new replacement transit bus 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 transit buses domiciled in, or operated near, DEC defined Potential Environmental Justice Areas and will report on the award of incentives for transit buses in these areas.

This Class 4-8 transit bus replacement project will lower NOx emissions and improve local air quality by replacing older diesel powered, higher emitting Class 4-8 transit buses that often operate in Potential Environmental Justice Areas. These replacement all-electric transit buses have zero tailpipe emissions and improve local air quality in communities that that have historically borne a disproportional share of the adverse impact of diesel exhaust emissions.

ATTACHMENTS
(CHECK BOX IF ATTACHED)

- Attachment A Funding Request and Direction.
- Attachment B Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4).
- Attachment C Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11).
- 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.]
- Attachment E DERA Option (5.2.12). [Attach only if using DERA option.]
- 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.]

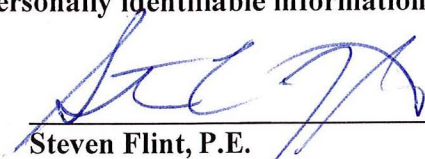
CERTIFICATIONS

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: 12/18/19



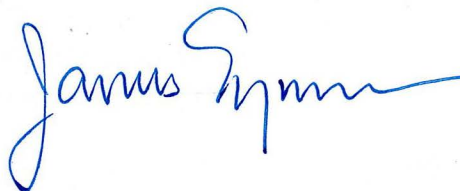
Steven Flint, P.E.
Division Director, Division of Air Resources
New York State Department of Environmental Conservation

[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 4-8 Transit Bus Replacement

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

Implementation and Expenditures Milestones and Timeline

Milestone	Date
DEC and NYSERDA sign Cooperative Agreement for VW Funding for transit bus replacement projects	12/12/2019
DEC provides NYSERDA with "Notice to Proceed"	CY 2020, Q1 (est)
NYSERDA provides DEC with Project Budget Plan as required in Cooperative Agreement	CY 2020, Q1 (est)
DEC submits Project Certification and Funding Direction to Trustee for 33.3% of Advance Funding available under this Cooperative Agreement	CY 2020, Q1 (est)
Trustee Acknowledges Receipt of Project Certification and Funding Direction	CY 2020, Q1 (est)
Trustee allocates Advance Funding to NYSERDA	CY 2020, Q1 (est)
NYSERDA posts information and application material on NYSERDA NYTVIP website; NYSERDA provides outreach efforts to notify stakeholders of availability of funds	CY 2020, Q1 (est)
Review of submitted applications begins	CY 2020, Q1 (est)
Initial notification of approved voucher applicants begins	CY 2020, Q1 (est)
Formal approval of approved voucher applicants begins	CY 2020, Q1 (est)
NYSERDA completes projects representing 25% of total funding available under this Cooperative Agreement and submits documentation to DEC	CY 2020, Q4 (est)
DEC submits Funding Direction to Trustee for additional 33.3% of Advance Funding available under this Cooperative Agreement	CY 2020, Q4 (est)
NYSERDA completes projects representing 50% of total funding available under this Cooperative Agreement and submits documentation to DEC	CY 2021, Q3 (est)
DEC submits Funding Direction to Trustee for remaining balance of Advance Funding available under this Cooperative Agreement	CY 2021, Q3 (est)
Deadline for completion of Transit Buses replacement projects	CY 2023, Q1 (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	CY 2023, Q1 (est)
NYSERDA returns any unused funds to Trustee	CY 2023, Q2 (est)
NYSERDA certifies project completion	CY 2026, Q1 (est)
DEC reports project completion	CY 2026, Q1 (est)

Project Budget

(Mitigation Action Item #1) - Class 4-8 Transit Buses. Class 4-8 transit buses eligible to be replaced include 1992-2009 engine model year Class 4-8 transit buses.

Item #1 Incentive Costs: \$16,680,000

Item #1 Administrative Costs (Capped at 10%): \$1,668,000

Funding Method: Advance

Procurement Method: Voucher Incentive

DEC will direct VW Settlement funding to the NYSERDA NYTVIP transit bus 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 transit bus replacement project, the next 1/3 of funding becomes available when 25% of the transit bus replacement projects are complete, and the final 1/3 of funding becomes available when 50% of the transit bus replacement projects are complete.

Total Project Budget

Project	Transit Bus Funding Amount	Administrative Costs	Total Project Cost
EMA 2: Class 4-8 Transit Buses	\$16,680,000	\$1,668,000	\$18,348,000

Funding Milestones

Initial Advance Funding Amount	\$6,116,000
Second round of funding when 25% of projects completed	\$6,116,000
Third round of funding when 50% of projects completed	\$6,116,000
Total Project Cost	\$18,348,000

ATTACHMENT C to APPENDIX D-4

Action Title: NYSERDA NYTVIP – Class 4-8 Transit Bus 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 4-8 Transit Bus 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 transit bus replacement program in the form of advance payments for Class 4-8 transit bus replacement project incentives. Cost estimates from selected transit bus vendors will be part of the NYSERDA NYTVIP transit bus replacement program. Preliminary cost estimates for all-electric Class 4-8 transit buses are provided in the table below.

Preliminary Class 4-8 Transit Bus Cost Estimates

Class 4 Transit Bus Category	Number of Units	Cost Range per Unit	Total Cost Range
All-Electric	3	\$80,000 to \$100,000	\$240,000 to \$300,000
		Total Budget	\$240,000 to \$300,000

Class 5 Transit Bus Category	Number of Units	Cost Range per Unit	Total Cost Range
All-Electric	3	\$100,000 to \$125,000	\$300,000 to \$375,000
		Total Budget	\$300,000 to \$375,000

Class 6 Transit Bus Category	Number of Units	Cost Range per Unit	Total Cost Range
All-Electric	3	\$125,000 to \$150,000	\$375,000 to \$450,000
		Total Budget	\$375,000 to \$450,000

Class 7 Transit Bus Category	Number of Units	Cost Range per Unit	Total Cost Range
All-Electric	3	\$200,000 to \$250,000	\$600,000 to \$750,000
		Total Budget	\$600,000 to \$750,000

Class 8 Transit Bus Category	Number of Units	Cost Range per Unit	Total Cost Range
All-Electric	38	\$300,000 to \$385,000	\$11,400,000 to \$14,630,000
		Total Budget	\$11,400,000 to \$14,630,000

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,



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