

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

State of New York
New York State Department of Environmental Conservation –
New York City Department of Transportation
Cooperative Agreement #CA11728
Eligible Mitigation Action Item 1.: Class 8 Local Freight Trucks and Port Drayage (Large Trucks)
Advance Funding Request #5

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:	NYC DOT: NYC CLEAN TRUCK PROGRAM EMA 1: Class 8 Local Freight
Beneficiary's Project ID:	CA11728.MAI1
Funding Request No.	<i>(sequential)</i> 5
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 City Department of Transportation</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 1. Class 8 Local Freight Trucks and Port Drayage (Large Trucks)</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 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 Trucks and Port Drayage (Large Trucks). See: https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf (pp. 1, 16, and 21.)</p>
<p>Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): Truck replacement incentive funding made available through the New York City Department of Transportation (NYCDOT) 'NYC CLEAN TRUCK PROGRAM' to 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>Estimate of Anticipated NOx Reductions (5.2.3): The projected 10-year vehicle lifetime NOx emission benefits from replacing an estimated 103 older diesel trucks with all-electric, diesel, CNG, and hybrid, is estimated to be 106 tons. In addition, greenhouse gases will be reduced from these truck replacement projects. The USEPA Diesel Emission Quantifier was used to estimate anticipated NOx reductions from this project. Final NOx emission reductions will be calculated based on projects completed under this mitigation action.</p>
<p>Please note: Anticipated NOx reductions are based on the Total Project Cost as detailed in Attachment B.</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 City Department of Transportation

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 the NYC DOT 'NYC CLEAN TRUCK PROGRAM', will fund a portion 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.

An incentive schedule (e.g., table) will be established prior to the program launch and will be displayed on NYCDOT's public 'NYC CLEAN TRUCK PROGRAM' website in combination with the NYSERDA NYTVIP truck replacement program public 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., Classes 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 NYCDOT 'NYC CLEAN TRUCK PROGRAM' 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. The NYCDOT 'NYC CLEAN TRUCK PROGRAM' 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 that have historically borne a disproportional share of the adverse impact of diesel exhaust emissions.

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

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.] |

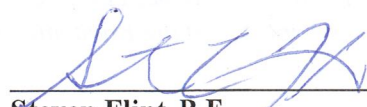
CERTIFICATIONS

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: 28 Feb 2020



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: NYCDOT 'NYC CLEAN TRUCK PROGRAM' – Class 8 Truck Replacements

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 NYCDOT sign Cooperative Agreement for VW Funding for truck replacement projects	02/26/2020 (actual)
DEC provides NYCDOT with "Notice to Proceed"	CY 2020, Q1 (est)
NYCDOT 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 NYCDOT	CY 2020, Q1 (est)
NYCDOT posts information and application material on NYCDOT 'NYC CLEAN TRUCK PROGRAM'; NYCDOT 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)
NYCDOT 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)
NYCDOT completes projects representing 50% of total funding available under this Cooperative Agreement and submits documentation to DEC	CY 2021, Q4 (est)
DEC submits Funding Direction to Trustee for remaining balance of Advance Funding available under this Cooperative Agreement	CY 2021, Q4 (est)
Deadline for completion of truck replacement projects	CY 2023, Q1 (est)
NYCDOT 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)
NYCDOT returns any unused funds to Trustee	CY 2023, Q2 (est)
NYCDOT certifies project completion	CY 2026, Q1 (est)
DEC reports project completion	CY 2026, Q1 (est)

Project Budget

(Mitigation Action Item #1) - Class 8 Local Freight Trucks and Port Drayage (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: \$5,250,000

Item #1 Administrative Costs (Capped at 10%): \$ 525,000

Funding Method: Advance

Procurement Method: Voucher Incentive

DEC will direct VW Settlement funding to the NYCDOT 'NYC CLEAN TRUCK 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	\$5,250,000	\$525,000	\$5,775,000

Funding Milestones

Initial Advance Funding Amount	\$1,925,000
Second round of funding when 25% of projects completed	\$1,925,000
Third round of funding when 50% of projects completed	\$1,925,000
Total Project Cost	\$5,775,000

ATTACHMENT C to APPENDIX D-4

Action Title: NYCDOT 'NYC CLEAN TRUCK PROGRAM' – Class 8 Truck Replacements

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>.

PROJECTED TRUST ALLOCATIONS: New York State

Project Name	Funding Request #	EMA #	Cooperative Agreement # *	Cumulative Approved Funding Requests	2020 Pending Funding Requests Undergoing WT Review	2020 Anticipated Additional Funding Requests	2021 Anticipated Funding Requests	2022 Anticipated Funding Requests	Total Project Allocations
NYSERDA Class 8 Trucks	1	1	CA11434	\$ 1,320,000.00			\$ 1,320,000.00	\$ 1,320,000.00	\$ 3,960,000.00
NYSERDA Class 4-7 Trucks	2	6	CA11434	\$ 1,760,000.00			\$ 1,760,000.00	\$ 1,760,000.00	\$ 5,280,000.00
NYSERDA Transit Buses	3	2	CA11725	\$ 6,116,000.00		\$ 6,116,000.00	\$ 6,116,000.00		\$ 18,348,000.00
NYCDOT Clean Truck Class 4-7	4	6	CA11728		\$ 1,358,500.00		\$ 1,358,500.00	\$ 1,358,500.00	\$ 4,075,500.00
NYCDOT Clean Truck Class 8	5	1	CA11728		\$ 1,925,000.00		\$ 1,925,000.00	\$ 1,925,000.00	\$ 5,775,000.00
NYPA Transit Bus EVSE	6	2	CA11699			\$ 2,000,000.00	\$ 2,000,000.00	\$ 2,000,000.00	\$ 6,000,000.00
NYSERDA Charge Ready NY- Light Duty EVSE		9	CA11863			\$ 5,500,000.00			\$ 5,500,000.00
NYSERDA School Bus		2	CA11813			\$ 4,400,000.00	\$ 4,400,000.00	\$ 4,400,000.00	\$ 13,200,000.00
Totals				\$ 9,196,000.00	\$ 3,283,500.00	\$ 18,016,000.00	\$ 18,879,500.00	\$ 12,763,500.00	\$ 62,138,500.00

Total Available New York VW Funding (with no accumulated interest added)	Remaining Balance of Available New York VW Trust after:					Total Remaining Balance not Allocated
	Balance After Approved Funding Requests	Balance After Pending Funding Requests	Balance After 2020 Anticipated Additional Funding Requests	Balance After 2021 Anticipated Funding Requests	Balance After 2022 Anticipated Funding Requests	
\$ 127,691,807.00	\$ 118,495,807.00	\$ 115,212,307.00	\$ 97,196,307.00	\$ 78,316,807.00	\$ 65,553,307.00	\$ 65,553,307.00

* Additional Cooperative Agreements for VW funded projects are under development

Check Sum \$127,691,807.00

ATTACHMENT D to APPENDIX D-4

Action Title: NYCDOT 'NYC CLEAN TRUCK PROGRAM' – Class 8 Truck Replacements

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 NYCDOT 'NYC CLEAN TRUCK 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 'NYC CLEAN TRUCK PROGRAM'. Preliminary cost estimates for Class 8 trucks (all-electric, diesel, CNG, hybrid) are provided in the table below.

Preliminary Class 8 Trucks Cost Estimates

Class 8 Truck Category	Number of Units	Cost per Unit	Total Cost
All-Electric	6	\$185,000	\$1,110,000
Diesel	54	\$30,000	\$1,620,000
CNG	31	\$60,000	\$1,860,000
Hybrid	12	\$55,000	\$660,000
		Total Budget	\$5,250,000