

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 #CA12061
Eligible Mitigation Action Item 4: Ferries/Tugs
Advance Funding Request #13

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 will be used to cover 40% of the estimated cost of these ferry engine replacement projects (equipment) and administrative costs. The remaining 60% of equipment costs will be the NYCDOT cost share.

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. NYCDOT shall coordinate a Community Outreach Plan to increase communities' awareness of this ferry engine replacement project, particularly in Disadvantaged Communities.

This ferry engine replacement project will lower NOx emissions and improve local air quality by replacing older unregulated diesel engines that terminate/operate in Disadvantaged Communities. These replacement ferry engines are EPA Tier 3 certified and have much lower emission standards and will improve local air quality emissions in Disadvantaged Communities that have disproportionately and historically borne the burden of harmful diesel 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.]

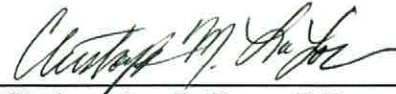
CERTIFICATIONS

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

1. This application is submitted on behalf of Beneficiary _____, 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: 09/01/2021



Christopher LaLone, P.E.
Division Director, Division of Air Resources

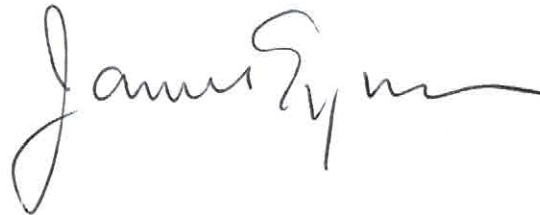
New York State Department of Environmental Conservation

[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 Staten Island Ferry Engine 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 provides Notice to Proceed	10/1/21 (est)
NYCDOT provides DEC with Project Budget Plan within 30 days of Notice to Proceed	Q4 2021 (est)
NYCDOT provides DEC with Draft Community Outreach Plans within 30 days of Notice to Proceed	Q4 2021 (est)
NYCDOT provides DEC with Program Scrappage Requirements within 30 days of the Notice to Proceed	Q4 2021 (est)
NYCDOT provides DEC with draft Ferry Engine Inventory template within 30 days of the Notice to Proceed	Q4 2021 (est)
NYCDOT provides DEC with First Advance Funding Request and Direction form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms within 30 days of Agreement Execution for up to \$1,100,000	Q3 2021 (est)
DEC submits Project Certification and Funding Direction to Trustee for the First Advance Funding available under this Cooperative Agreement	Q3 2021 (est)
Trustee allocates First Advance Funding request to NYCDOT	Q4 2021 (est)
NYCDOT provides DEC with Milestone Documentation using revised Schedules 2, 3, 4, and 6 to reflect actual, documented project expenditures representing no less than \$1,000,000.	Date
NYCDOT provides DEC with Second Advance Funding Request and Direction form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms for up to \$220,000	Date
DEC submits Project Certification and Funding Direction to Trustee for the Second Advance Funding available under this Cooperative Agreement	Date
Trustee allocates Second Advance Funding request to NYCDOT	Date
End of 40-month Incentive Period (from Notice to Proceed)	2/1/2025
NYCDOT provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to DEC to support final project accounting.	Q2 2025 (est)
NYCDOT returns any unused funds to Trustee	Q2 2025 (est)
NYCDOT certifies project completion, submits Final Report	Q3 2025 (est)
DEC reports project completion	Q3 2025 (est)

Project Budget

(Mitigation Action Item #4) – Ferries/Tugs. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.

Item #4 Incentive Costs: \$1,200,000

Item #4 Administrative Costs (Capped at 10%): \$120,000

Funding Method: Advance

Procurement Method: Cost Share -NYCDOT Procurement

DEC will direct VW Settlement funding to NYCDOT in two advance payments. The first advance funding request will be for up to \$1,100,000. The second advance funding request can be made once NYCDOT shows that no less than \$1,000,000 of the first advance funding has been spent. The second advance funding request will be for up to \$220,000.

Total Project Budget

Project	Ferry Engine Funding Amount	Administrative Costs	Total Project Cost
EMA 4: Ferries/Tugs	\$1,200,000	\$120,000	\$1,320,000

Funding Milestones

First Advance Funding Request	\$1,100,000
Second Advance Funding Request (After \$1,000,000 has been spent)	\$220,000
Total Project Cost	\$1,320,000

Project Name	Funding Request #	EMA #	Cooperative Agreement # *	Cumulative Approved Funding Requests	2021 Pending Funding Requests Undergoing WT Review	2021 Anticipated Additional Funding Requests	2022 Anticipated Funding Requests	2023 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					Transit Bus CA11725 1st Advance \$
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					NYPA Transit Bus EVSE CA11699 1st Advance \$
NYSERDA DCFC EVSE	7	9	CA11943	\$ 6,050,000.00		\$ 6,050,000.00			\$ 12,100,000.00
NYSERDA Charge Ready NY- Light Duty EVSE	8	9	CA11863	\$ 5,500,000.00					\$ 5,500,000.00
NYSERDA School Bus	9	2	CA11813	\$ 4,400,000.00		\$ 4,400,000.00	\$ 4,400,000.00		\$ 13,200,000.00
NYSERDA Transit Buses	10	2	CA11725	\$ 25,000,000.00		\$ 5,232,000.00			\$ 36,348,000.00
NYSERDA Cargo Handling	11	8	CA11912	\$ 990,000.00					\$ 990,000.00
NYPA Transit Bus EVSE	12	2	CA11699	\$ 7,456,000.00			\$ 2,000,000.00		\$ 11,456,000.00
SI Ferry Engine Replacements	13	4	CA12061		\$ 1,100,000.00		\$ 220,000.00		\$ 1,320,000.00
Totals				\$ 63,875,500.00	\$ 1,100,000.00	\$ 22,045,500.00	\$ 12,983,500.00	\$ -	\$ 100,004,500.00

ATTACHMENT C to APPENDIX D-4

Action Title: NYCDOT Staten Island Ferry Engine 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>.

ATTACHMENT D to APPENDIX D-4

Action Title: NYCDOT Staten Island Ferry Engine 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 NYCDOT the form of advance payments for ferry engine replacement project incentives. Preliminary cost estimates for ferry engine replacements are provided in the table below.

Preliminary Ferry Engine Replacement Cost Estimates

Ferry Engine Category	Number of Units	Cost per Unit	Total Cost
EPA Tier 3 Diesel	6	\$200,000	\$1,200,000
		Total Budget	\$1,200,000

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

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.E. Flint", is positioned above the printed name.

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