

APPENDIX D-4
Maine Beneficiary Eligible Mitigation Action Certification

State of Maine
DERA Option (EMA 9)
MaineDOT ID 23901.20
Advance Fund Request #19

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Maine

Lead Agency Authorized to Act on Behalf of the Beneficiary Maine Department of Transportation *(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: | Diesel Emission Reduction Act (DERA) Option |
| Beneficiary's Project ID: | 23901.20 |
| Funding Request No. | 19 |
| 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) | X Beneficiary <input type="checkbox"/> Other (specify): _____ |
| Funding Request & Direction (Attachment A) | X Attached to this Certification <input type="checkbox"/> To be Provided Separately |

SUMMARY

| |
|--|
| Eligible Mitigation Action <input type="checkbox"/> Appendix D-2 item (specify): _____ Action Type X Item 10 - DERA Option (5.2.12) (specify and attach DERA Proposal): |
| Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1): Increase funding for Maine's DERA program by using Environmental Mitigation Trust funds as voluntary match per Section V.9 of Maine's Beneficiary Mitigation Plan (BMP). |
| Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): See Maine BMP, Section VII |
| Estimate of Anticipated NOx Reductions (5.2.3): See Maine BMP, Section VII |
| 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): For DERA, Maine Department of Environmental Protection, Air Bureau, Mobile Sources Program |
| Describe how the Beneficiary will make documentation publicly available (5.2.7.2). As stated in Paragraph 7 of Maine's Appendix D-3 filing, the Beneficiary certifies that it will 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 Trust Funds by the Beneficiary, each until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust Agreement, unless the laws of the Beneficiary require a longer record retention period. Together herewith, the Beneficiary attaches an explanation of: (i) To satisfy the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public. MaineDOT has established a website (http://www.maine.gov/mdot/vw) to house state-specific documents, guidance, public comments, funding process descriptions, and web links to other sites for useful background information and resources related to the VW Environmental Mitigation Settlement; (ii) As part of Maine's Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the |

procedures by which public input will be solicited and considered included the solicitation of public comments via web notice and comment period on Maine's Beneficiary Mitigation Plan. Two public meetings were held in geographically diverse locations prior to closing of the comment period. Comments were and will continue to be considered through program implementation.

- (iii) Whether and the extent to which the certification in this Paragraph 7 is subject to the Beneficiary's applicable laws governing the publication of confidential business information and personally identifiable information. The certification in Paragraph 7 is subject to Maine's Freedom of Access Act (FOAA), 1 M.R.S. §§ 400-414, and other applicable Maine law. All documentation and records submitted by the State in support of each funding request and supporting all expenditures of Trust Funds by the State shall be accessible to the public unless an exception from disclosure under Maine law applies to the document or part thereof. For example, Maine's FOAA, 1 M.R.S. § 402(3), includes in the list of exceptions a general exception for records that have been designated confidential by statute. Any claims for confidentiality under this exception, other enumerated exceptions, or under other Maine law would be reviewed by the Maine Department of Transportation and legal counsel. Documents, or parts of documents, would be protected from disclosure only to the extent required by Maine law. The State has identified the following specific provisions potentially applicable to confidential business information and personally identifiable information.

The enumerated exceptions under Maine's FOAA include records that would be within the scope of a privilege against discovery or use as evidence recognized by Maine courts in civil or criminal trials if the records were sought during the course of a court proceeding. 1 M.R.S. § 402(3)(B). Maine Rule of Civil Procedure 26(c) provides that a trade secret or other confidential research, development, or commercial information may be the subject of a protective order by a court, when sought during discovery. Also, Rule 507 of the Maine Rules of Evidence contains a privilege to refuse to disclose, and prevent others from disclosing, a trade secret. The Maine Supreme Judicial Court has looked to the definition of "trade secret" in Maine's Uniform Trade Secrets Act, 10 M.R.S. § 1542(4), in interpreting "trade secret" claims for non-disclosure under FOAA. That definition includes information that "[d]erives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use" and "[i]s the subject of efforts that are reasonable under the circumstances to maintain its secrecy."

Maine's FOAA contains exceptions to disclosure for certain personally identifiable information such as social security numbers. 1 M.R.S. § 402(3)(N).

Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).

See attached DERA program description.

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

Lead agency contact emailed the State Trust Agreement to specified recipients on February 12, 2018.

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).

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 Maine, 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: 5/12/23



David Gardner
Director, Environmental Office

Maine Department of Transportation

[LEAD AGENCY]

for

State of Maine

[BENEFICIARY]

ATTACHMENT B
 Eligible Mitigation Action Management Plan

Project Schedule and Milestones (July 2019-June 2020)

| MILESTONE | DATE |
|---|----------------|
| Solicit and Approve new applications | 7/2022-4/2023 |
| Contracts developed | 7/2022-4/2023 |
| Post on web site http://www.maine.gov/dep/air/mobile/cleandiesel.html | 7/2022-4/2023 |
| Order engines/vehicles | 9/2022-10/2023 |
| Old engines scrapped | 4/2022-11/2023 |
| Reimbursement | 5/2022-9/2023 |

Project Budget (July 2018 – June 2019)

| BUDGET CATEGORY | TOTAL APPROVED BUDGET | SHARE TO BE FUNDED BY TRUST | COST SHARE |
|------------------------|-----------------------|-----------------------------|-------------|
| VW Expenditure on DERA | \$4,850,000 | \$1,000,000 | \$3,850,000 |
| Percentage | 100% | 20% | 80% |

Projected Trust Allocations

| | FY 2019 July 2018-June 2019 | FY 2020 | FY 2021-2028 |
|--|--------------------------------|--------------|--------------|
| 1. Anticipated Annual Project Funding Requests to be paid through Trust | \$6,300,000 | \$10,000,000 | \$3,253,064 |
| 2. Anticipated Annual Cost Share | \$3,504,600 | \$4,320,000 | \$5,855,515 |
| 3. Anticipated Total Project Funding by Year (line 1 plus line 2) | \$9,804,600 | \$14,320,000 | \$9,108,579 |
| 4. Cumulative Trustee Payments made to Date against Cumulative Approved Beneficiary Allocations | \$1,500,000 | 7,800,000 | \$17,800,000 |
| 5. Current Beneficiary Project Funding to be paid through the Trust (line 1) | \$6,300,000 | \$10,000,000 | \$3,253,064 |
| 6. Total Funding Allocated to Beneficiary, inclusive of current Action by Year (line 4 plus line 5) | \$7,800,000 | \$17,800,000 | \$21,053,051 |
| 7. Beneficiary Share of estimated Funds Remaining in Trust | \$19,553,064 | \$13,253,064 | - |
| 8. Net Beneficiary Funds Remaining in Trust, Net of Cumulative Beneficiary Funding Actions (line 7 minus line 5) | \$13,253,064 | \$3,253,064 | - |

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

Records of applications and selected projects will be made available on the Maine VW webpage: <http://www.maine.gov/mdot/vw/> and the DERA project website:

DERA Quarterly Reports

The Maine Department of Environmental Protection will continue to submit quarterly reports to the Environmental Protection Agency (EPA). Information regarding DERA can also be located at <http://www.maine.gov/dep/air/mobile/cleandiesel.html>

ATTACHMENT D
COST ESTIMATES and AWARDS


Detailed Cost Estimates from Selected or Potential Vendors for each Proposed expenditure exceeding \$25,000 (5.2.6)

The Maine Department of Environmental Protection leads the DERA program for the State of Maine. Project information, including costs estimates and awards can be found at <http://www.maine.gov/dep/air/mobile/cleandiesel.html>. The Maine DERA Work Plan is also included in Attachment E.

| TYPE | BASELINE COSTS | VW FUNDS | COST SHARE |
|--|----------------|-------------|-------------|
| Electric buses and charging infrastructure | \$4,850,000 | \$1,000,000 | \$3,850,000 |

Information can be located on the Maine VW webpage: <http://www.maine.gov/mdot/vw/>.

ATTACHMENT E
DERA OPTION

| | | | |
|---|---|--|--|
|  | U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement | GRANT NUMBER (FAIN): 00A00644 MODIFICATION NUMBER: 0 PROGRAM CODE: DS | DATE OF AWARD 08/25/2021 |
| | | TYPE OF ACTION New | MAILING DATE 09/01/2021 |
| | | PAYMENT METHOD: ASAP | ACH# 10102 |
| | | RECIPIENT TYPE: State | |
| RECIPIENT: Environmental Protection Maine Department of 28 Tyson Drive Augusta, ME 04333 EIN: 01-6000001 | | PAYEE: Maine DEP 28 Tyson Drive Augusta, ME 04333 | |
| PROJECT MANAGER LYNNE CAYTING 17 SHS 28 TYSON DRIVE AUGUSTA, ME 04333-0017 E-Mail: LYNNE.A.CAYTING@MAINE.GOV Phone: 207-287-7599 | | EPA PROJECT OFFICER Gary Rennie 5 Post Office Square, Suite 100 05-4 Boston, MA 02109-3912 E-Mail: Rennie.Gary@epa.gov Phone: 617-918-1525 | |
| EPA GRANT SPECIALIST Katonya Parker 5 Post Office Square, Suite 100 05-5 Boston, MA 02109-3912 E-Mail: Parker.katonya@epa.gov Phone: 617-918-1967 | | | |
| PROJECT TITLE AND DESCRIPTION FY 2021 Maine State Clean Diesel Program This agreement will provide assistance to the Maine Department of Environmental Protection in its efforts to reduce diesel emissions and exposure throughout the State of Maine. ME will institute a sub-grant program to provide funding for replacement or repowering of diesel vehicles and eligible equipment in their fleets. Priority will be given to marine vessel repower projects. Replacements could include electric, hybrid electric, CNG or propane powered vehicles as well as cleaner diesel vehicles or equipment. ME will also continue to support locomotive and port-related projects such as replacement, repower or retrofit of drayage trucks or port equipment, installing idle reduction technology on locomotive engines, upgrading or replacing marine engines and vessels or establishing shore power facilities. Technologies will reduce emissions of diesel particulate matter and other pollutants such as nitrogen oxides, carbon monoxide and hydrocarbons. | | | |
| BUDGET PERIOD 10/01/2021 - 09/30/2023 | PROJECT PERIOD 10/01/2021 - 09/30/2023 | TOTAL BUDGET PERIOD COST \$2,423,815.00 | TOTAL PROJECT PERIOD COST \$2,423,815.00 |
| NOTICE OF AWARD | | | |
| Based on your Application dated 05/19/2021 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$508,715.00. EPA agrees to cost-share <u>20.99%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$508,715.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments. | | | |
| ISSUING OFFICE (GRANTS MANAGEMENT OFFICE) | | AWARD APPROVAL OFFICE | |
| ORGANIZATION / ADDRESS EPA New England 5 Post Office Square, Suite 100 Boston, MA 02109-3912 | | ORGANIZATION / ADDRESS U.S. EPA, Region 1 R1 - Region 1 5 Post Office Square, Suite 100 Boston, MA 02109-3912 | |
| THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY | | | |
| Digital signature applied by EPA Award Official Arthur Johnson - Director of MSD | | | DATE 08/25/2021 |

EPA Funding Information

| FUNDS | FORMER AWARD | THIS ACTION | AMENDED TOTAL |
|-------------------------------|--------------|-------------|---------------|
| EPA Amount This Action | \$0 | \$508,715 | \$508,715 |
| EPA In-Kind Amount | \$0 | \$0 | \$0 |
| Unexpended Prior Year Balance | \$0 | \$0 | \$0 |
| Other Federal Funds | \$0 | \$0 | \$0 |
| Recipient Contribution | \$0 | \$0 | \$0 |
| State Contribution | \$0 | \$500,000 | \$500,000 |
| Local Contribution | \$0 | \$0 | \$0 |
| Other Contribution | \$0 | \$1,415,100 | \$1,415,100 |
| Allowable Project Cost | \$0 | \$2,423,815 | \$2,423,815 |

| Assistance Program (CFDA) | Statutory Authority | Regulatory Authority |
|---|--|-------------------------------------|
| 66.040 - Diesel Emissions Reduction Act (DERA) State Grants | Diesel Emission Reduction Act of 2010, codified at 42 U.S.C. 16133 | 2 CFR 200, 2 CFR 1500 and 40 CFR 33 |

| Fiscal | | | | | | | | | |
|-----------|------------|----|--------------|---------------------|--------|--------------|--------------|-------------------|---------------------------|
| Site Name | Req No | FY | Approp. Code | Budget Organization | PRC | Object Class | Site/Project | Cost Organization | Obligation / Deobligation |
| - | 21010CG044 | 21 | E4 | 01V2 | 000AH4 | 4123 | - | - | \$508,715 |
| | | | | | | | | | \$508,715 |

Budget Summary Page

| Table A - Object Class Category (Non-Construction) | Total Approved Allowable Budget Period Cost |
|--|--|
| 1. Personnel | \$34,230 |
| 2. Fringe Benefits | \$17,510 |
| 3. Travel | \$0 |
| 4. Equipment | \$0 |
| 5. Supplies | \$0 |
| 6. Contractual | \$2,000 |
| 7. Construction | \$0 |
| 8. Other | \$2,358,500 |
| 9. Total Direct Charges | \$2,412,240 |
| 10. Indirect Costs: 0.00 % Base null | \$11,575 |
| 11. Total (Share: Recipient <u>79.01</u> % Federal <u>20.99</u> %) | \$2,423,815 |
| 12. Total Approved Assistance Amount | \$508,715 |
| 13. Program Income | \$0 |
| 14. Total EPA Amount Awarded This Action | \$508,715 |
| 15. Total EPA Amount Awarded To Date | \$508,715 |

Administrative Conditions

National Administrative Terms and Conditions

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-november-12-2020-or-later>.

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: <https://www.epa.gov/grants/grant-terms-and-conditions#general>.

A. Correspondence Condition

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

- Federal Financial Reports (SF-425): rtpfc-grants@epa.gov
- MBE/WBE reports (EPA Form 5700-52A): **Grants Specialist on Page 1 of Award Document AND Larry Wells, Disadvantaged Business Utilization Program Manager: r1_mbewbereport@epa.gov**
- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: **Grants Specialist and Project Officer on Page 1 of Award Document**
- Workplan revisions, equipment lists, programmatic reports and deliverables: **Project Officer on Page 1 of Award Document**
- Quality Assurance documents, **Project Officer on Page 1 of Award Document AND R1QAPPs@epa.gov**

Programmatic Conditions

DERA FY2021 State Programmatic Terms and Conditions

A. Substantial Federal Involvement for Cooperative Agreements

EPA will provide substantial involvement in the form of technical assistance, development of outputs, and oversight. Specifically, substantial federal involvement will take the form of monitoring the recipient's project by EPA, participation and collaboration between EPA and the recipient in program content, review of project progress, and quantification and reporting of results.

B. Delays or Favorable Developments:

The recipient agrees that it will promptly notify the EPA Project Officer of any problems, delays, or adverse conditions which may materially impair its ability to deliver on the outputs/outcomes specified in the work plan. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation. Failure to make satisfactory progress achieving the timeline and/or milestones defined in the approved workplan may result in termination of the award. The recipient agrees that it will also notify the EPA Project Officer of any favorable developments which may enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more beneficial results than originally planned.

C. Final Approved Workplan and Modifications

Recipient agrees to carry out the project in accordance with the final approved workplan. Recipients are required to report deviations from budget or project scope or objective, and must request prior written approval from EPA for:

- any change in the scope or objective of the project or program (even if there is no associated budget revision requiring prior written approval);
- any change in a key person specified in the application or workplan;
- the disengagement from the project for more than three months, or a 25% reduction in time devoted to the project, by the approved project director or principal investigator;
- the inclusion of costs that require prior approval in accordance with 2 CFR Part 200 Subpart E—Cost Principles or 48 CFR part 31, "Contract Cost Principles and Procedures," as applicable;
- the transfer of funds budgeted for participant support costs as defined in 2 CFR Section 200.1 Definitions to other categories of expense;
- unless described in the final approved workplan and budget, the subawarding, transferring or contracting out of any work under the award;
- changes in the approved cost-sharing or matching provided by the recipient; or the need arises for additional Federal funds to complete the project.

Proposed modifications to the approved workplan or budget, including additions, deletions, or changes in the schedule, shall be submitted in a timely manner to the EPA Project Officer for approval. Depending on the type or scope of changes, a formal amendment to the award may be necessary. Major project modifications which include changes to the approved types and number of affected vehicles, engines, or equipment, or the approved types of emission reduction technologies to be implemented, or to the approved project location(s) may not be allowed.

D. Use of Funds Restrictions:

D.1. Federal Matching Funds: Recipient agrees that funds under this award cannot be used for matching funds for other federal grants unless expressly authorized by statute. Likewise, recipient may not use federal funds as cost-share funds for the DERA State Grant, including funds received under EPA's DERA National Grants program, DERA Tribal and Insular Area Grants, DERA School Bus Rebates, and federal Supplemental Environmental Project (SEP) funds.

D.2. Emissions Testing: Recipient agrees that funds under this award cannot be used for emissions testing and/or air monitoring activities (including the acquisition cost of emissions testing equipment), or research and development.

D.3. Fueling Infrastructure: Recipient agrees that funds under this award cannot be used for fueling infrastructure, such as that used for the production and/or distribution of biodiesel, compressed natural gas, liquefied natural gas, and or other cleaner fuels.

D.4. Leasing: Recipient agrees that all vehicles, engines, and equipment purchased with funds under this award will be purchased, in full, before the end of the project period. Extensions will not be granted for the purpose of extending payments on purchases.

D.5. Mandated Measures: Recipient agrees that funds under this award cannot be used for emissions reductions that are mandated under federal law. This refers to specific compliance dates within the mandate, not when the mandate is passed. Voluntary or elective emissions reductions measures shall not be considered "mandated", regardless of whether the reductions are included in the State Implementation Plan of a State.

D.6. Ownership, Usage and Remaining Life Requirements: Recipient agrees that funds under this award, including subawards/subgrants, cannot be used to upgrade engines, vehicles, and equipment that does not meet the following criteria:

D.6.1. The existing vehicle, engine, or equipment must be fully operational. Operational equipment must be able to start, move, and have all necessary parts to be operational.

D.6.2. The participating fleet owner must currently own and operate the existing vehicle or equipment and have owned and operated the vehicle during the two years prior to upgrade.

D.6.3. The existing vehicle, engine, or equipment must have at least three years of remaining life at the time of upgrade. Remaining life is the fleet owner's estimate of the number of years until the unit would have been retired from service if the unit were not being

upgraded or scrapped because of the grant funding. The remaining life estimate is the number of years of operation remaining even if the unit were to be rebuilt or sold to another fleet. The remaining life estimate depends on the current age and condition of the vehicle at the time of upgrade, as well as things like usage, maintenance and climate.

D.6.4. Highway Usage: The mileage of multiple units may be combined to reach the thresholds below where those units will be scrapped and replaced with a single unit.

D.6.4.1. School Buses: To be eligible for funding, the existing vehicle must have accumulated at least 7,000 miles/year during the two years prior to upgrade, or during calendar year 2019.

D.6.4.2. All Other Highway Engines: To be eligible for funding, the existing vehicle must have accumulated at least 7,000 miles/year during the two years prior to upgrade.

D.6.5. Nonroad, Locomotive and Marine Usage: The engine operating hours of multiple units may be combined to reach the thresholds below where those units will be scrapped and replaced with a single unit.

D.6.5.1. Agricultural Pumps: To be eligible for funding, agricultural pumps must operate at least 250 hours/year during the two years prior to upgrade.

D.6.5.2. All Other Nonroad Engines: To be eligible for funding, nonroad engines must operate at least 500 hours/year during the two years prior to upgrade.

D.6.5.3. Locomotive and Marine Usage: To be eligible for funding the existing locomotive and marine engines must operate at least 1,000 hours/year during the two years prior to upgrade.

D.7. Fleet Expansion: Recipient agrees that funds under this award, including subawards/subgrants, cannot be used for the purchase of vehicles, engines, or equipment to expand a fleet. Engine, vehicle, and equipment replacement projects are eligible for funding on the condition that the following criteria are satisfied:

D.7.1. The replacement vehicle/engine/equipment will continue to perform similar function and operation as the vehicle/engine/equipment that is being replaced.

D.7.2. The cost of optional components or "add-ons" that significantly increase the cost of the vehicle may not be eligible for funding under the grant; the replacement vehicle should resemble the replaced vehicle in form and function.

D.7.3. The replacement vehicle, engine, or equipment will be of similar type and similar gross vehicle weight rating or horsepower as the vehicle, engine, or equipment being replaced.

D.7.3.1. Nonroad, Locomotive, and Marine: Horsepower increases of more than 40 percent will require written approval by the EPA Project Officer prior to purchase, and the applicant may be required to pay the additional costs associated with the higher horsepower equipment.

D.7.3.2. Highway: The replacement vehicle must not be in a larger weight class than the existing vehicle (Class 5, 6, 7, or 8). Exceptions may be granted for vocational purposes and will require written approval by the EPA Project Officer prior to purchase.

D.7.4. The vehicle, equipment, and/or engine being replaced must be scrapped or rendered permanently disabled within ninety (90) days of being replaced.

D.7.4.1. If a 2010 engine model year (EMY) or newer highway vehicle is replaced, the 2010 EMY or newer vehicle may be retained or sold if the 2010 EMY or newer vehicle will replace a pre-2009 EMY vehicle, and the pre-2009 EMY vehicle will be scrapped. It is preferred that the scrapped unit currently operates within the same project location(s) as the 2010 EMY or newer vehicle currently operates, however alternative scenarios will be considered. The term "project location" refers to the primary area where the affected vehicles/engines operate. All existing and replacement vehicles are subject to the funding restrictions in this section. All equipment must operate within the United States. Under this scenario, a detailed scrappage plan must be submitted and will require prior EPA approval.

D.7.4.2. If a Tier 2, Tier 3 or Tier 4 locomotive, marine, or nonroad vehicle, equipment and/or engine is replaced, the units may be retained or sold if they will replace a similar, lower Tiered unit, and the lower Tiered unit will be scrapped. It is preferred that the scrapped unit currently operates within the same project location(s) as the original Tier 2 or 3 unit currently operates, however alternative scenarios will be considered. The term "project location" refers to the primary area where the affected vehicles/engines operate. All existing and replacement equipment are subject to the funding restrictions in this section. All equipment must operate within the United States. Under this scenario, a detailed scrappage plan must be submitted and will require prior EPA approval.

D.7.4.3. Cutting a three-inch by three-inch hole in the engine block (the part of the engine containing the cylinders) is the preferred scrapping method. Other scrappage methods may be considered and will require prior written approval from the EPA Project Officer.

D.7.4.4. Disabling the chassis may be completed by cutting through the frame/frame rails on each side at a point located between the front and rear axles. Other scrappage methods may be considered and will require prior written approval from the EPA Project Officer.

D.7.4.5. Evidence of appropriate disposal is required in a final assistance agreement report submitted to EPA as detailed in Term and Condition L.

D.7.4.6. Scrapped engines and equipment and vehicle components may be salvaged from the unit being replaced (e.g. plow blades, shovels, seats, tires, etc.). If scrapped or salvaged engines, vehicles, equipment, or parts are to be sold, program income requirements apply.

D.7.4.7. For tire replacement projects, the original tires should be scrapped according to local or state requirements, or the tires can be salvaged for reuse or retreading. If salvaged tires are sold, program income requirements apply.

D.8. Replacement Technologies: Recipient agrees that funds under this award cannot be used for the purchase of engine retrofits, idle reduction technologies, low rolling resistance

tires or advanced aerodynamic technologies if similar technologies have previously been installed on the truck or trailer.

D.9. Project Eligibility Criteria: Recipient agrees that funds under this award cannot be used to fund projects that do not meet the following eligibility criteria:

D.9.1 Medium and Heavy-Duty Truck, Transit Bus, and School Bus Project Eligibility

| Current Engine Model Year (EMY) | DOC +/- CCV | DPF | SCR | Verified Idle Reduction, Tires, or Aerodynamics | Vehicle or Engine Replacement: EMY 2019+ (2015+ for Drayage) | Vehicle or Engine Replacement: EMY 2019+ Zero Emission ² or Low-NOx ³ | Clean Alternative Conversion |
|---------------------------------|-------------|-----|-----|---|--|---|------------------------------|
| older - 2006 | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| 2007 - 2009 | No | No | Yes | Yes ¹ | Yes | Yes | Yes |
| 2010 - newer | No | No | No | Yes ¹ | No | Yes | Yes |

¹Auxiliary power units and generators are not eligible on vehicles with EMY 2007 or newer.

²Eligible fuel cell projects are limited to hydrogen fuel cell engine replacements for eligible urban transit buses, shuttle buses and drayage trucks, and hydrogen fuel cell engine replacements for eligible urban transit buses, shuttle buses, and drayage trucks.

³Please see the Low-NOx Engine Factsheet found at www.epa.gov/dera/state for guidance on identifying engines certified to meet CARB’s Optional Low NOx Standards.

D.9.2. Nonroad Engine Project Eligibility

| Current Engine Tier | Vehicle/Equipment Replacement | | | | | Verified Retrofit |
|----------------------|-------------------------------|------------------|----------------|--------|----------------------------|-------------------------|
| | Compression Ignition | | Spark Ignition | | Zero Emission ³ | |
| | Tier 0-2 | Tier 3-4 | Tier 4 | Tier 2 | | |
| Unregulated – Tier 2 | No | Yes ¹ | Yes | Yes | Yes | Yes |
| Tier 3 | No | No | Yes | Yes | Yes | Yes |
| Tier 4 | No | No | No | No | Yes | No |
| Current Engine Tier | Engine Replacement | | | | | Verified Engine Upgrade |
| | Compression Ignition | | Spark Ignition | | Zero Emission ⁴ | |
| | Tier 0-2 | Tier 3-4 | Tier 4 | Tier 2 | | |
| Unregulated – Tier 2 | No | Yes ² | Yes | Yes | Yes | Yes |

| | | | | | | |
|--------|----|----|-----|-----|-----|-----|
| Tier 3 | No | No | Yes | Yes | Yes | Yes |
| Tier 4 | No | No | No | No | Yes | No |

¹Tier 3 and Tier 4 interim (4i) allowed for vehicle/equipment replacement only when Tier 4 final is not yet available from OEM for 2021 model year equipment under the Transition Program for Equipment Manufacturers (TPEM).

²Tier 3 and Tier 4i engines may be used for engine replacement only if Tier 4 is demonstrated to not be available or feasible through a best achievable technology analysis as defined in Section E, below.

³Eligible fuel cell projects are limited to hydrogen fuel cell equipment replacements for eligible terminal tractors/yard hostlers, stationary generators, and forklifts.

4 Fuel cell engine replacement is not eligible.

D.9.3. Marine Engine Project Eligibility

| Engine Category | Engine Horse-power | Current Engine Tier | Engine & Vessel Replacement | | | | | Certified Re-manufacture System ³ | Verified Engine Upgrade |
|-----------------|--------------------|-----------------------|-----------------------------|------------------|--------|----------------|----------------------------|--|-------------------------|
| | | | Compression Ignition | | | Spark Ignition | Zero Emission ² | | |
| | | | Tier 1-2 | Tier 3 | Tier 4 | | | | |
| C1, C2 | <803 | Un-regulated – Tier 2 | No | Yes | No | Yes | Yes | Yes | |
| C1, C2 | 804 | Un-regulated – Tier 2 | No | Yes ¹ | Yes | Yes | Yes | Yes | |
| C1, C2 | <803 | Tier 3 | No | No | No | Yes | Yes | No | |
| C1, C2 | 804 | Tier 3 | No | No | Yes | Yes | Yes | No | |
| C1, C2 | 804 | Tier 4 | No | No | No | No | No | No | |
| C3 | All | Un-regulated – Tier 2 | No | Yes | No | No | No | No | |
| C3 | All | Tier 3 | No | No | No | No | No | No | |

¹Tier 3 engines may be used for engine replacement only if Tier 4 is demonstrated to not be available or feasible through a best achievable technology analysis as defined in Section E, below. Over 800 HP, Tier 3 engines are not eligible for full vessel replacement.

²Fuel cell engine and vessel replacements are not eligible.

³Some marine engine projects may be subject to the restriction on mandated measures.

D.9.4: Locomotive Engine Project Eligibility

| Current Locomotive Tier | Engine & Locomotive Replacement | | | | Verified Retrofit | Idle-Reduction ² Technology | Certified Remanufacture System 4 |
|-------------------------|---------------------------------|------------------|--------|----------------------------|-------------------|--|----------------------------------|
| | Tier 0-2+ | Tier 3 | Tier 4 | Zero Emission ¹ | | | |
| Unregulated - Tier 2+ | No | Yes ³ | Yes | Yes | Yes | Yes | Yes |
| Tier 3 | No | No | Yes | Yes | Yes | Yes | Yes |
| Tier 4 | No | No | No | No | No | Yes | No |

¹Fuel cell engine and locomotive replacements are not eligible.

²Automatic engine start-stop technologies are only eligible to be installed on locomotives currently certified to Tier 0 or unregulated, subject to the restriction on mandated measures.

³Tier 3 engines may be used for engine replacement only if Tier 4 is demonstrated to not be available or feasible through a best achievable technology analysis as defined in Section E., below. Tier 3 is not eligible for locomotive replacement.

4 Some locomotive engine projects may be subject to the restriction on mandated measures.

D.10. Marine Shore Connection: Recipient agrees that funds under this award cannot be used for marine shore connection system projects that are expected to be utilized less than 1,000 MW-hr/year.

D.11. Locomotive Shore Connection: Recipient agrees that funds under this award cannot be used for locomotive shore connection system projects that are expected to be utilized less than 1,000 hours per year.

D.12. Tires and Aerodynamics: Recipient agrees that funds under this award cannot be used to purchase aerodynamic technologies or low rolling resistance tires, unless they are combined on the same vehicle with a new installation of a verified engine retrofit funded under this award. Ineligible costs include aluminum wheels.

D.13. Battery Electric Powered Replacements: Recipient agrees that funds under this award cannot be used to purchase power distribution to the pedestal, electrical panels and their installation, upgrades to existing electrical panels or electrical service, transformers and their installation, wiring/conduit and its installation, electricity, operation and maintenance, stationary energy storage systems that power the equipment (e.g. batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

D.14. Grid Electric Powered Replacements: Recipient agrees that funds under this award cannot be used to purchase power distribution to the property line, electricity, operation and

maintenance, stationary energy storage systems that power the equipment (e.g. batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

D.15. Engine Replacements: Recipient agrees that funds under this award cannot be used to purchase cabs, tires, wheels, axles, paint, brakes, and mufflers.

D.16. Engine Remanufacture Systems: Recipient agrees that funds under this award cannot be used to purchase the entire cost of an engine rebuild if a certified remanufacture system is applied at the time of rebuild.

D.17. Electrified Parking Spaces: Recipient agrees that funds under this award cannot be used to purchase power distribution to the property line, electricity, operation and maintenance, stationary energy storage systems that power the equipment (e.g. batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

D.18. Locomotive Shore Power: Recipient agrees that funds under this award cannot be used to purchase power distribution to the property line, electricity, operation and maintenance, stationary energy storage systems that power the equipment (e.g. batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

D.19. Marine Shore Power: Recipient agrees that funds under this award cannot be used to purchase shipside modifications to accept shore-based electrical power, power distribution to the property line, electricity, operation and maintenance, stationary energy storage systems that power the equipment (e.g. batteries) and their installation, and on-site power generation systems that power the equipment (e.g., solar and wind power generation equipment) and their installation.

D.20. Expense Cap: Recipient agrees that no more than 15 percent of the recipient's total project costs may be used to cover personnel, fringe benefits, and travel. Total project costs include the federal share as well as any cost-share provided by the state.

E. Best Achievable Technology:

All new nonroad and locomotive engines are now manufactured to meet the EPA Tier 4 standards. All new Category 1 and 2, 804 horsepower and above marine engines are now manufactured to meet the EPA Tier 4 standards. Recipients replacing these nonroad, marine, and locomotive engines are expected to use Tier 4 engines if Tier 4 engines with the appropriate physical and performance characteristics are available. Recipients are required to submit a best achievable technology (BAT) analysis to EPA for approval before Tier 3 or Tier 4i engines can be purchased. Recipients should consult their EPA Project Officer for BAT requirements and approval.

F. Drayage Vehicle Replacement Project Requirements:

In addition to the applicable requirements for highway vehicles described in D above,

recipients replacing drayage vehicles are required to establish and document guidelines to ensure that the scrapped vehicle has a history of operating on a frequent basis over the prior year as a drayage truck, defined as any Class 8a and 8b in-use on-road vehicle with a gross weight rating (GVWR) of greater than 33,000 pounds operating on or transgressing through port or intermodal rail yard property for the purpose of loading, unloading or transporting cargo, such as containerized, bulk or break-bulk goods.

G. Emissions Control Technologies:

Emissions Reduction Projects funded by the recipient pursuant to this assistance agreement must use verified technologies and/or must use engines and engine configurations certified by EPA and, if applicable, CARB. Technologies are verified under EPA or California's Retrofit Technology Verification Programs. See the following lists for eligible technologies:

G.1. EPA verified engine retrofit technologies and engine upgrade technologies:

www.epa.gov/verified-diesel-tech/verified-technologies-list-clean-diesel

G.2. California Air Resources Board (CARB) verified engine retrofit technologies:

www.arb.ca.gov/diesel/verdev/vt/cvt.htm

G.3. EPA verified idle reduction technologies: www.epa.gov/verified-diesel-tech/idling-reduction-technologies-irts-trucks-and-school-buses

G.4. EPA verified aerodynamic technologies: www.epa.gov/verified-diesel-tech/aerodynamic-devices

G.5. EPA verified low rolling resistance tires: www.epa.gov/verified-diesel-tech/low-rolling-resistance-lrr-new-and-retread-tires

G.6. EPA certified engines and certified remanufacture systems for locomotives and marine engines: www.epa.gov/compliance-and-fuel-economy-data/engine-certification-data

G.7. EPA Certified Conversion Systems for New Vehicles and Engines and compliant Conversion Systems for Intermediate-Age Vehicles and Engines: www.epa.gov/vehicle-and-engine-certification/lists-epa-compliant-alternative-fuel-conversion-systems

G.8. CARB Approved Alternate Fuel Retrofit Systems:

www.arb.ca.gov/msprog/aftermkt/altfuel/altfuel.htm

Any question as to the eligibility or preference of a retrofit technology, including vehicle/engine/equipment replacements, should be directed to the EPA Project Officer.

H. Program Income:

Program income as defined at 2 CFR §200.1 means gross income received by the grantee or subrecipient that is directly generated by a grant supported activity or earned as a result of the Federal award during the period of performance. Under DERA grants, program income is generally limited to the sale of scrapped or remanufactured engines/chassis or salvaged engine/vehicle/equipment components and does not include revenue generated by

recipients or subrecipients through the commercial use of vehicles and equipment purchased with grant funds. "Period of performance" is the time between the start and end dates of the period of performance as included in the Federal award.

Program income earned during the project period shall be retained by the recipient and, in accordance with 2 CFR §200.307 recipient is authorized to use program income to meet the cost-sharing or matching requirement of the Federal award, including any mandatory or voluntary cost-share. The amount of the Federal award remains the same. The recipient will maintain records adequate to document the extent to which transactions generate program income and the disposition of program income. The recipient must provide as part of its final performance report, a description of how program income is being used. Further, a report on the amount of program income earned during the award period must be submitted with the final Federal Financial Report, Standard Form 425.

I. Equipment Use, Management, and Disposition

These equipment use, management, and disposition instructions are applicable to assistance agreement recipients and subrecipients acquiring equipment under this award. State agencies may use, manage and dispose of equipment acquired a Federal award by the state in accordance with state laws and procedures.

Recipient agrees the equipment acquired under this assistance agreement will be subject to the use and management and disposition regulations at 2 CFR §200.313.

Equipment is defined as tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of \$5,000, or the capitalization level established by the non-Federal entity for financial statement purposes (see Capital assets at 2 CFR §200.1 Definitions). Certified or verified technologies, vehicles, engines and nonroad equipment are considered to be equipment to the extent they fall within this definition.

Recipient agrees that at the end of the project period the recipient will continue to use the equipment purchased under this assistance agreement in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award. When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property. Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.

J. Procurement Procedures:

The recipient must follow applicable procurement procedures. EPA will not be a party to these transactions. When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds as provided by 2 CFR §200.317. The state will comply with 2 CFR §200.323 Procurement of Recovered Materials, and ensure that every purchase order or other

contract includes any clauses required by 2 CFR §200.327 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow 2 CFR §§200.318 General Procurement Standards through 200.327 Contract Provisions.

K. Quarterly Reporting and Environmental Results

Quarterly progress reports will be required. Quarterly reports will address the progress made achieving the work plan activities and objectives, including:

- procurements, installations and scrappage;
- milestones;
- outputs and outcomes including any project sustainability commitments;
- summary of quarterly and cumulative expenditures;
- up to date fleet description and efforts should be made to track, measure and report the actual vehicle miles traveled, hours of use/operation, and fuel use for all vehicles and equipment involved in the project;
- signed eligibility statements, signed scrappage statements, and BAT analysis submitted to EPA for approval;
- accounting of personnel hours billed to the grant;

A template for the quarterly report is available at: www.epa.gov/dera/state. Quarterly reports are due according to the following schedule. If a due date falls on a weekend or holiday, the report will be due on the next business day.

April 1 – June 30 Reporting Period: report due date July 30

July 1 – September 30 Reporting Period: report due date October 30

October 1 – December 31 Reporting Period: report due date January 30

January 1 – March 31 Reporting Period: report due date April 30

If a project start date falls within a defined reporting period the recipient must report for that period by the given due date. This quarterly reporting schedule shall be repeated for the duration of the award agreement.

K.1. Subaward Reporting Requirement:

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy, which may be found at: <https://epa.gov/grants/epa-subaward-policy>. If applicable, the recipient must report on its subaward monitoring activities under 2 CFR 200.332(d).

Examples of items that must be reported if the pass-through entity has the information available are:

K.1.1. Summaries of results of reviews of financial and programmatic reports.

K.1.2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.

K.1.3. Environmental results the subrecipient achieved.

K.1.4. Summaries of audit findings and related pass-through entity management decisions.

K.1.5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.332(e), 2 CFR 200.208 and the 2 CFR 200.339 Remedies for Noncompliance.

L. Final Report:

The final project report will include all categories of information required for quarterly reporting, including a final, detailed fleet description. The final project report will also include a narrative summary of the project or activity, the successes and lessons learned for the entire project. project results including specific outputs and outcomes detailed in the project workplan (including any sustainability commitments), and final emissions benefit calculations. To the extent possible, final emission benefit calculations should be based on the actual number and type of technologies, vehicles, equipment and engines implemented under the award and actual vehicle miles traveled, idling and/or operating hours, and fuel use. If actual vehicle miles traveled, idling and/or operating hours, and fuel use are not available, the final report will include a detailed explanation of how these values are derived, as well as any assumptions or default values used, for the purposes of emissions benefit calculations. The final report will also detail the methodologies used for the emission benefit calculation.

The recipient must provide in the final report signed eligibility statements from participating fleet owners in which fleet owners attest to the criterion in term and condition D.6., and which include each vehicle make, model, year, vehicle identification number, odometer/usage meter reading, engine make, model, year, horsepower, engine ID or serial number, and vehicle/equipment registration/licensing number and state. A sample eligibility statement may be found at www.epa.gov/dera/state.

For projects involving vehicle/engine/equipment replacements the recipient must provide in the final report evidence of appropriate scrappage. Participating fleet owners must attest to the appropriate disposal in a signed scrappage statement. A sample scrappage statement may be found at <https://www.epa.gov/dera/national>. The scrappage statement must include: Vehicle owner's name and address; Vehicle make, vehicle model, vehicle model year, VIN, odometer reading or usage meter reading, engine make, engine model, engine model year, engine horsepower, engine ID or serial number, as applicable; Name, address, and signature of dismantler; Date engine and/or vehicle/equipment was scrapped; Statement attesting to scrappage of vehicle/engine as defined above; Signature of participating fleet owner. Digital photos as follows: Side profile of the vehicle, prior to disabling; VIN tag or

equipment serial number; Engine label (showing serial number, engine family number, and engine model year); Engine block, prior to hole; Engine block, after hole; Cut frame rails or other cut structural components, as applicable; Others, as needed.

For projects that take place in an area affected by, or includes vehicles, engines or equipment affected by federal law mandating emissions reductions, the recipient must provide in the final report evidence that emission reductions funded with EPA funds were implemented prior to the effective date of the mandate and/or are in excess of (above and beyond) those required by the applicable mandate.

The final report shall be submitted to the EPA Project Officer within 120 days after the project period end date or termination of the assistance agreement. A template for the final report is available at www.epa.gov/dera/state.

L.1. Subaward Reporting Requirement:

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy, which may be found at: <https://epa.gov/grants/epa-subaward-policy>. If applicable, the recipient must report on its subaward monitoring activities under 2 CFR 200.332(d). Examples of items that must be reported if the pass-through entity has the information available are:

L.1.1. Summaries of results of reviews of financial and programmatic reports.

L.1.2. Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.

L.1.3. Environmental results the subrecipient achieved.

L.1.4. Summaries of audit findings and related pass-through entity management decisions.

L.1.5. Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.332(e), 2 CFR 200.208 and the 2 CFR 200.339 Remedies for Noncompliance.

M. Employee and/or Contractor Selection:

EPA will not help select employees or contractors hired by the recipient.

N. Cybersecurity Condition

State Grant Cybersecurity

N.1. The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

N.2. EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are

secure. For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition. If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by EPA's regulatory programs for the submission of reporting and/or compliance data.

N.3. The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in N.2. if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and EPA.

O. For-Profit Sub-Recipients:

In addition to the EPA General Term and Condition "Establishing and Managing Subawards", the recipient (i.e. "pass-through entity") agrees to require that for-profit subrecipients comply with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) and the Federal cost principles applicable to for-profit entities located at 48 CFR Part 31, with the exception of the method of payment to for-profit subrecipients must be "reimbursement" rather than "advance". Pass-through entities must obtain documentation that the for-profit subrecipient has incurred eligible and allowable costs prior to releasing EPA funds to the subrecipient.

P. Mandatory Cost-Share Requirement:

Any voluntary matching funds provided by the state to qualify for the matching incentive are included in the "EPA funds + Voluntary Match including VW Trust" described below. Mandatory cost-share funds provided by the state and/or eligible third parties cannot count towards the state's voluntary matching funds to qualify for the matching incentive. However, if a state requires a third-party cost-share contribution above and beyond the mandatory cost-share amount for the elected technology, then the "excess" cost-share may be applied towards the state voluntary match funds for the purpose of qualifying for the matching incentive.

Volkswagen Environmental Mitigation Trust Funds cannot be used to fund any mandatory cost-share.

This award and the resulting federal funding share (as shown under "Notice of Award" in the award document) is based on estimated costs requested in the recipient's final approved workplan. While actual total costs may differ than those estimates, the recipient is required to provide no less than the cost-share percentages outlined below, as applicable, of the final equipment costs. EPA's participation shall not exceed the total amount of federal funds awarded or the maximum federal cost-share percentages outlined below, as applicable, of the final equipment costs. Recipients must satisfy any applicable cost share requirements with allowable costs as set forth in 2 CFR §200.306. The cost share requirements are as follows:

| Eligible Technologies | EPA Funding Limit | Maximum Cost |
|--|--|---------------------------|
| Drayage Truck Replacement | 50% | 50% |
| Vehicle or Equipment Replacement with EPA Certified Engine | 25% | 75% |
| Vehicle or Equipment Replacement with CARB Certified Low NOx Engine | 35% | 65% |
| Vehicle or Equipment Replacement with Zero-tailpipe Emission Power Source | 45% | 55% |
| Engine Replacement with EPA Certified Engine | 40% | 60% |
| Engine Replacement with CARB Certified Low NOx Engine | 50% | 50% |
| Engine Replacement with Zero-tailpipe Emission Power Source | 60% | 40% |
| EPA Certified Remanufacture Systems | 100% | 0% |
| EPA Verified Highway Idle Reduction Technologies when combined with new or previously installed exhaust after-treatment retrofit | 100% | 0% |
| EPA Verified Highway Idle Reduction Technologies without new exhaust after-treatment retrofit | 25% | 75% |
| EPA Verified Locomotive Idle Reduction Technologies | 40% | 60% |
| EPA Verified Marine Shore Connection Systems | 25% | 75% |
| EPA Verified Electrified Parking Space Technologies | 30% | 70% |
| EPA Verified Exhaust After-treatment Retrofits | 100% | 0% |
| EPA Verified Engine Upgrade Retrofits | 100% | 0% |
| EPA Verified Hybrid Retrofit Systems | 60% | 40% |
| EPA Verified Fuel and Additive Retrofits when combined with new retrofit, upgrade, or replacement | Cost differential between conventional diesel fuel | Cost conversion to diesel |

| | | |
|--|------|-----|
| EPA Verified Aerodynamics and Low Rolling Resistance Tires when combined with new exhaust after-treatment retrofit | 100% | 0% |
| Alternative Fuel Conversion | 40% | 60% |

The eligible acquisition cost for equipment means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in transit insurance and freight may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices.

Q. Rebates:

Rebates, subsidies, and similar one-time, lump-sum payments to program beneficiaries for the purchase of eligible emissions control technologies and vehicle replacements are eligible participant support costs under this award. Engine replacements, marine and locomotive shorepower projects, and most electrified parking space technology projects are not eligible as participant support costs. Rebates can only fund a participating fleet owner's equipment purchase and installation costs (i.e. parts and labor, including costs incurred to scrap the existing vehicle); if a participating fleet owner requires funding for project administration, travel, extensive design/engineering, construction, etc., in order to carry out the project a subaward is the more appropriate option. Questions regarding the use of rebates under this award should be directed to the EPA Project Officer. Rebates are not considered subawards/subgrants as defined in 2 CFR Part 200 and should not be treated as such under this award.

Program beneficiaries may be individual owner/operators or private or public fleet owners, however program beneficiaries cannot be employees, contractors or subrecipients of the DERA grant recipient. Rebates cannot exceed the applicable EPA cost share limits as defined in the terms of this award agreement. Participant support costs for rebates must be supported by guidelines issued by the recipient and approved by EPA's Award Official or Grants Management Officer, defining the rules, restrictions, timelines, programmatic requirements, reporting and transaction documentation requirements, eligibility, and funding levels that rebate beneficiaries must follow. Additionally, there must be written agreement between recipient or subrecipient and the program beneficiary that:

- Describes the activities that will be supported by rebates, subsidies or other payments;
- Specifies the amount of the rebate, subsidy or payment;
- Identifies which party will have title to equipment (if any) purchased with a rebate or subsidy; and
- Establishes source documentation requirements to ensure proper accounting of EPA funds.
- Specifies any reporting required by the beneficiary.

EPA Guidance on Participant Support Costs (<https://www.epa.gov/grants/rain-2018-g05-r1>)

specifies requirements for rebate program approval by Authorized EPA Officials. EPA's Award Official or Grants Management Officer must approve participant support costs on the basis of either a precise description of the participant support costs in the EPA approved budget and work plan, or on a transaction-by-transaction basis. Should a DERA recipient decide to award participant support costs that were not described in the approved work plan and budget the recipient must obtain prior written approval from EPA's Award Official or Grants Management Officer. Moreover, after a grant is awarded, should a recipient decide to modify the amount approved (upwards or downwards) for participant support costs, prior written approval from EPA's Award Official or Grants Management Officer is also required.

T. Public Notification:

Not later than 60 days after the date of the award of a subaward, rebate, or loan by a State, the State shall publish on the website of the State:

- T.1. For subawards, rebates, and loans provided to the owner of a diesel vehicle or fleet, the total number and dollar amount of subawards, rebates, or loans provided, as well as a breakdown of the technologies funded through the subawards, rebates, or loans; and
- T.2. For other subawards, rebates, and loans, a description of each application for which the subaward, rebate, or loan is provided.