

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

State of New York  
New York State Department of Environmental Conservation –  
New York State Energy Research and Development Authority  
Cooperative Agreement #CA11912  
Eligible Mitigation Action Item 8: Forklifts and Port Cargo Handling Equipment  
Advance Funding Request #11

## BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

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Beneficiary: State of New York

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

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

<b>Action Title:</b>	NYSERDA NYTVIP – EMA 8: Forklifts and Port Cargo Handling Equipment
<b>Beneficiary's Project ID:</b>	CA11912.MA18
<b>Funding Request No.</b>	<i>(sequential)</i> 11
<b>Request Type:</b> (select one or more)	<input type="checkbox"/> Reimbursement <span style="float: right;"><input checked="" type="checkbox"/> Advance</span> <input type="checkbox"/> Other (specify): _____
<b>Payment to be made to:</b> (select one or more)	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>New York State Energy Research and Development Authority</u>
<b>Funding Request &amp; Direction (Attachment A)</b>	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

### SUMMARY

**Eligible Mitigation Action Type** Appendix D-2, Mitigation Action 8. Forklifts and Port Cargo Handling Equipment.

**Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1):** VW funding will provide incentives to replace older diesel-powered cargo handling equipment with new, electric cargo handling equipment as stated in New York's Beneficiary Mitigation Plan (BMP). Up to \$1 million in New York's allocation from the VW Mitigation Trust has been proposed for EMA 8: Forklifts and Port Cargo Handling Equipment. See: [https://www.dec.ny.gov/docs/air\\_pdf/vwcleantransportplan19.pdf](https://www.dec.ny.gov/docs/air_pdf/vwcleantransportplan19.pdf) (pp. 1, 16, and 22.)

**Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):** Cargo handling equipment replacement incentive funding will be made available through the New York State Energy Research and Development Authority (NYSERDA) 'New York Truck Voucher Incentive Program (NYTVIP)' to replace older cargo handling equipment that often operate near Disadvantaged Communities. The new cargo handling equipment will be all-electric and result in significant decreases in NOx emissions and improved local air quality. Existing, older diesel-powered cargo handling equipment will be scrapped.

**Estimate of Anticipated NOx Reductions (5.2.3):** The projected 10-year vehicle lifetime NOx emission benefits from replacing an estimated 4 older diesel-powered cargo handling equipment with all-electric cargo handling equipment is estimated to be 54 tons. In addition, greenhouse gases will be reduced from these projects. The EPA DEQ was used to estimate anticipated NOx reductions from this project. Final NOx emission reductions will be calculated based on the actual port cargo handling equipment projects completed under this mitigation action.

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

New York State Energy Research and Development Authority

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

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

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

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

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

**Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).** VW funding, provided through the NYSERDA 'NYTVIP', will fund a portion of the cost of an eligible, new or repowered cargo handling equipment. The level of VW funding will depend on the vehicle type (e.g., new or repowered).

An incentive schedule (e.g., table) has been established and is displayed on NYSERDA 'NYTVIP' vehicle 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 or repowered vehicle incremental cost, or
- ii) new or repowered vehicle funding cap.

New vehicle incremental cost is defined as the cost difference between a new electric cargo handling equipment and the equivalent eligible new diesel cargo handling equipment. Repowered vehicle incremental cost is defined as the cost difference between a repowered electric cargo handling equipment and the equivalent eligible new diesel cargo handling equipment. The outstanding balance of the new replacement vehicle after the NYSERDA 'NYTVIP' incentive will be provided by the vehicle owner or lessee.

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

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

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

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

This cargo handling equipment replacement project will lower NOx emissions and improve local air quality by replacing older diesel powered, higher emitting cargo handling equipment that operates near residential areas. These replacement pieces of cargo handling equipment are all-electric and will improve local air quality in communities that that have historically borne a disproportional share of the adverse impact of diesel exhaust emissions.

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

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

**CERTIFICATIONS**

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

1. This application is submitted on behalf of Beneficiary \_\_\_\_\_, 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: 03/02/2021



Chris 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: NYSERDA 'NYTVIP' – Cargo Handling Equipment

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

#### Implementation and Expenditures Milestones and Timeline

Milestone	Date
DEC and NYSERDA sign Cooperative Agreement to VW funding for cargo handling equipment replacement projects	2/25/2021
DEC provides Notice to Proceed	CY 2021, Q1
NYSERDA provides DEC with Program Scrappage Requirements within 30 days of the Notice to Proceed	CY 2021, Q1
NYSERDA provides DEC with draft Vehicle Inventory within 30 days of the Notice to Proceed	CY 2021, Q1
NYSERDA provides DEC with Advance Funding Request and Direction form, Schedule 2, Project Management Plan, and Schedule 3, Payment Request Forms	CY 2021, Q1
DEC submits Project Certification and Funding Direction to Trustee for Advance Funding available under this Cooperative Agreement	CY 2021, Q1
Trustee Acknowledges Receipt of Project Certification and Funding Direction	CY 2021, Q1
Trustee allocates Advance Funding to NYSERDA	CY 2021, Q2 (est)
NYSERDA posts Voucher Application material on NYSERDA NYT-VIP website	CY 2021, Q2 (est)
Review of submitted applications begins	CY 2021, Q3 (est)
End of Incentive Period for Cargo Replacement Projects (from Notice to Proceed)	CY 2024, Q3 (est)
NYSERDA provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to DEC to support final project accounting.	CY 2024, Q3 (est)
NYSERDA returns any unused funds to Trustee	CY 2024, Q3 (est)
NYSERDA certifies project completion	CY 2024, Q3 (est)
DEC reports project completion	CY 2024, Q3 (est)

#### Project Budget

**(Mitigation Action Item #8)** – Forklifts and Port Cargo Handling Equipment . Cargo handling equipment eligible to be replaced include cargo handling equipment powered by Tier 0 and Tier 1 diesel engines.

Item #2 Incentive Costs: \$900,000

Item #2 Administrative Costs (Capped at 10%): \$90,000

Funding Method: Advance

Procurement Method: Voucher Incentive

DEC will direct VW Settlement funding to the NYSERDA 'NYTVIP' in one advance payment payable as project completion milestones are met.

**Total Project Budget**

<b>Project</b>	<b>Equipment Funding Amount</b>	<b>Administrative Costs</b>	<b>Total Project Cost</b>
EMA 8: Cargo Handling Equipment	\$900,000	\$90,000	\$990,000

**Funding Milestones**

Advance Funding Amount	\$990,000
<b>Total Project Cost</b>	<b>\$990,000</b>



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		\$ 5,232,000.00			\$ 11,348,000.00
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 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				\$ 25,000,000.00
NYSERDA Cargo Handling	11	8	CA11912		\$ 990,000.00				\$ 990,000.00
Totals				\$ 30,429,500.00	\$ 25,990,000.00	\$ 24,045,500.00	\$ 12,763,500.00	\$ -	\$ 93,228,500.00

## ATTACHMENT C to APPENDIX D-4

### Action Title: NYSERDA 'NYTVIP' – Cargo Handling Equipment 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: NYSERDA 'NYTVIP' – Cargo Handling Equipment 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 NYSERDA 'NYTVIP' in the form of one advance payment for cargo handling equipment replacement project incentives. Cost estimates from selected cargo handling equipment vendors will be part of the 'NYTVIP'. Preliminary incentive estimates for electric cargo handling equipment are provided in the table below.

**Preliminary Cargo Handling Equipment Incentives Estimates**

<b>Cargo Handling Equipment Category</b>	<b>Number of Units</b>	<b>Incentives per Unit</b>	<b>Total Incentives</b>
Electric	4 - 6	\$140,000 - \$170,000	\$900,000
		<b>Total Budget w/ Admin Costs</b>	<b>\$990,000</b>

# NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Air Resources

625 Broadway, Albany, New York 12233-3250

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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. Flint", is positioned above the printed name.

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