

Volkswagen Diesel Emission Settlement

New Hampshire Semi-Annual Report

July 1, 2020 – December 31, 2020

New Hampshire Office of Strategic Initiatives

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Background

On January 4, 2016, the United States and the State of California filed a complaint against several Volkswagen companies, referred to herein as Volkswagen, alleging violations of the Clean Air Act with regard to approximately 580,000 model years 2009 to 2015 2.0 and 3.0-liter diesel engines. The complaint alleged that the vehicles contained “defeat devices” in the form of computer software, designed to cheat on federal emissions tests, enabling the vehicles to emit levels of oxides of nitrogen (NOx) as high as forty times the federal standard without detection by the vehicle’s On Board Diagnostic system, a system that numerous states, including New Hampshire, rely upon to detect and require repairs on vehicles exceeding federal emission standards. On October 2, 2017, the Department of Justice and Volkswagen signed a \$15 billion settlement, a portion of which – \$2.9 billion – will be held by the Mitigation Trust referenced above and shared among the U.S. states and tribes, based on the number of violating vehicles registered in each. New Hampshire’s share is \$30,914,841.09.

New Hampshire’s Beneficiary Mitigation [Plan](#) presents the goals, available funding, funding priorities and anticipated benefits from the state’s use of the Environmental Mitigation Trust funding. The state plans to utilize its funding allocation in the following manner:

1. Approximately \$15.5 million (50 percent) of New Hampshire’s allocation will be used to replace state and municipal vehicles and equipment under Eligible Mitigation Actions 1, 2, 6, and 10.
2. Approximately \$4.6 million (15 percent) of New Hampshire’s allocation will be used for the acquisition, installation, operation and maintenance of electric vehicle supply equipment (EVSE) as allowed under Eligible Mitigation Action 9.
3. Approximately \$6.2 million (20 percent) of New Hampshire’s allocation will be available to all entities, public and private, through a competitive solicitation for projects in Eligible Mitigation Actions 1, 2, 6, 7 and 10.
4. No more than \$4.6 million (15 percent) of New Hampshire’s allocation will be utilized for administrative costs.

The following sections of this report summarize progress implementing Eligible Mitigation Actions in the manner described above.

New Hampshire Department of Transportation Vehicle Replacement Project

On January 9, 2019, New Hampshire's Governor & Executive Council (G&C) approved a Memorandum of Agreement (MOA) between the Office of Strategic Initiatives (NHOSI) and Department of Transportation (NHDOT) in the amount of \$6,182,968 to utilize funding from the NH's Beneficiary Mitigation Trust to partially fund the replacement of NHDOT diesel vehicles. Specifically, the project involves replacement of nine extra heavy duty 10-wheeled trucks and 21 heavy duty six-wheeled trucks. The project was funded from the state and municipal vehicles and equipment replacement program described above.

On April 18, 2018, NHOSI submitted Beneficiary Eligible Mitigation Action Certification "NOSI-19-01" to the Trustee. The payments requested in NHOSI-19-01 included \$3,208,347 for the NHDOT vehicle replacements and administrative funds for NHOSI and the Department of Environmental Services (NHDES) in the amounts of \$4,265 and \$17,958, respectively. The disbursement of these funds was completed by the Trustee on June 24, 2019.

For the reporting period from July 1, 2020 to December 31, 2020, NHDOT put 28 heavy vehicles into service and 30 trucks were transferred to a vendor for decommissioning. The truck decommissioning schedule was impacted by the COVID-19 pandemic.

NHDES State Clean Diesel Program funded by EPA's Diesel Emission Reduction Act (DERA)

DERA grants are awarded annually by EPA to NHDES to fund New Hampshire's State Clean Diesel Program. Funds from NH's Beneficiary Mitigation Trust are utilized as non-federal match for the Program to secure a 50 percent federal bonus. On October 31, 2018, the New Hampshire Governor & Executive Council approved a Memorandum of Agreement between NHOSI and NHDES in the amount of \$500,350 to utilize NH's Beneficiary Mitigation Trust funds as non-federal match for New Hampshire's federal fiscal year (FFY) 2018 and 2019 DERA grants.

New Hampshire's State Clean Diesel Program is a competitive sub-grant program. The program targets replacement of publicly-owned and private vehicles and equipment, favoring projects where the vehicles/equipment operate in highly populated areas, in areas with sensitive receptor groups such as schools or hospitals, in areas that receive a disproportionate quantity of air pollution from diesel fleets, and/or in areas that are near non-attainment for other pollutants such as particulate matter.

Funds from the approximately \$15.5 million allocation earmarked for replacement of state and municipal vehicles and equipment in New Hampshire's Beneficiary Mitigation Plan, and from the approximately \$6.2

million earmarked for public and private vehicle and equipment replacement, are used to fund the State Clean Diesel Program under Eligible Mitigation Action 10.

During the previous reporting period, NHOSI submitted Beneficiary Eligible Mitigation Action Certification “NOSI-19-02” to the Trustee. The payments requested in NHOSI-19-01 included \$500,350 to NHDES for the State Clean Diesel Program and \$425 in administrative funds for NHOSI. The disbursement of these funds was completed by the Trustee on June 27, 2019.

During this reporting period, work continued on developing the FFY 2019 New Hampshire State Clean Diesel Program Plan, which started on October 1, 2019. The total budget for the FFY 2019 Program is \$791,068, which includes \$316,427 in VW Trust matching funds. Federal fiscal year 2020 funds were added to this contract, increasing the total funding to \$1,615,011, including \$646,004 in VW Trust matching fund. During this reporting period, two rounds of project solicitations were completed and four contracts with successful sub-grantees were implemented utilizing the FFY 2019 federal funds and VW match. Additionally, work also began on a first round of project solicitations using FFY 2020 funds.

Included in this semi-annual report is a copy of the quarterly DERA reports submitted to EPA by NHDES for the reporting period from July 1, 2020 to September 30, 2020.

New Hampshire State Agency Vehicle Replacement Projects

On January 22, 2020, the New Hampshire Governor & Executive Council approved MOAs between the Office of Strategic Initiatives and the New Hampshire Departments of Corrections and Safety and New Hampshire Fish & Game that will utilize approximately \$1,158,900 in funding from NH’s Beneficiary Mitigation Trust to partially fund the purchase and replacement of existing diesel vehicles. These projects are funded from the approximately \$15.5 million of the state’s allocation for replacement of state and municipal vehicles and equipment under Eligible Mitigation Action 1.

On May 7, 2020, a fourth MOA for replacement of state diesel vehicles was approved by the New Hampshire Governor & Executive Council. This MOA, between the Office of Strategic Initiatives and NHDES, will utilize a total of approximately \$184,000 in funding from NH’s Beneficiary Mitigation Trust.

All four of the state vehicle replacement projects are currently in progress. During this reporting period, New Hampshire Fish & Game took possession of six vehicles and initiated the process of decommissioning six vehicles. New Hampshire Fish & Game also requested the addition of a second phase to their vehicle replacement project. NHDES and the New Hampshire Department of Corrections and Safety are currently

monitoring use of eight existing vehicles in order to estimate emissions reductions attributable to these vehicles.

Manchester Transit Authority School Bus Replacement Project

On February 5, 2020, the New Hampshire Governor & Executive Council approved an agreement between the Office of Strategic Initiatives and the Manchester Transit Authority (MTA) to utilize approximately \$750,000 in funding from NH's Beneficiary Mitigation Trust to partially fund the purchase and replacement of fourteen diesel school buses with propane school buses. This project is funded from the approximately \$15.5 million of the state's allocation for replacement of state and municipal vehicles and equipment under Eligible Mitigation Action 1.

MTA took possession of the final nine school buses and put all fourteen school buses into regular service in September 2020. They report that, since being put into service, the school buses have traveled approximately 19,000 miles.

On March 16, 2020, NHOSI submitted Beneficiary Eligible Mitigation Action Certification "NOSI-20-01" to the Trustee. The payments requested in NHOSI-20-01 include \$750,000 for the MTA school bus replacements and administrative funds for NHOSI and NHDES in the amounts of \$4,816 and \$6,491, respectively.