

Date: October 5, 2023

To:

	Name	Division/Section	Initial	Date
1.	Rachel Sakata	AQ Transportation Strategies Manager	<u>RS</u> RS	10/10/2023
2.	Melinda Mahoney	AQ Budget Policy Analyst	<u>MM</u> MM	10/10/2023
3.	Holly Subia	AQ Fiscal Analyst	<u>HS</u> HS	10/10/2023
4.	Ali Mirzakhali	AQ Division Administrator	<u>AM</u> AM	10/10/2023
5.	Brian Boling	CSD Administrator	<i>BB</i>	10/10/2023
6.	Gerik Kransky – for submittal	AQ Planner	<u>GK</u> GK	10/10/2023

From: Rhett Lawrence, Air Quality Program Analyst

Subject: Oregon DEQ's eleventh funding request for VW Settlement funds

This is a funding request from Oregon DEQ to the Wilmington Trust for a disbursement of \$7,662,565 in VW settlement funds. Once received, DEQ will spend the funding to reduce emissions from older heavy-duty (Class 8) trucks through the purchase of new, low emission diesel and electric trucks. Funding will be allocated to Airport Drayage Co., Bark Blowers Inc., MTR Western, Pride Disposal Company, Star Oilco, and WinCo Foods for projects included in their successful grant applications. This work is ongoing, pursuant to the requirements of ORS 468A.805. Feel free to reach out to 503-880-9146 or rhett.lawrence@deq.oregon.gov with questions.

Brian, please review and sign at your earliest convenience.

Thank you for your consideration.





APPENDIX D-4

Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Oregon

Lead Agency Authorized to Act on Behalf of the Beneficiary Oregon Department of Environmental Quality
 (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:	Class 8 Heavy Duty Trucks (Eligible Class 8 Trucks)
Beneficiary's Project ID:	Diesel Emissions Mitigation competitive grant cycle 3
Funding Request No.	11
Request Type: (select one or more)	<input type="checkbox"/> Reimbursement <input checked="" type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input checked="" type="checkbox"/> Beneficiary <input type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input checked="" type="checkbox"/> Attached to this Certification <input type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action <input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Heavy Duty Trucks EMA 1</u> Action Type <input type="checkbox"/> 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): <p>The state of Oregon in Environmental Mitigation Plan posted in November 2021 identified environmental priorities for the state that mitigation actions prescribed in Appendix D-2 can address, including air quality, public health and climate change. The plan, and associated administrative rulemaking in Chapter 340, Division 255 of Oregon Administrative Rules, specifically outline the protocol for selection of diesel equipment replacement or emission upgrades to protect the health of vulnerable populations, improve air quality, and mitigate climate forcers. This funding request is part of an overall program outlined in the Mitigation Plan. This request will support an estimated 12 months of activity in what is expected to be a five year program to provide grant funding to address diesel equipment across the state, primarily by old equipment and replacing them with lower emission vehicles.</p>
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): <p>Grant applicants will be offered the opportunity to receive funding to scrap and replace older diesel equipment or, use the DERA Option to install diesel particulate filters. The order in which applicants are selected is based on criteria established in OAR 340-255-0060. DEQ expects to provide about one fifth of remaining funding per year from 2021 through 2025 in order to manage administrative costs and to provide certainty for fleet managers applying for funding in the future. We anticipate the grant program will draw an estimated \$40 million from the</p>

Oregon allocation under Appendix D, or the remainder of the total available after administrative expenses and the completion of at least 450 school bus projects.

The focus of the expanded Diesel Emissions Mitigation Grant Program is on supporting diesel equipment owners and operators in complying with new regulations on in-use diesel engines in the Portland Metro Area. Medium and heavy-duty diesel truck owners in this area are now subject to phase out deadline after which they can no longer register their equipment. Grant funds for replacement and retrofits are being prioritized for these businesses, individuals, and organizations. Also, the program is designed to reduce impacts among vulnerable populations of the health effects from diesel exhaust exposure.

DEQ anticipates simultaneous reductions in NOx, particulate and air toxic emissions to be on the order of 80 to 90 percent depending upon the engine size, category and age. As noted earlier, DEQ anticipates public health and environmental benefits over the wide range of impacts associated with exposure to exhaust from legacy diesel engines. DEQ anticipates that most of the replacement vehicles and equipment will result in improved fuel economy from advances in engine technology. As a result, climate change benefits are realized from reductions in pollutants like carbon dioxide and black carbon.

Estimate of Anticipated NOx Reductions (5.2.3):

We anticipate the majority of actions will involve vehicle replacement, which will result in emission reductions in NOx, PM and other harmful pollutants. The new equipment can be powered by late model diesel, propane, natural gas or electricity with the choice dependent upon the grant applicant's needs and desires. The estimated emission reductions are based on proposed projects at the time of submission of this request. DEQ expects to make minor adjustments based on equipment availability, cost, and supply chain changes as needed. Any alternative fuel equipment that are purchased can be expected to result in additional reductions in one or more of the pollutants shown here.

NOx: 31 Short Tons

PM2.5: 1.72 Short Tons

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):

Oregon Department of Environmental Quality

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

The Oregon Department of Environmental Quality (DEQ), as the lead agency for the state of Oregon implementing the Environmental Mitigation Plan, has established a webpage on the VW Settlement and mitigation actions, <http://www.oregon.gov/deq/aq/programs/pages/vw-diesel-settlement.aspx>. DEQ is subject to Oregon Public Records and Public Meetings Laws, Oregon Revised Statutes (ORS) chapter 192. These laws and accompanying guidance prepared by the Oregon Attorney General outline best practice for public access to records and exemptions in the case of confidential business information and personally identifiable information meeting exemption criteria. To the limited extent information is submitted to DEQ that meets exemption criteria under the Public Records Law, DEQ will maintain that information as confidential.

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

Environmental Mitigation Funds will provide the maximum reimbursement allowed under this Eligible Mitigation Action based on the individual applicants and project types. Recipients provide the balance. If a recipient chooses to install diesel particulate filters, to be managed under Option 10 – DERA (5.2.12), costs to purchase and install are reimbursed up to 100 percent.

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

On February 5, 2018, DEQ provided notice, via email, of availability of Mitigation Action Funds to the parties named in 4.2.8 as well as the Bonneville Power Administration, the Federal Bureau of Prisons - Sheridan, the United States Coast Guard Pacific Area and the Army Corps of Engineers. DEQ also mailed the same notice to the Bend Field Office of the U.S. Bureau of Reclamation and the Oregon office of the U.S. Bureau of Land Management. The notice included a summary description of the Volkswagen legal issue including links to Appendix D-2, a listing of Eligible Mitigation Actions and instructions on how to sign up for notification about implementation steps, fund availability and application protocols for the program in Oregon.

Additionally, DEQ accepted public comment on the proposed grant program rulemaking from Sept. 30, 2020, until 4 p.m. on Oct. 22, 2020. DEQ provided notice of the proposed rulemaking and rulemaking hearing by Filing notice with the Oregon Secretary of State for publication in the October 2020 Oregon Bulletin; Notifying the EPA by mail; Posting the Notice, Invitation to Comment and Draft Rules on the web page for this rulemaking, located at:

<https://www.oregon.gov/deq/Regulations/rulemaking/Pages/Rvwgrants2020.aspx>

DEQ mailed approximately 17,473 interested parties on the following DEQ lists through GovDelivery and posted on the DEQ event calendar: <https://www.oregon.gov/deq/Get-Involved/Pages/Calendar.aspx>

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).

DEQ has completed analyses of exposure to toxic air contaminants including diesel emissions showing a disproportionate impact to communities of color and low income. This disproportionate impact comes from the operation of thousands of vehicles. This program recognizes the air contaminants and effects on climate produced by diesel engines. Used as grants to upgrade diesel equipment, the program will address health and environmental impacts from diesel emissions. Targeted use of the funds will help Oregon meet the following goals and address some of the challenges to improving air quality for vulnerable populations.

For the purposes of this program, vulnerable population means

- people under the age of 14 and over the age of 64;
- Black, Indigenous, and people of color;
- people with a household income that is less than or equal to twice the federal poverty level;
- people who are linguistically isolated; and
- people age 25 or older who have not earned a high school diploma or passed a General Educational Equivalent test.

As a part of the grant application process DEQ requests that applicants identify the primary address where their diesel equipment is based. Using this address, and other location information as needed, DEQ applies a vulnerable population score of 1-5 for the emissions reduction benefits of a proposed project among vulnerable populations based on the project's ability to reduce diesel emissions in areas with the highest diesel emissions, vulnerable populations, and population density. Proposals with higher scores are more likely to receive funding and alleviate disproportionate burdens accordingly.

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 Oregon,
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: 10/10/2023



Brian Boling
DEQ Central Services Division Administrator

Oregon Department of Environmental Quality

for

State of Oregon

ATTACHMENT B

Eligible Mitigation Action Management Plan Including Details Budget and Implementation and Expenditures Timeline

PROJECT MANAGEMENT PLAN

PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Grant Program Opens for Applications:	4/3/23
Grant Program Closes for Applications:	7/6/23
Grant Awards Announced:	10/16/23
Funding for Projects Becomes Available:	1/15/24
Grant Agreements Signed:	2/1/24– 3/1/24
Recipients Complete Procurement and Submit Purchase Orders:	Start + 12 to 24 Months
Recipients Submit Evidence of Scrapping, Invoices, and Other Documents Required for Reimbursement:	Start + 12 to 24 Months
DEQ Reviews, Requests Corrections if Necessary. Certifies Project Completion, Provides Reimbursement:	Start + 12 to 24 Months
DEQ Reports to Trustee on Status of and Expenditures within Mitigation Actions Completed and Underway	January 30 and July 30, ongoing

PROJECT BUDGET

Period of Performance: _____				
Budget Category	Total Approved Budget	Share of Total Budget to be Funded by the Trust	Cost-Share, if applicable (Entity #1)	Cost-Share, if applicable (Entity #2)
1. Equipment Expenditure	\$12,013,056	\$6,663,100	\$5,349,956	\$
2. Contractor Support <i>(Provide List of Approved Contractors as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$

3. Subrecipient Support <i>(Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)</i>	\$	\$	\$	\$
4. Administrative ¹	\$999,465	\$999,465	\$	\$
Project Totals		\$7,662,565	\$	\$
Percentage	%	%	%	%

¹ Subject to Appendix D-2 15% administrative cap.

PROJECTED TRUST ALLOCATIONS

	2023	2024	2025	2026	2027	2028
1. Anticipated Annual Project Funding Request to be paid through the Trust ¹	\$9,479,428.78	\$9.55	\$9.55	\$3.1	TBD	TBD
2. Anticipated Annual Cost Share ²	\$6,329,538.73	\$6.92	\$6.92	\$2.24		
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$15,808,967.51	\$16.47	\$16.47	\$5.34		
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$42,280,127.00	\$50.77	\$60.32	\$69.87		
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$9,479,428.78	\$9.55	\$9.55	\$3.1		
6. Total Funding Allocated to Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$51,759,555.78	\$60.32	\$69.87	\$72.97		
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$30,619,873	\$22.2	\$12.65	\$3.1		
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Actions (line 7 minus line 5)	\$21,140,444.22	\$12.65	\$3.1	\$0		

¹ includes three separate mitigation actions (funding requests 11, 12, and 13).

² based on average cost share of all projects for the current round (42%). Individual mitigation cost shares range from 0% to 75%, and can change significantly from round to round, depending on individual projects submitted within each round.

Signature: *Rachel SAKATA*

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Signature: *Melinda Mahoney*

Melinda Mahoney (Oct 10, 2023 14:53 PDT)

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