

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary State of Texas

Lead Agency Authorized to Act on Behalf of the Beneficiary Texas Commission on Environmental Quality (TCEQ)
(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:	Texas Volkswagen Environmental Mitigation Program (TxVEMP) Projects to Repower Ferries/Tugs
Beneficiary's Project ID:	TX11
Funding Request No.	(sequential) Ferries/Tugs Sub.001
Request Type: (select one or more)	<input checked="" type="checkbox"/> Reimbursement <input type="checkbox"/> Advance <input type="checkbox"/> Other (specify): _____
Payment to be made to: (select one or more)	<input type="checkbox"/> Beneficiary <input checked="" type="checkbox"/> Other (specify): <u>Vendors and Lead Agency</u>
Funding Request & Direction (Attachment A)	<input type="checkbox"/> Attached to this Certification <input checked="" type="checkbox"/> To be Provided Separately

SUMMARY

Eligible Mitigation Action	<input checked="" type="checkbox"/> Appendix D-2 item (specify): <u>Ferries/Tugs</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): TCEQ requests \$7,048,529.05 in funds for projects to repower ferries and tugs. See attachment for more information.	
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2): Many ferries and tugs operate in the coastal waterways in or near the Priority Areas where monitored ozone exceeds the National Ambient Air Quality Standards (NAAQS) limits. Funding for this category will reduce the emissions of pollutants in these areas and will directly address the program goals. See attachment for more information.	
Estimate of Anticipated NOx Reductions (5.2.3): Anticipated emissions reductions will depend on the type of vessels being repowered and specifications of engines being replaced. Emissions reductions will be assessed on a per-project basis.	
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): TCEQ	
Describe how the Beneficiary will make documentation publicly available (5.2.7.2). See attachment for more information.	
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8). See attachment for more information.	
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9). In accordance with Section 4.2.8 of the State Trust Agreement, TCEQ provided notice via email to the U.S. Department of Interior and U.S. Department of Agriculture of the opportunity to request Volkswagen mitigation action funds. This notice included a copy of the State Trust Agreement and informed them of the opportunity to comment on Texas' draft Beneficiary Mitigation Plan.	

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).

See attachment for more information.

ATTACHMENTS
(CHECK BOX IF ATTACHED)

- | | | |
|-------------------------------------|---------------------|---|
| <input checked="" type="checkbox"/> | Attachment A | Funding Request and Direction. |
| <input checked="" type="checkbox"/> | Attachment B | Eligible Mitigation Action Management Plan Including Detailed Budget and Implementation and Expenditures Timeline (5.2.4). |
| <input checked="" type="checkbox"/> | Attachment C | Detailed Plan for Reporting on Eligible Mitigation Action Implementation (5.2.11). |
| <input checked="" type="checkbox"/> | 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.] |
| <input type="checkbox"/> | Attachment E | DERA Option (5.2.12). [Attach only if using DERA option.] |
| <input type="checkbox"/> | 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.] |

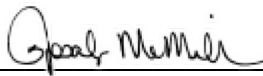
CERTIFICATIONS

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

- 1. This application is submitted on behalf of Beneficiary State of Texas, 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: 6/10/2024



Josalyn McMillon, Deputy Director

Texas Commission on Environmental Quality

[LEAD AGENCY]

for

State of Texas

[BENEFICIARY]

[SAMPLE ATTACHMENT B - USE OF THIS FORMAT IS NOT MANDATORY]

PROJECT MANAGEMENT PLAN
PROJECT SCHEDULE AND MILESTONES

Milestone	Date
Lead Agency Provides Notice of Availability of Mitigation Action Funds	
Project Sponsor Submits Proposal to Lead Agency	
Lead Agency Provides Written Approval of Project Sponsor's Proposal	
Lead Agency Incorporates Project Sponsor's Proposal into Mitigation Plan	
Trustee Acknowledges Receipt of Project Certification and Funding Direction	
Trustee Allocates Share of State Funds for Approved Project	
Lead Agency Directs Funding (Advance Funded Projects)	
Project Sponsor Obtains Cost Share, Notifies or Certifies to Lead Agency	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Start	
Project Sponsor Enters into Contracts, Purchase Orders, etc. - Complete	
Project Installation(s) – Start	
Project Installation(s) – Complete	
Project Sponsor provides detailed invoices for all claimed project costs, documentation for emission reduction estimates, required certification documents to Lead Agency to support direction to Trustee for Payment (Reimbursement, Direct-to-Vendor) or final accounting (Forward Funded Projects)	-
Lead Agency completes review and certifies payment direction to Trustee (Reimbursement)	
Trustee Acknowledges Receipt of Direction for Payment(s) (Advance Funded, Reimbursement)	-
Project Sponsor Certifies Project Completion	
Lead Agency Reports Project Completion	

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	\$	\$	\$	\$
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	\$	\$	\$	\$
Project Totals	\$	\$	\$	\$
Percentage	%	%	%	%

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

PROJECTED TRUST ALLOCATIONS:

	2017	2018	2019	2020	2021
1. Anticipated Annual Project Funding Request to be paid through the Trust	\$	\$	\$	\$	\$
2. Anticipated Annual Cost Share	\$	\$	\$	\$	\$
3. Anticipated Total Project Funding by Year (line 1 plus line 2)	\$	\$	\$	\$	\$
4. Cumulative Trustee Payments Made to Date Against Cumulative Approved Beneficiary Allocation	\$	\$	\$	\$	\$
5. Current Beneficiary Project Funding to be paid through the Trust (line 1)	\$	\$	\$	\$	\$
6. Total Funding Allocated to for Beneficiary, inclusive of Current Action by Year (line 4 plus line 5)	\$	\$	\$	\$	\$
7. Beneficiary Share of Estimated Funds Remaining in Trust	\$	\$	\$	\$	\$
8. Net Beneficiary Funds Remaining in Trust, net of cumulative Beneficiary Funding Actions (line 7 minus line 6)	\$	\$	\$	\$	\$

Supplemental Form to Appendix D4

Explanation of how funding request fits into Beneficiary's Mitigation Plan (5.2.1).

TCEQ requests \$7,048,529.05 in funds for projects to repower ferries and tugs. Projects funded under this request will mitigate the potential for exposure of the public to pollutants.

Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2).

This category includes the replacement of an existing engine on a ferry or tug with a newer, cleaner, engine or power source. To be eligible for repower, a ferry or tug must be powered by unregulated, Tier 1, or Tier 2 marine engines.

- A **ferry** includes any vessel which is being used to provide transportation only between places that are no more than 300 miles apart, and to transport only passengers, vehicles, or railroad cars which are being used, or have been used, in transporting passengers or goods.
- A **tug** includes any dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

Many ferries and tugs operate in the coastal waterways in or near the Priority Areas where monitored ozone exceeds the National Ambient Air Quality Standards (NAAQS) limits. Funding for this category will reduce the emissions of pollutants in these areas and will directly address the program goals.

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

Documents will be made publicly available through the:

- TxVEMP website: www.TexasVWFund.org;
- TxVEMP email subscription list; and
- Texas Electronic State Business Daily website.

In addition, TCEQ will be hosting a public webinar to cover the program requirements and application process.

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

Grants will be awarded on a competitive basis. An applicant may apply for and be reimbursed for no more than the maximum percentage of cost limits provided below.

Government-Owned	
Repowers	100 %
Non-Government Owned	
Repowers - Electric Only	75%

Payments will be made on a reimbursement basis for eligible expenses incurred and paid by the grantee. A cost may not be considered incurred until the grant-funded equipment and services have been received and accepted by the grantee. Grantees will be required to provide documentation to show that equipment or services have been received and the expenses have been incurred and paid by the grantee before reimbursement is provided by TCEQ.

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

The plan identifies seven Priority Areas that bear a disproportionate share of air pollution and particularly ozone within Texas:

- Dallas-Fort Worth Area
- Houston-Galveston-Brazoria Area
- San Antonio Area
- Austin Area
- El Paso County
- Bell County
- Beaumont-Port Arthur Area

These include the three areas of the state identified as nonattainment for the ground-level ozone NAAQS and four other areas of the state that have monitored ground-level ozone concentrations close to the 2015 ground-level ozone NAAQS limit of 70 parts per billion.

Nonattainment Areas:

- Dallas-Fort Worth Area: Collin, Dallas, Denton, Ellis, Hood, Johnson, Kaufman, Parker, Rockwall, Tarrant, and Wise
- Houston-Galveston-Brazoria Area: Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller
- San Antonio Area: Bexar

Attainment Areas:

- Austin Area: Bastrop, Caldwell, Hays, Travis, and Williamson
- El Paso County
- Bell County
- Beaumont-Port Arthur Area: Hardin, Jefferson, and Orange
- San Antonio Area: Comal, Guadalupe, and Wilson

The Priority Areas contain many of the major metropolitan centers of the state as well as approximately 71% of the state population. Because of ground-level ozone formation in these areas, TCEQ has determined that 81% of the total funding (approximately \$169.5 million) will be allocated exclusively to these areas to provide beneficial impacts on air quality.

The repower of ferries and tugs that operate in the coastal waterways in or near the Priority Areas where monitored ozone exceeds the NAAQS limits will help address the goals of the program, including reducing the potential exposure of the public to pollutants emitted from older ferries and tugs. Funding for this category will reduce the emission of pollutants in these areas and will directly address the program goals.

To be considered operating in an area, a majority (51% or more) of the ferry or tug's annual hours of operation (or fuel use) must occur in the coastal waterways in or near the designated counties.

Attachment B to Appendix D-4: Eligible Mitigation Action Management Plan and Budget

Project Management Plan: Project Schedule and Milestones

Milestones	Date ¹
Application period for projects to repower ferries/tugs	June 2024- Sept. 2024
Conduct program webinar	June 2024
Review and select project applications on a competitive basis	Sept. 2024 – Nov. 2024
Draft and execute contracts with entities selected for award	Nov. 2024 – Jan. 2025
Process certification of disposition for engines being replaced submitted by grantee	Jan. 2025 - April 2027
Process requests for reimbursement for the repowered equipment submitted by grantee	Jan. 2025 - April 2027
TCEQ certifies payment direction to Trustee monthly through the submission of an Attachment A	Jan. 2025 - April 2027
TCEQ will submit semi-annual reports to the Trustee describing the process of implementing each eligible mitigation action included in the funding requests. These reports will include the status of each project and updates on payments to grantees and agency administrative costs.	June and Jan. of each calendar year
Upon confirmation of payment, grantee begins commitment to operate the grant-funded equipment at least 51% of its total annual hours of operation in the coastal waterways in or near the designated counties.	Jan. 2025 - April 2027

¹ Dates are approximate and may vary depending on the volume of applications received and awarded.

Project Budget

Budget Category	Total Requested Budget
Project Expenditures	\$6,766,587.89
Administrative Expenditures	\$281,941.16
Total	\$7,048,529.05

Project Cost Share

Awardee Type	Project Type	% of Awardee Cost Share
Government	Repowers	≥ 100%
Non-Government	Repower – Electric Only	≥ 75%

Attachment C to Appendix D-4: Detailed Plan for Reporting on Eligible Mitigation Action Implementation

1. Purpose: TCEQ is preparing to open a round of funding under TxVEMP for projects to replace or repower freight switchers and repower ferries/tugs. Projects awarded under this round of funding will fall under two separate Mitigation Action Categories—Freight Switchers and Ferries/Tugs. This attachment is in reference to the Mitigation Action Category for Ferries/Tugs.

2. Program Criteria:

a. Eligible Applicants:

Eligible applicants must operate a ferry or tug at least 51% of the vessel's total annual hours of operation (or fuel use) in the coastal waterways in or near a designated county.

b. Equipment being repowered:

A **ferry** includes any vessel which is being used to provide transportation only between places that are no more than 300 miles apart, and to transport only passengers, vehicles, or railroad cars which are being used, or have been used, in transporting passengers or goods.

A **tug** includes any dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

To be eligible for repower, a ferry or tug must:

- be powered by unregulated, Tier 1, or Tier 2 marine engines;
- be owned by the applicant at the time of application and have been continuously owned by the applicant for a minimum of two years immediately preceding the application signature date;
- currently be used in its primary function in the routine operations of the applicant and have been used in its primary function in the routine operations of the applicant in Texas for the two years immediately preceding the application signature date;
- be in operating condition with at least five years of useful life remaining; and
- currently be registered in the applicant's name for operation in Texas, where required under Texas boating regulations. Any United States Coast Guard documentation of the vessel must also be in the applicant's name.

c. Repower Qualifications:

1. Government-owned ferries and tugs may be repowered with a new Tier 3 or Tier 4 diesel or alternative fuel engine(s) or all-electric engine(s). Government-owned ferries/tugs may also be upgraded with a Certified Remanufacture System or an EPA Verified Engine Upgrade.
2. Non-government-owned ferries and tugs may be repowered with a new all-electric engine(s) only.
3. The replacement engine(s) may not have a model year more than one year older than the calendar year in which it was purchased.

d. Infrastructure Qualifications:

Applicants repowering a qualifying ferry or tug may request additional funding for on-site electric charging infrastructure.

1. Applicants may only include one electric charging infrastructure project site per application.
2. The electric charging infrastructure must provide, at a minimum, refueling capacity to the ferries or tugs repowered through this grant program.
3. Applicants may expand existing onsite charging infrastructure to accommodate the addition of the grant-funded equipment in lieu of installing new service.
4. Applicants are required to be the owner of the site where the charging infrastructure equipment will be installed or be able to demonstrate the ability to install, operate, and maintain the charging infrastructure at the proposed site for the duration of the contract.

e. Activity life and usage commitment:

The applicant must commit to operating the grant-funded ferry/tug at least 51% of its total annual hours of operation in coastal waterways in or near the designated counties for the duration of the five-year activity life. Annual reports on the use of the grant-funded equipment will not be required. However, the grant recipient must agree to provide information on the use of equipment upon request by TCEQ.

f. Eligible grant amounts:

1. Governmental entities may request up to 100% of the incremental cost of an eligible repower project and associated infrastructure (if requested).
2. Non-governmental entities may request up to 75% of the incremental cost of an eligible repower project and associated infrastructure (if requested).

3. Application Review and Selection:

Applications for eligible projects will be evaluated, scored, and ranked according to the scoring criteria provided below.

- a. Cost per ton (CPT) of Nitrogen Oxides (NO_x) projected to be reduced.** Projects with the lowest CPT of NO_x reduced, as compared to all other projects, will receive the most points.
- b. Total projected NO_x reductions.** Projects with the highest projected NO_x reductions (tons of NO_x), as compared to all other projects, will receive the most points.

4. Outreach:

- a. Program Documents:** Program documents will be available on the TxVEMP website once the round has officially opened to the public. Documents have been drafted in accordance with accessibility standards and are available in a fillable PDF format.
- b. Program Notifications:** Notifications will be provided on the status of grant rounds through the TxVEMP email list serve, official agency press releases, and the Electronic State Business Daily.

- c. **Funds availability status:** TxVEMP staff will maintain a report provided on the TxVEMP website to update interested parties on the availability of funding under this grant round.
- d. **Project Summaries:** TxVEMP staff will provide a monthly project summary report on the TxVEMP website. The report will include project descriptions, awarded grant amounts, and project emissions reductions.

Attachment D to Appendix D-4: Detailed cost estimates from selection or potential vendors for each proposed expenditure exceeding \$25,000 (5.2.6).

TCEQ will not be able to provide detailed cost estimates until a project has been selected for award. Once a project has been awarded under this mitigation action, TCEQ will provide detailed cost estimates to the Trustee along with payment direction.