

State of Arkansas

Volkswagen Environmental Trust Beneficiary Mitigation Plan



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I. Background

Arkansas has been allocated \$14,647,709.09 toward award to projects that reduce emissions from motor vehicles as a result of two partial consent decrees in a case filed against the Volkswagen corporation for alleged violations of the federal Clean Air Act by the sale of approximately 500,000 model year 2009–2015 vehicles containing two-liter (L) and approximately 80,000 model year 2009–2016 three-L diesel engines equipped with emissions control defeat devices (collectively referred to as “subject vehicles”). Use of the defeat devices resulted in significant increases in nitrogen oxide (NOx) emissions and adverse impacts to air quality, violating the Clean Air Act. NOx emissions contribute to the formation of ground-level ozone, which impairs lung function and cardiovascular health.

As part of a partial consent decree finalized between the U.S. Department of Justice and the Volkswagen Corporation and its subsidiaries on October 18, 2016, an Environmental Mitigation Trust (Trust) was created to mitigate the air quality impacts resulting from use of the defeat devices. The Trust establishes a process to administer the funds, a process for states and tribes to receive the funds and develop state and tribal beneficiary mitigation plans, and the types of mitigation actions allowable under the Trust. Arkansas is a Beneficiary under the Trust and the Arkansas Department of Energy and Environment, Division of Environmental Quality (DEQ), is the lead agency for implementing programs in Arkansas under the Trust.

II. Mitigation Plan Overview and Goal

DEQ has developed this mitigation plan (Plan) to describe the State’s approach to funding mitigation actions under the Trust. The primary goal of the Plan is to achieve significant and sustained reductions of NOx emissions. The State of Arkansas is invested in our future and ensuring that projects funded in Arkansas under the Trust can be leveraged to ensure additional continued reductions in NOx emissions through private investment. Other goals of the Plan include:

- Achieving reductions in emissions of other pollutants, including diesel particulate matter and greenhouse gases;
- Spurring private investment in alternative fueling infrastructure and vehicles;
- Creating jobs by increasing alternative fuel production in Arkansas; and
- Establishing alternative fuel corridors along interstates to link to corridors established in other states.¹

¹ See Appendix C for details on the Alternative Fuel Corridors program.

III. Available Funding

The initial allocation from the Trust fund under the first partial consent decree for Arkansas is \$13,951,016. Arkansas has been allocated an additional \$696,692.86 under the second partial consent decree.

Arkansas may request one-third of its total allocation during the first year or two-thirds of its total allocation during the first two years after initial funding of the Trust. Project funding will be awarded in accordance with Arkansas's procurement laws. Specific funding requests will be made after submission of this Plan to the Trustee.

DEQ will maintain all documentation associated with funding requests and expenditures on eligible mitigation projects. All materials will be available for public review.

IV. Funding Priorities for Categories of Eligible Mitigation Project Types

DEQ has developed an approach to funding programs consistent with the Eligible Mitigation Actions established under Appendix D of the first partial consent decree. The full list of Eligible Mitigation Actions can be found in Appendix A of this Plan. The approach discussed below was developed to advance Arkansas's goals listed in section II of this Plan.

DEQ plans to allocate funding to four new programs—an advanced bus pilot program, an electric vehicle (EV) infrastructure rebate program, a state-wide clean fuels grant program, and a state fleet emission reduction program. In addition, DEQ would also set aside a portion of the funds to supplement the State's Diesel Emission Reduction Act program "Go RED!"

DEQ's approach targets NOx reductions in the following priority areas:

- Areas that have historically had national ambient air quality standard (NAAQS) attainment issues;
- Areas that receive a disproportionate quantity of mobile NOx emissions, including Volkswagen two-L and three-L vehicles; and
- Areas where alternative fuel infrastructure is lacking.

A. Advanced Bus and Clean (ABC) Transportation Pilot Program

DEQ would fund a percentage of the purchase price of alternative-fueled² buses for school districts and public transit agencies. The program would fund the purchase of a minimum of five and up to twenty buses to replace eligible diesel buses per pilot. A cost share would be required. Preference would be given to proposals for pilot projects located in areas where the installation of alternative-

² Alternative-fueled means an engine, or vehicle or piece of equipment that is powered by an engine, that uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g. compressed natural gas (CNG), liquified natural gas (LNG), propane (LPG), all-electric (EV), or diesel-electric hybrid).

fuel infrastructure would contribute to establishment of alternative fuel corridors. Applicants must demonstrate that fueling infrastructure will be in place to service vehicles funded by the pilot project by the time funds are distributed. The ABC pilot program is authorized under the terms of the Trust and shall meet the requirements under Eligible Mitigation Action Two.³

B. Light-Duty Electric Vehicle Infrastructure Program

DEQ would implement a funding assistance program for the installation of new EV charging stations. DEQ will provide rebates for eligible level 2 electric vehicle supply equipment and issue a request for proposals for direct current fast-charging electric vehicle supply equipment. Such a program is authorized under the terms of the Trust and will meet the requirements for light-duty EV supply equipment under Eligible Mitigation Action Nine.⁴

C. Arkansas Clean Fuels Funding Assistance Program

DEQ would implement a statewide funding assistance program to reduce NOx emissions by repowering or replacing Class 4–8, model years 1992–2009 diesel vehicles with alternative fueled engines or vehicles. Such a program is authorized under the terms of the Trust and shall meet the requirements for heavy-duty and medium-duty vehicle repower and replacement under Eligible Mitigation Actions One, Two, and Six.⁵ This grant program could be used to target school districts that fall outside of the pilot areas and to assist other entities with converting their fleets to alternative-fueled technologies. Funding would be awarded on a competitive basis and project proposals would be scored based on whether the project would benefit one of the priority areas and the cost effectiveness in dollars per ton of NOx reduced.

Applicants must demonstrate that fueling/charging infrastructure will be in place to service vehicles funded by the project by the time funds are awarded. A cost-share would be required for projects funded under the Arkansas Clean Fuels Program.

D. DERA

This Plan allocates a small portion of the Trust funds toward supplementing state funding sources for the State voluntary match under the State Clean Diesel Grant should the program continue into the future.⁶ DEQ has utilized funding under the State Clean Diesel Grant to administer the Reduce

³ Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

⁴ Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

⁵ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

⁶ Eligible Mitigation Action 10 provides states with the option to use Trust funds for their non-federal voluntary match for Diesel Emission Reduction Act (DERA) grants, such as the State Clean Diesel Grant. See Appendix A for the full list of Eligible Mitigation Actions.

Emissions from Diesels (Go RED!) funding assistance program. Go RED! is a competitive funding assistance program that assists Arkansas-based public, private, and nonprofit entities in reducing diesel emissions in the state through exhaust control, engine upgrade, idling reduction, and engine/vehicle replacement projects.

E. State Agency Fleet Emission Reduction (SAFER) Program

A small percentage (eight percent) of funds would be used to enable State Agency classes 4–8 medium- and heavy-duty vehicles to be replaced or repowered with any fuel allowable under the VW settlement. Such a program is authorized under the terms of the Trust and shall meet the requirements for heavy-duty and medium-duty vehicle repower and replacement under Eligible Mitigation Actions One, Two, and Six.⁷

F. Funding Allocation

Table 1 includes an overview of Trust fund allocations under this Plan. Each budget category includes administrative expenditures associated with implementing the programs up to, but not exceeding, fifteen percent of the total cost of each program.

Table 1 Proposed Budget Overview

Budget Category	% of Total Funds	Estimated Funding Allocation
ABC Pilot Programs	54%	\$7,941,176
EV Infrastructure	15%	\$2,197,156
Arkansas Clean Fuels Grant	19%	\$2,750,216
DERA	4%	\$590,960
SAFER Grant	8%	\$1,168,200

V. Anticipated Environmental Benefits

DEQ anticipates that this Plan would yield environmental benefits with respect to NOx pollution and would have co-benefits in terms of reduction of other pollutants; improving ambient air quality with respect to NOx, ozone, and fine particulate matter; and spurring alternative fuel infrastructure development.

⁷ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

Under the ABC Pilot Program, DEQ anticipates up to a 100% reduction in annual NOx emissions per bus replaced.⁸ Table 2 below shows the anticipated NOx reduction benefits of the ABC pilot program.

Table 2 NOx Emissions Reductions Anticipated Under the ABC Pilot Program

Target fleet	Replacement technology	Short tons per year of NOx emissions reduced per vehicle	Percent NOx emissions reduced
Transit bus	CNG	0.165–0.923	99.7%
	LNG	0.165–0.923	99.7%
	EV	0.167–0.925	100.0%
School bus	CNG	0.041–0.225	85.7–97.0%
	LNG	0.041–0.225	85.7–97.0%
	LPG	0.040–0.224	83.6–96.6%
	EV	0.048–0.232	100.0%

Under the Light-Duty Electric Vehicle Infrastructure Rebate Program, emission reductions will be dependent upon consumer choices regarding replacement of fossil-fuel-powered vehicles with zero-emitting electric vehicles. Each consumer that chooses to do so would reduce emissions of all pollutants from his or her vehicle tailpipe by one-hundred percent. Total emission reductions would vary depending on the composition of the electricity generating fleet where the EV is charging. Nationwide, emissions of NOx from the energy sector have decreased by more than eighty percent in the last twenty-five years despite increased electricity generation.⁹

Environmental benefits under the Arkansas Clean Fuels Grant, Go RED!, and SAFER Grant would vary based on the type of vehicle or engine being replaced, the initial age of the engine, and the engine power rating. Programs that would be eligible under these programs would result in tons of NOx and diesel particulate matter pollution avoided over the lifetime of the vehicles and result in improved ambient air quality and human health for Arkansans. Estimates of NOx emissions reductions from several vehicle types can be found in Table 3.

⁸ Emissions reduction estimates were calculated using the AFLEET 2017 tool modules of the GREET Fleet Footprint Calculator using default assumptions for annual vehicle mileage and fuel economy.

⁹ <https://www3.epa.gov/airmarkets/progress/datatrends/index.html>

Table 3 Emissions Reduction Estimates for Various Vehicle Types Under the Arkansas Clean Fuels Grant and the SAFER Grant^{10,11}

Target fleet	Replacement technology	Short tons per year of NOx emissions reduced per vehicle	Percent NOx emissions reduced
Combination short-haul truck	CNG	0.433–1.893	99.7%
	LNG	0.433–1.893	99.7%
	New Diesel	0.349–1.809	79.8–95.3%
	EV	0.437–1.897	100.0%
Single unit short-haul truck	CNG	0.060–0.237	98.6–98.7%
	LNG	0.060–0.237	98.6–98.7%
	New Diesel	0.049–0.226	81.1–95.1%
	LPG	0.052–0.230	85.7–96.3%
	EV	0.061–0.238	100.0%
Transit bus	CNG	0.165–0.923	99.7%
	LNG	0.165–0.923	99.7%
	EV	0.167–0.925	100.0%
School bus	CNG	0.041–0.225	85.7–97.0%
	LNG	0.041–0.225	85.7–97.0%
	LPG	0.040–0.224	83.6–96.6%
	EV	0.048–0.232	100.0%
Refuse truck	CNG	0.111–0.472	98.5–99.6%
	LNG	0.111–0.472	98.5–99.6%
	EV	0.113–0.474	100.0%
Light commercial truck	CNG	0.022–0.157	80.9–96.8%
	LPG	0.022–0.157	80.9–96.8%
	New Diesel	0.012–0.147	43.1–90.6%
	EV	0.027–0.162	100.0%

In addition to reductions of NOx, most projects completed under the mitigation plan would provide co-benefits of reductions in greenhouse gases (GHG) and fine particulate matter (PM_{2.5}). Just as with the anticipated NOx reductions, pollutant co-benefits would depend upon makes, year models, and numbers of vehicles replaced or repowered. Table 4 below shows potential GHG and PM_{2.5} co-benefits¹² provided by project types allowable under the plan.

¹⁰ Emissions reductions calculated using the AFLEET 2017 tool module of the GREET Fleet Footprint Calculator. AFLEET default values were used for annual vehicle mileage and fuel economy. The range of potential emissions reductions for each target fleet was calculated using assumed replacement of 1992 and 2009 model year vehicles, the oldest and youngest year models eligible under the plan.

¹¹ Only vehicles replaced or repowered under the SAFER Fleet Emissions Reduction Grant and Go RED! would be eligible for repower or replacement with new diesel engine or vehicle technology.

¹² Emission reduction estimates were calculated using the AFLEET Heavy-Duty Vehicle Emissions Calculator (HDVEC) using default mileage, lifetime estimates, fuel economy assumptions. The range of potential emissions reductions for each target fleet was calculated using assumed replacement of 1992 and 2009 model year vehicles.

Table 4 Anticipated PM_{2.5} and GHG reduction co-benefits achieved by NO_x emission reduction projects covered by the Arkansas mitigation plan programs¹³

Target fleet	Replacement technology	Percent PM _{2.5} emissions reduced	Percent GHG emissions reduced
Combination short-haul truck	LPG	N/A	N/A
	CNG/LNG	28.6–97.80%	9.79%
	New Diesel	28.61–97.80%	0.00%
	EV	100.00%	37.10%
Single unit short-haul truck	LPG	26.08–97.98%	(+4.43%)
	CNG/LNG	24.21–97.93%	4.48%
	New Diesel	24.21–97.93%	0.00%
	EV	100.00%	37.10%
Transit bus	LPG	N/A	N/A
	CNG/LNG	26.98–94.02%	4.48%
	New Diesel	26.98–94.02%	0.00%
	EV	100.00%	37.10%
School bus	LPG	8.63–97.31%	(+4.43%)
	CNG/LNG	28.35–97.89%	4.48%
	New Diesel	28.35–97.89%	0.00%
	EV	100.00%	37.10%
Refuse truck	LPG	N/A	N/A
	CNG/LNG	24.74–97.48%	4.48%
	New Diesel	24.74–97.48%	0.00%
	EV	100.00%	37.10%

The specific emissions reductions realized through the grant programs would be dependent upon the classes and ages of the vehicles replaced or repowered and the number of vehicles replaced or repowered under the programs.

DEQ anticipates further environmental benefits would be realized from an increased market share of alternative-fueled vehicles that the proposed approach could help to facilitate.

VI. Anticipated Energy and Economic Benefits

DEQ anticipates that, in addition to environmental benefits, the proposed approach would yield positive energy and economic benefits. The proposed approach aims to increase the use

Light commercial truck emissions factors are not included in the Heavy-Duty Vehicle Emissions Calculator, so estimates of co-benefits are not available for that target fleet.

¹³ Numbers in parentheses indicate that replacement of an eligible diesel-powered vehicle with a new vehicle of the specified fuel type would result in an emissions increase rather than an emission reduction. AFLEET 2017 did not include emission rates for new LPG combination short haul trucks, transit buses, and refuse trucks.

alternative-fueled vehicles. Jumpstarting markets for alternative-fueled vehicles serves to support longer term goals of improving energy security and economic development.

Catalyzing the market for CNG has tremendous energy security and economic development benefits for Arkansas. CNG is produced in Arkansas and increasing CNG consumption will drive increased CNG production by Arkansas workers. CNG has historically had a much lower price than traditional fuels, such as gasoline and diesel. Although fuel prices for gasoline and diesel have recently fallen, CNG fuel prices are less volatile and are expected to remain low. CNG vehicles are also less expensive to maintain than gasoline or diesel vehicles. Despite relatively higher upfront costs for CNG vehicles, the true cost to own a CNG vehicle is typically lower due to cheaper fuel and lower maintenance costs. By investing in CNG vehicles and spurring private investment in CNG infrastructure and private CNG fleets, this Plan seeks to shift fuel consumption toward cleaner burning CNG and help create jobs producing CNG in the State. Propane and LNG are also produced in Arkansas, and investments in these alternative fuels are expected to spur additional economic benefits to the State.

Catalyzing the market for EVs has energy security and economic benefits for those that purchase EVs and for all electricity rate-payers regardless of the vehicle they drive. For EV drivers, the cost of electricity is lower and much less volatile than traditional fuel prices. Electricity rate payers are also likely to benefit because the bulk of charging behavior occurs at night. The increase in off-peak demand will increase revenues from selling electricity without requiring capital investment in additional generation assets by the utility. The result would be a downward pressure on electricity rates. Use of electricity as the fuel also reduces dependence on foreign oil.

Lack of infrastructure is currently a market barrier to consumer adoption of alternative-fueled technology. Thus, utilizing Trust funding to catalyze the markets for these alternative fuel markets is a prudent investment in Arkansas's economy.

VII. Public Participation and Federal Land Manager Notification

On September 5, 2017, DEQ issued a request for information (RFI) and draft Environmental Mitigation Plan for feedback from the public. The comment period on the request for information and draft plan closed November 1, 2017. DEQ received thirty-two comments from individuals, other government agencies, and private organizations. The RFI, draft plan, and comments are included with this Plan submission as Appendix D. Public comments helped to inform this Plan.

On February 28, 2018, DEQ sent notification to federal land managers of Arkansas's designation as a Beneficiary under the Volkswagen Environmental Mitigation Trust as required under Section 4.2.8 of the Environmental Mitigation Trust Agreement. Copies of these notifications are included with this Plan submission as Appendix E.

Appendix A Eligible Mitigation Projects and Administrative Expenditures and Definitions

The following mitigation actions are copied without modification from Appendix D-2 of the Volkswagen Partial Consent Decree: Case No: MDL No. 2672 CRB (JSC)

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)

- a. Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Large Trucks shall also include 2010-2012 engine model year Class 8 Local Freight or Drayage.
- b. Eligible Large Trucks must be Scrapped.
- c. Eligible Large Trucks may be Repowered with any new diesel or Alternate Fueled engine or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Large Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Class 8 Local Freight Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, LPG, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Non-Government Owned Eligible Drayage Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 50% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new all-electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- f. For Government Owned Eligible Class 8 Large Trucks, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)

- a. Eligible Buses include 2009 engine model year or older class 4-8 school buses, shuttle buses, or transit buses. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed Eligible Mitigation Action, Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.
- b. Eligible Buses must be Scrapped.
- c. Eligible Buses may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Bus Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Buses, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Buses, and Privately Owned School Buses Under Contract with a Public School District, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

3. Freight Switchers

- a. Eligible Freight Switchers include pre-Tier 4 switcher locomotives that operate 1000 or more hours per year.
- b. Eligible Freight Switchers must be Scrapped.
- c. Eligible Freight Switchers may be Repowered with any new diesel or Alternate Fueled or All-Electric engine(s) (including Generator Sets), or may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Freight Switcher Mitigation Action occurs.
- d. For Non-Government Owned Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of :
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) Freight Switcher.

3. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
4. Up to 75% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.
- e. For Government Owned Eligible Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) Freight Switcher.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 100% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.

4. Ferries/Tugs

- a. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.
- b. Eligible Ferry and/or Tug engines that are replaced must be Scrapped.
- c. Eligible Ferries and/or Tugs may be Repowered with any new Tier 3 or Tier 4 diesel or Alternate Fueled engines, or with All-Electric engines, or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade.
- d. For Non-Government Owned Eligible Ferries and/or Tugs, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 2. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
- e. For Government Owned Eligible Ferries and/or Tugs, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).

2. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

5. Ocean Going Vessels (OGV) Shorepower

- a. Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Components of such systems eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Marine shore power systems must comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems) and should be supplied with power sourced from the local utility grid. Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.
- b. For Non-Government Owned Marine Shorepower, Beneficiaries may only draw funds from the Trust in the amount of up to 25% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.
- c. For Government Owned Marine Shorepower, Beneficiaries may draw funds from the Trust in the amount of up to 100% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.

6. Class 4-7 Local Freight Trucks (Medium Trucks)

- a. Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks, and for Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Trucks shall also include 2010-2012 engine model year class 4-7 Local Freight trucks.
- b. Eligible Medium Trucks must be Scrapped.
- c. Eligible Medium Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Medium Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
7. Airport Ground Support Equipment
 - a. Eligible Airport Ground Support Equipment includes:
 1. Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and
 2. Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment.
 - b. Eligible Airport Ground Support Equipment must be Scrapped.
 - c. Eligible Airport Ground Support Equipment may be Repowered with an All-Electric engine, or may be replaced with the same Airport Ground Support Equipment in an All-Electric form.
 - d. For Non-Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 75% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
 - e. For Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may draw funds from the Trust in the amount of:

1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
8. Forklifts and Port Cargo Handling Equipment
- a. Eligible Forklifts includes forklifts with greater than 8000 pounds lift capacity.
 - b. Eligible Forklifts and Port Cargo Handling Equipment must be Scrapped.
 - c. Eligible Forklifts and Port Cargo Handling Equipment may be Repowered with an All-Electric engine, or may be replaced with the same equipment in an All-Electric form.
 - d. For Non-Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 75% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
 - e. For Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
9. Light Duty Zero Emission Vehicle Supply Equipment. Each Beneficiary may use up to fifteen percent (15%) of its allocation of Trust Funds on the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle supply equipment for projects as specified below. Provided, however, that Trust Funds shall not be made available or used to purchase or rent real-estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Supply Equipment).

- a. Light duty electric vehicle supply equipment includes Level 1, Level 2 or fast charging equipment (or analogous successor technologies) that is located in a public place, workplace, or multi-unit dwelling and is not consumer light duty electric vehicle supply equipment (i.e., not located at a private residential dwelling that is not a multi-unit dwelling).
- b. Light duty hydrogen fuel cell vehicle supply equipment includes hydrogen dispensing equipment capable of dispensing hydrogen at a pressure of 70 megapascals (MPa) (or analogous successor technologies) that is located in a public place.
- c. Subject to the 15% limitation above, each Beneficiary may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Government Owned Property.
 2. Up to 80% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Non-Government Owned Property.
 3. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a workplace but not to the general public.
 4. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a multi-unit dwelling but not to the general public.
 5. Up to 33% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 250 kg/day that will be available to the public.
 6. Up to 25% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 100 kg/day that will be available to the public.
10. Diesel Emission Reduction Act (DERA) Option. Beneficiaries may use Trust Funds for their non-federal voluntary match, pursuant to Title VII, Subtitle G, Section 793 of the DERA Program in the Energy Policy Act of 2005 (codified at 42 U.S.C. § 16133), or Section 792 (codified at 42 U.S.C. § 16132) in the case of Tribes, thereby allowing Beneficiaries to use such Trust Funds for actions not specifically enumerated in this Appendix D-2, but otherwise eligible under DERA pursuant to all DERA guidance documents available through the EPA. Trust Funds shall not be used to meet the nonfederal mandatory cost share requirements, as defined in applicable DERA program guidance, of any DERA grant.

Eligible Mitigation Action Administrative Expenditures

For any Eligible Mitigation Action, Beneficiaries may use Trust Funds for actual administrative expenditures (described below) associated with implementing such Eligible Mitigation Action, but not to exceed 15% of the total cost of such Eligible Mitigation Action. The 15% cap includes the aggregated amount of eligible administrative expenditures incurred by the Beneficiary and any third-party contractor(s).

1. Personnel including costs of employee salaries and wages, but not consultants.
2. Fringe Benefits including costs of employee fringe benefits such as health insurance, FICA, retirement, life insurance, and payroll taxes.
3. Travel including costs of Mitigation Action-related travel by program staff, but does not include consultant travel.
4. Supplies including tangible property purchased in support of the Mitigation Action that will be expensed on the Statement of Activities, such as educational publications, office supplies, etc. Identify general categories of supplies and their Mitigation Action costs.
5. Contractual including all contracted services and goods except for those charged under other categories such as supplies, construction, etc. Contracts for evaluation and consulting services and contracts with sub-recipient organizations are included.
6. Construction including costs associated with ordinary or normal rearrangement and alteration of facilities.
7. Other costs including insurance, professional services, occupancy and equipment leases, printing and publication, training, indirect costs, and accounting.

Definitions/Glossary of Terms

“Airport Ground Support Equipment” shall mean vehicles and equipment used at an airport to service aircraft between flights.

“All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

“Alternate Fueled” shall mean an engine, or a vehicle or piece of equipment which is powered by an engine, which uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., CNG, propane, diesel-electric Hybrid).

“Certified Remanufacture System or Verified Engine Upgrade” shall mean engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)” shall mean vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs used for transporting people. See definition for School Bus below.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“CNG” shall mean Compressed Natural Gas.

“Drayage Trucks” shall mean trucks hauling cargo to and from ports and intermodal rail yards.

“Forklift” shall mean nonroad equipment used to lift and move materials short distances; generally includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

“Freight Switcher” shall mean a locomotive that moves rail cars around a rail yard as compared to a line-haul engine that move freight long distances.

“Generator Set” shall mean a switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

“Government” shall mean a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village. The term ‘State’ means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Gross Vehicle Weight Rating (GVWR)” shall mean the maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo.

Class 1: < 6000 lb Class 2: 6001-10,000 lb Class 3: 10,001-14,000 lb Class 4: 14,001-16,000 lb
Class 5: 16,001-19,500 lb Class 6: 19,501-26,000 lb Class 7: 26,001-33,000 lb Class 8: > 33,001 lb

“Hybrid” shall mean a vehicle that combines an internal combustion engine with a battery and electric motor.

“Infrastructure” shall mean the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

“Intermodal Rail Yard” shall mean a rail facility in which cargo is transferred from drayage truck to train or vice-versa.

“Port Cargo Handling Equipment” shall mean rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

“Plug-in Hybrid Electric Vehicle (PHEV)” shall mean a vehicle that is similar to a Hybrid but is equipped with a larger, more advanced battery that allows the vehicle to be plugged in and recharged in addition to refueling with gasoline. This larger battery allows the car to be driven on a combination of electric and gasoline fuels.

“Repower” shall mean to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

“School Bus” shall mean a Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

“Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any Eligible Vehicle will be replaced as part of an Eligible project, scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

“Tier 0, 1, 2, 3, 4” shall refer to corresponding EPA engine emission classifications for nonroad, locomotive and marine engines.

“Tugs” shall mean dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

“Zero Emission Vehicle (ZEV)” shall mean a vehicle that produces no emissions from the on-board source of power (e.g., All-Electric or hydrogen fuel cell vehicles)

Appendix B Identification of Areas that Bear a Disproportionate Share of Air Pollution

I. Introduction

The Arkansas Department of Environmental Quality has examined several metrics in identifying areas of the State that bear a disproportionate share of air pollution that may benefit from projects to reduce nitrogen oxide emissions under the Volkswagen Environmental Mitigation Trust. These metrics include:

- The number of vehicles subject to the Volkswagen Consent Decree located in each county;¹
- The amount of nitrogen oxides (NO_x) by mobile sources emitted in each county;
- National ambient air quality standard (NAAQS) design values for nitrogen dioxide (NO₂), ozone, and fine particulate matter (PM_{2.5})

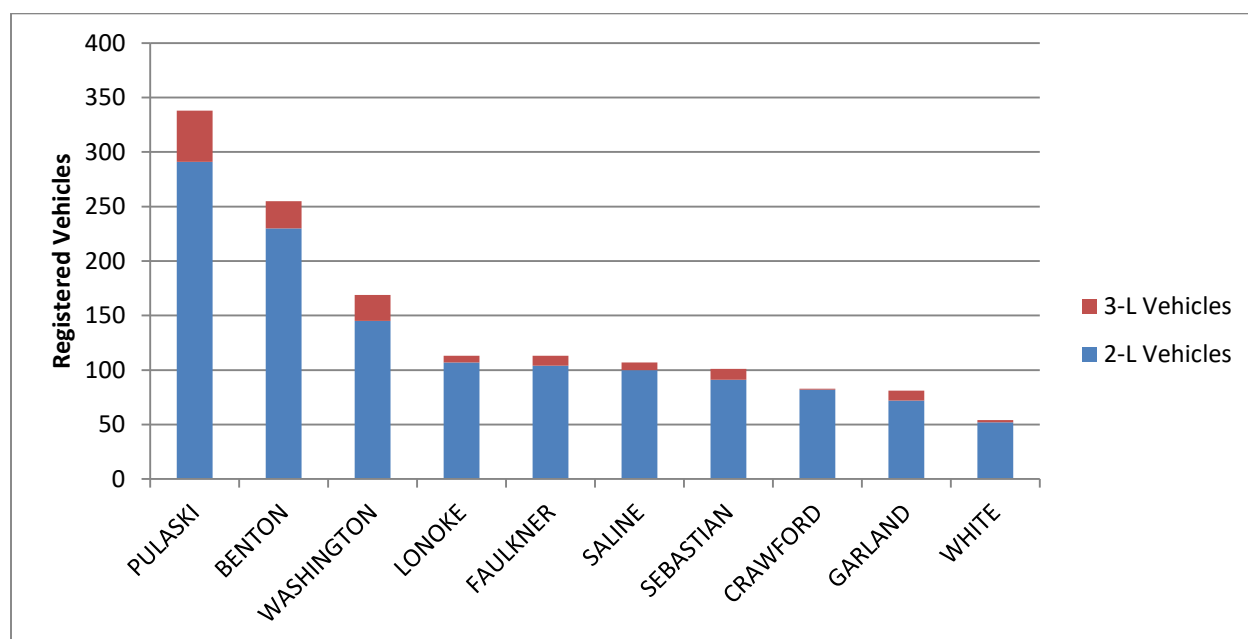
This report provides an overview of data obtained for each of the three metrics.

II. Subject Vehicle Registrations by County

A total of 2050 subject two-Liter and three-Liter Volkswagen turbocharged direct injection diesel vehicles are registered in Arkansas. Figure B-1 indicates the top ten counties for subject vehicle registration and indicates that the majority of subject vehicles are registered in central and northwest Arkansas. Sixteen percent of subject vehicles are registered in Pulaski County, twelve percent are registered in Benton County, and eight percent are registered in Washington County.

¹ Case 3:15-md-02672-CRB (JSC)

Figure B-1 Top Ten Arkansas Counties for Subject Vehicle Registration²



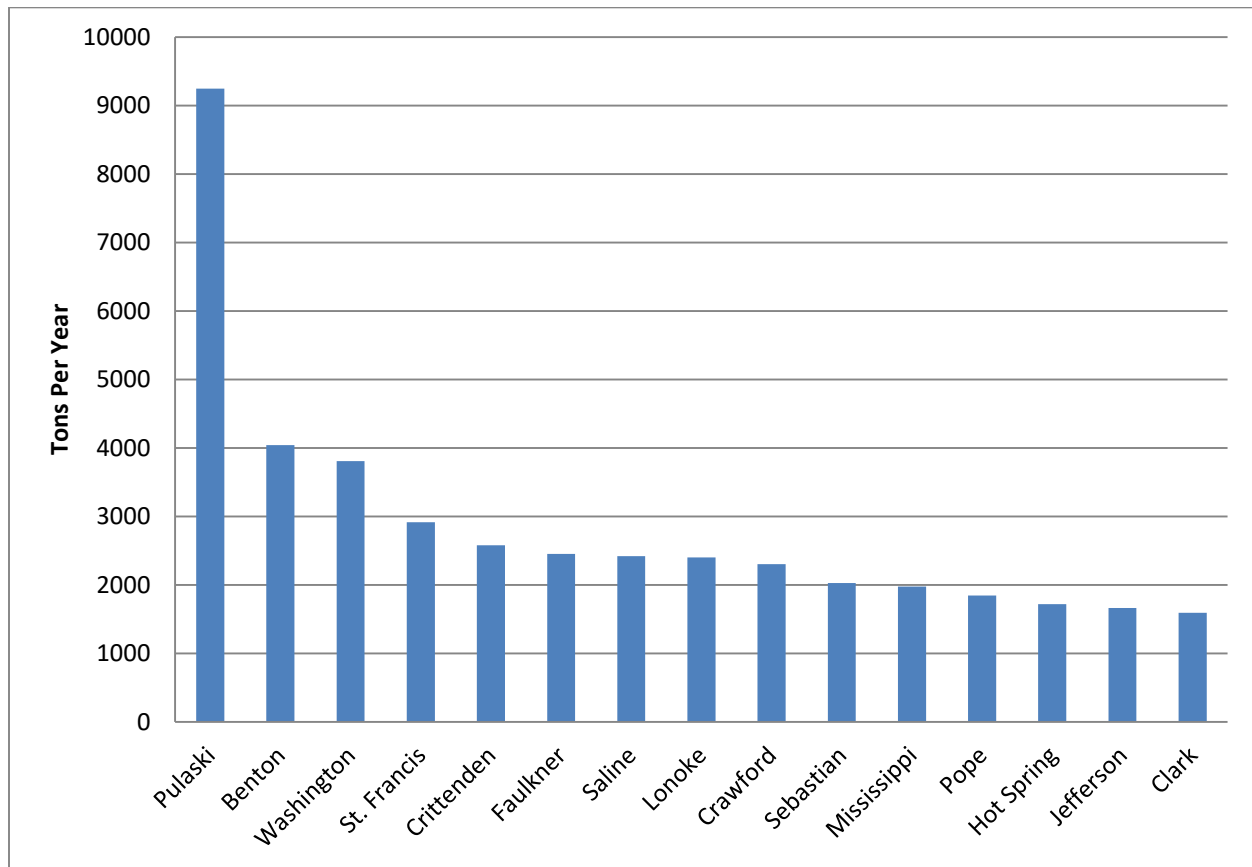
Based on registration data for subject diesel vehicles, it appears that Central and Northwest Arkansas have born a disproportionate share of NOx emissions from subject vehicles.

III. On-Road Nitrogen Oxide Emissions

On-road NOx emissions vary across Arkansas. Emissions in the top fifteen counties account for nearly sixty percent of all on-road NOx emissions in the State. Sixty percent of on-road NOx emissions are from on-road heavy duty diesel vehicles, which are the largest contributor to mobile NOx emissions in Arkansas, followed by on-road light-duty non-diesel vehicles, locomotives, and non-road diesel equipment. In the EPA National Emission Inventory, the heavy-duty mobile category includes vehicle weight classes three through eight. Emissions from the other mobile source categories only make up six percent of the mobile NOx inventory combined. When NOx emissions from only diesel-fueled vehicles are considered, on-road heavy duty diesel vehicles comprise the majority of emissions followed by locomotives and non-road diesel equipment. Emissions from other diesel mobile source categories make up approximately three percent of the diesel mobile NOx inventory combined. Figure B-2 shows fifteen counties in Arkansas with the highest on-road NOx emissions. Figure B-3 shows the distribution of NOx emissions in Arkansas by mobile category. Other sources contribute only minor amounts of NOx emissions. Figure B-4 shows the distribution of NOx emissions from mobile diesels in Arkansas by category.

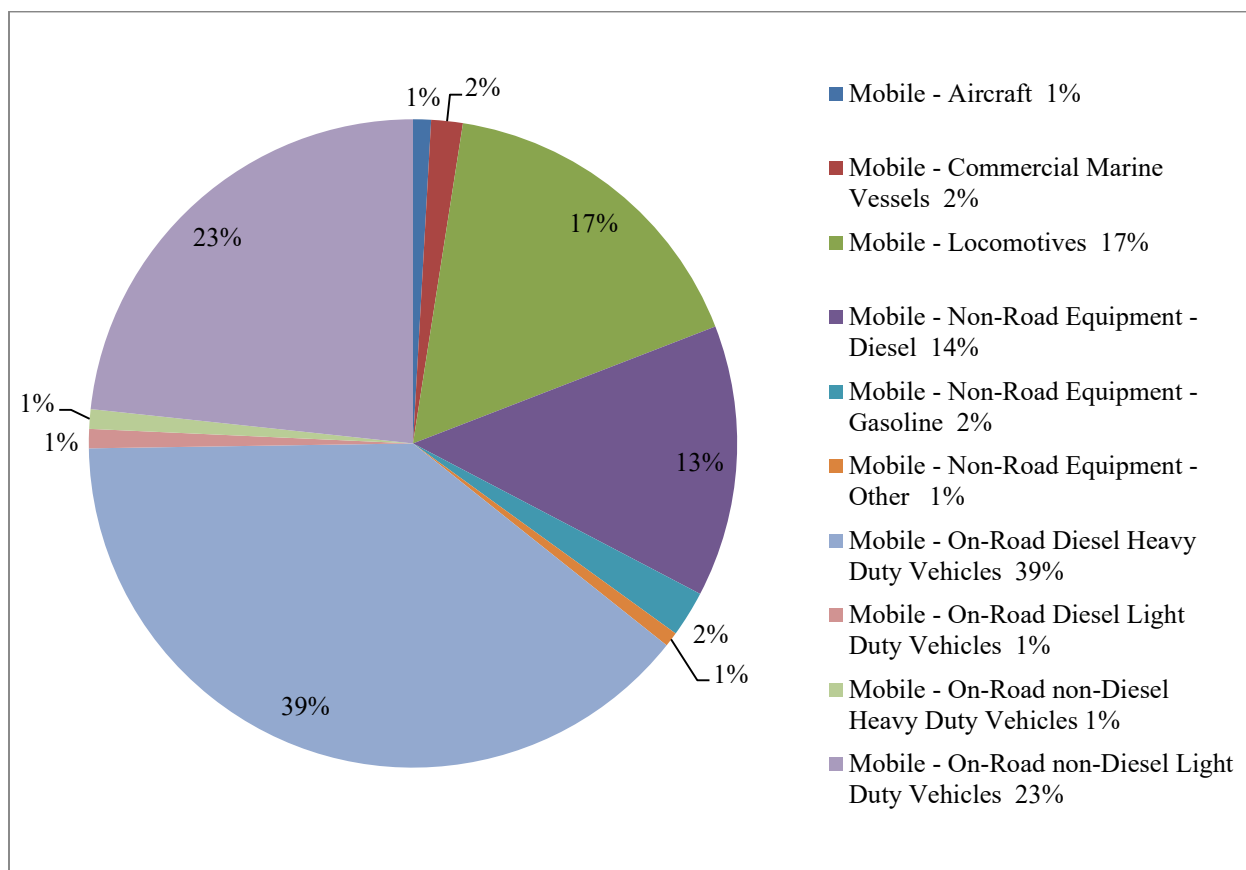
² Personal communication from Arkansas Highway and Transportation Department

Figure B-2 Top Fifteen Counties for On-Road NO_x Emissions in Arkansas³



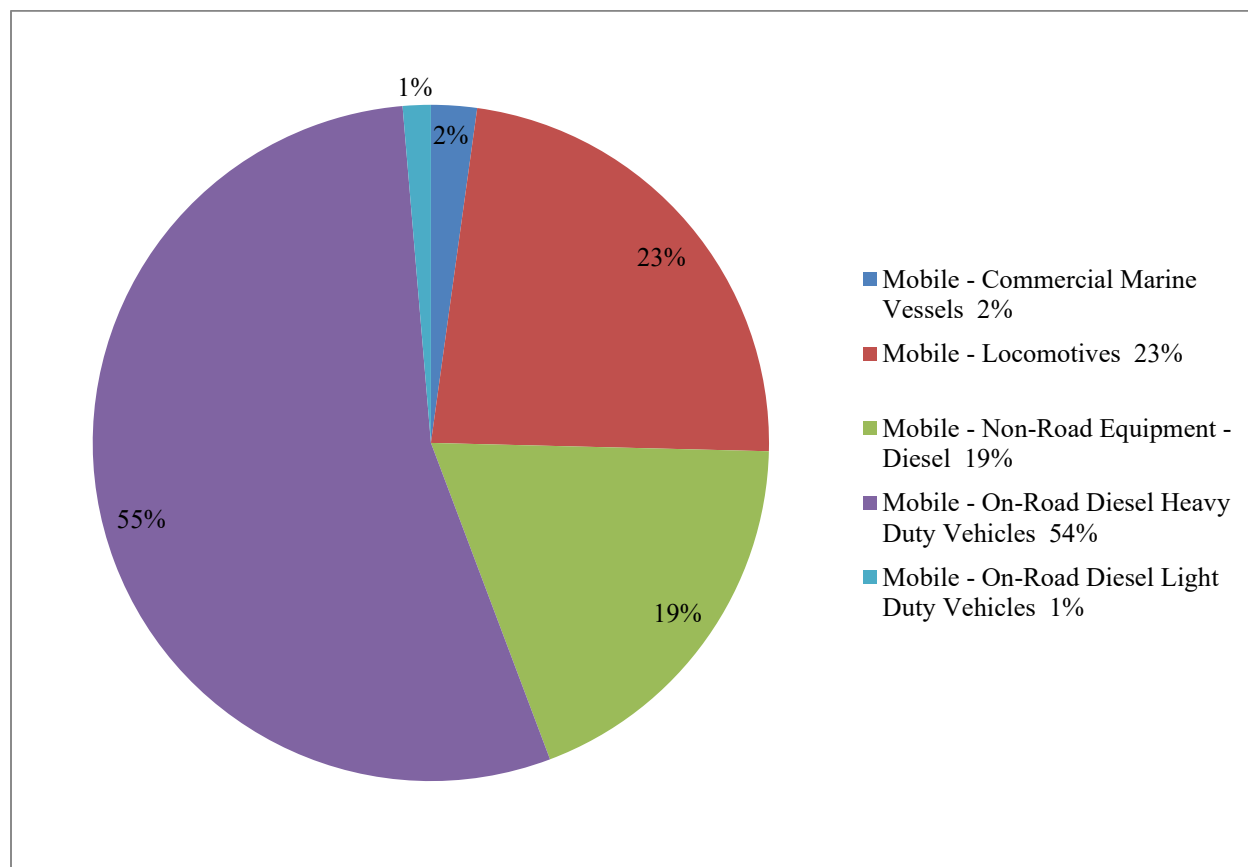
³ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, version 1)

Figure B-3 NOx Mobile Emission Inventory for Arkansas⁴



⁴ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, Version 1)

Figure B-4 NOx Mobile Diesel-Powered Emissions Inventory for Arkansas⁵



Based on the relative amounts of on-road NOx emissions in each county and the relative contribution to the NOx inventory of each mobile source category, it appears that targeting emission reductions from on-road heavy duty diesel vehicles (vehicle weight classes three through eight) and on-road light duty non-diesel vehicles in Central Arkansas, Northwest Arkansas, and counties in the Memphis area would address the largest contributors to mobile NOx in those areas that bear a disproportionate share of on-road NOx emissions.

VIII. NAAQS Design Values for NO₂, Ozone, and PM_{2.5}

All counties in Arkansas are in attainment with the NAAQS for all criteria pollutants. Attainment status is determined by comparing design values, which are computed for each monitor location

⁵ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, Version 1)

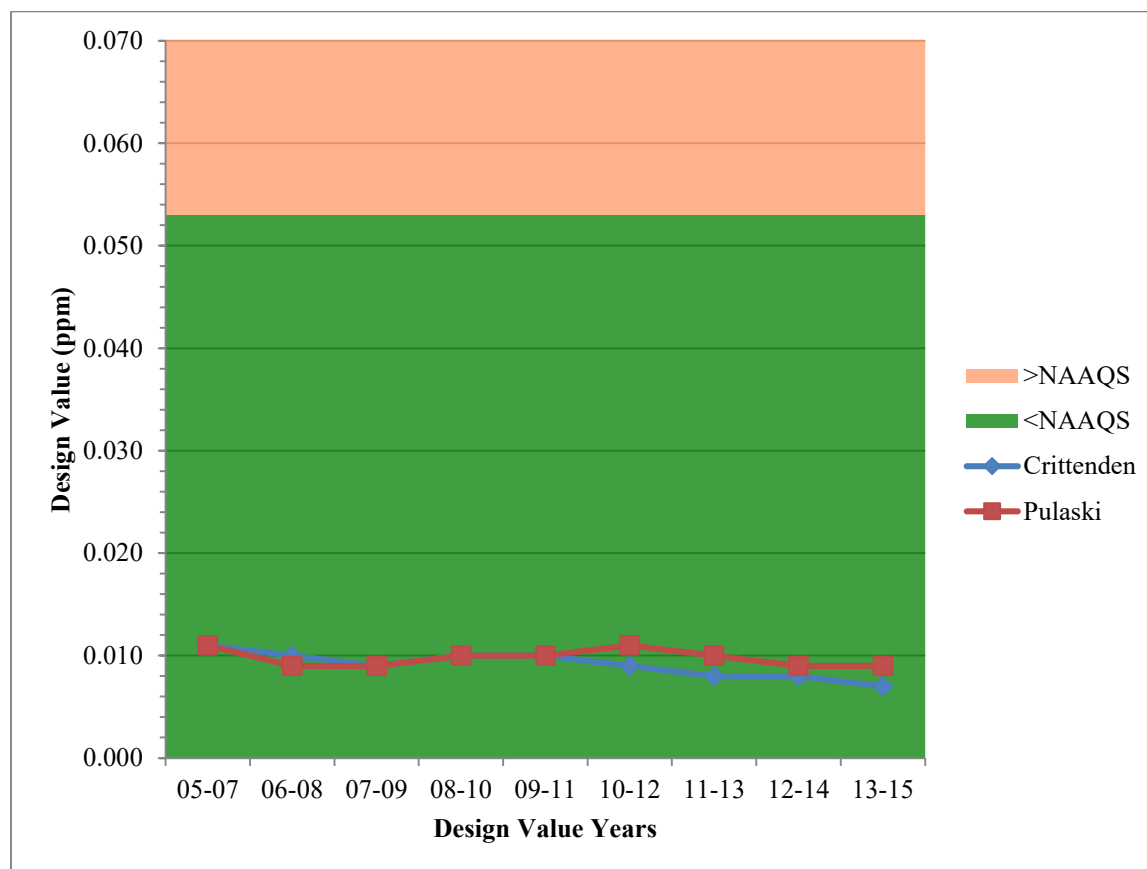
based on the time-weighted averages of the criteria pollutant in ambient air and the form of the NAAQS, to the level of the NAAQS. Crittenden County, located in the Memphis metropolitan area, has experienced periods during which the area was in nonattainment with ozone national ambient air quality standards as standards became more stringent in 1997 and 2008; but, as a result of monitored improvements in air quality between 2012 and 2014, the county was redesignated to attainment in 2016 and is currently under a maintenance plan to ensure continued attainment of the 2008 ozone NAAQS.

All counties in Arkansas are anticipated to continue to attain all of the NAAQS, including the recently promulgated 2015 ozone NAAQS set at seventy parts per billion (ppb). On September 29, 2016, Governor Asa Hutchinson recommended to EPA Region Six that all counties in Arkansas be designated attainment or attainment/unclassifiable (for counties that do not have a monitor) for the 2015 ozone NAAQS based on 2013 – 2015 data.

A. Nitrogen Dioxide

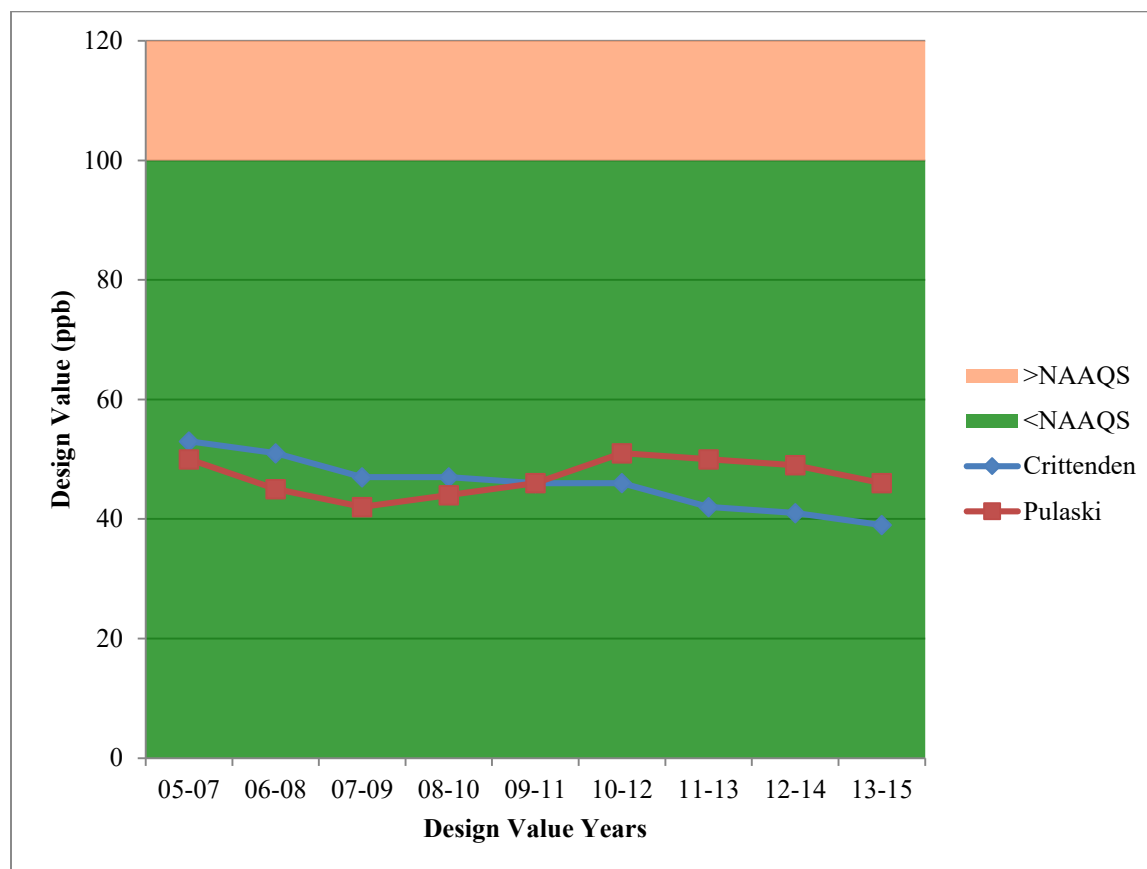
Arkansas is in attainment with both the annual and one-hour NO₂ NAAQS. There are two NO₂ monitors in the state. One is located in Pulaski County and the other is located in Crittenden County. Over the past ten years, NO₂ design values in Crittenden County have declined because of measures to reduce ozone concentrations in the area. NO₂ design values in Pulaski County have also declined. All NO₂ design values over the past decade have been well below the level of the NAAQS. Figure B-5 shows trends in the annual NO₂ design values at each monitor and Figure B-6 shows trends in one-hour design values at each monitor.

Figure B-5 Arkansas Annual NO₂ Design Values 2005–2015⁶



⁶ Environmental Protection Agency Air Quality System Database

Figure B-6 Arkansas NO₂ One-Hour Design Values⁷



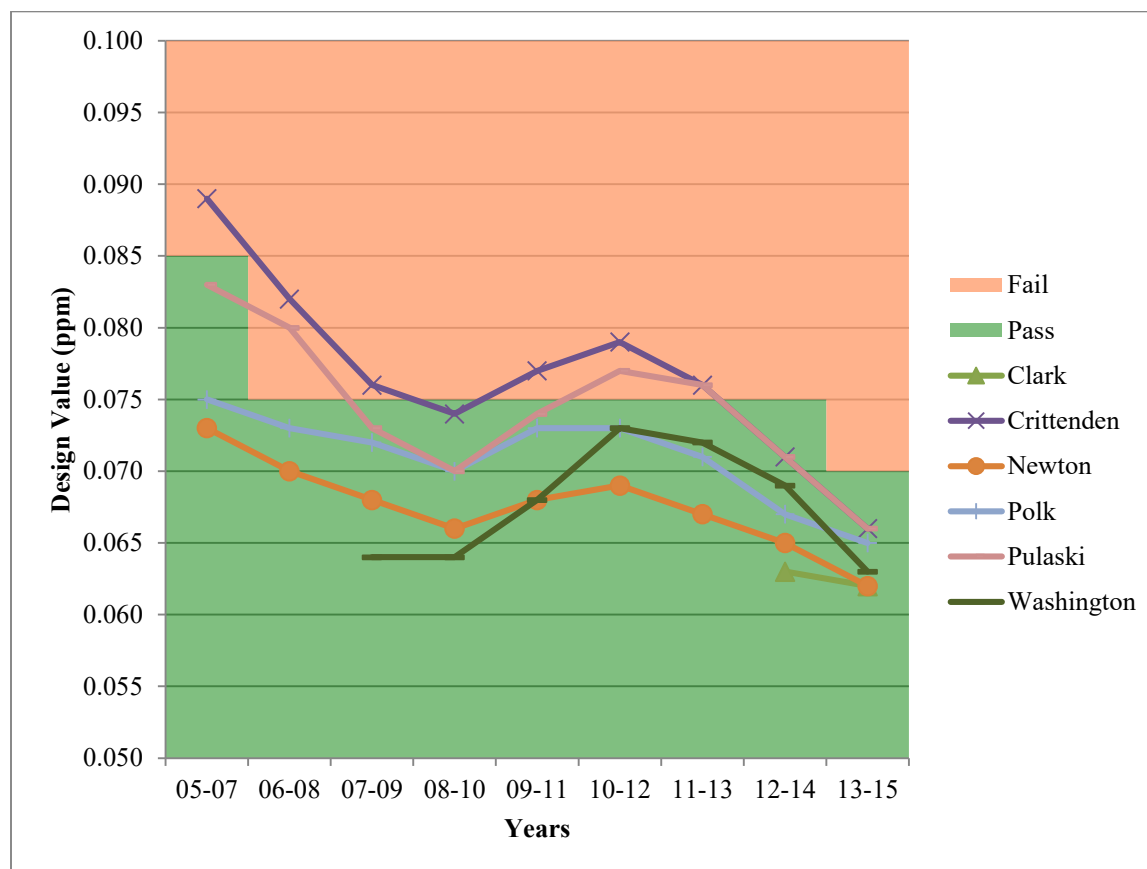
Based on trends in the 1-hour and annual NO₂ NAAQS, it appears that no monitored locations in the state bear a disproportionate share of air pollution with respect to either of the two NO₂ NAAQS.

B. Ozone

All areas of the state have ozone design values below the level of the current NAAQS for ozone (seventy ppb). Crittenden County was designated a marginal nonattainment area for the 1997 ozone standard and the 2008 ozone standard, but ultimately re-attained each standard through continued improvements in air quality. Over the past ten years, concentrations of ozone have dropped in Crittenden County and across the state because of federal and State air quality programs to reduce emissions of precursor pollutants, particularly NO_x. Figure B-7 shows trends in ozone design values at each of the monitors in the State over the past ten years compared to the concurrent ozone NAAQS.

⁷ Environmental Protection Agency Air Quality System Database

Figure B-7 Ozone Design Values at Arkansas Monitors 2005-2015⁸



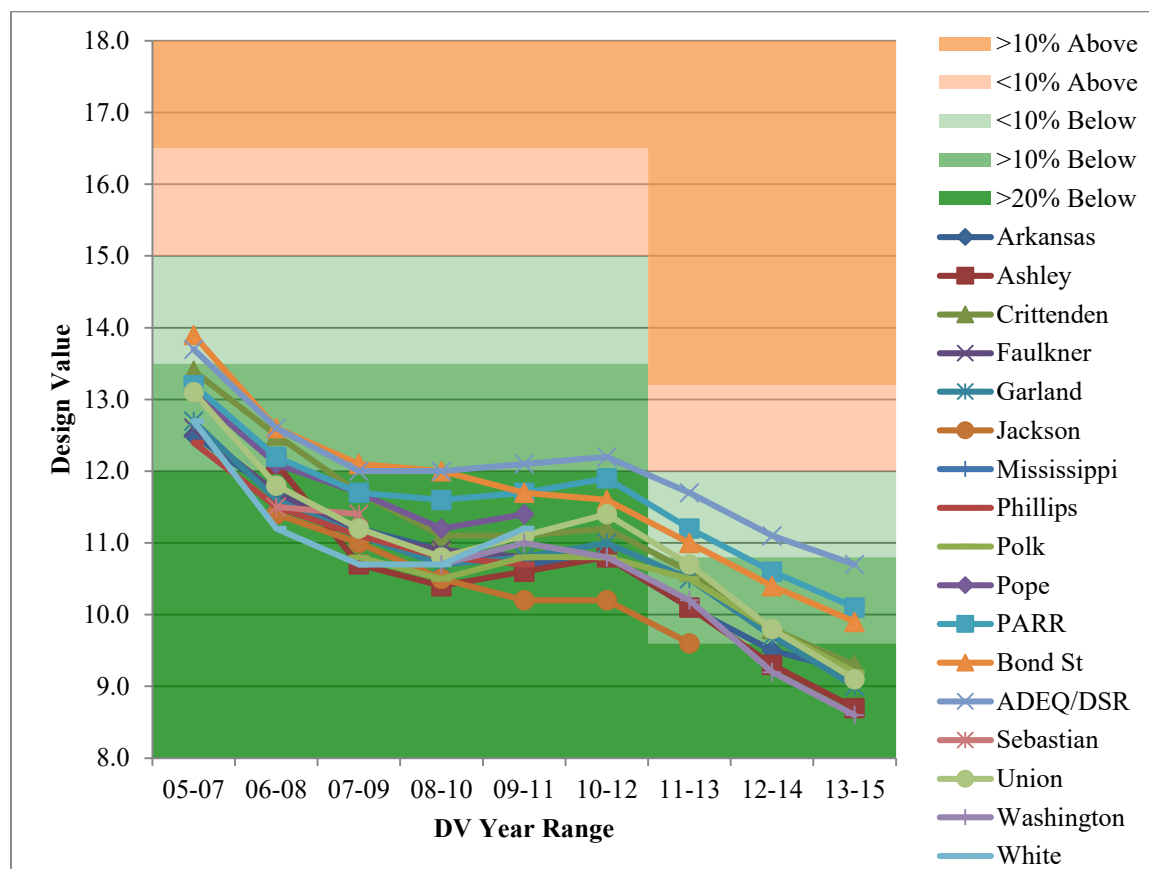
Based on historic ozone design value trends and attainment designations, Crittenden County and Pulaski County have borne a disproportionate share of air pollution with respect to ozone. As such, these locations would be good locations to target NO_x, an ozone precursor, emission reductions.

C. Fine Particulate Matter (PM_{2.5})

All areas of the state are in attainment with the current annual and twenty-four-hour NAAQS for PM_{2.5}. The annual PM_{2.5} NAAQS was revised from fifteen micrograms per cubic meter (µg/m³) to twelve µg/m³ in 2013. Figure B-8 shows trends in annual PM_{2.5} design values at each of the monitors in the State over the past ten years compared to the concurrent annual PM_{2.5} NAAQS. Three monitors—PARR, Bond St., and DEQ/DSR—are located in Pulaski County. Figure B-9 shows trends in twenty-four-hour PM_{2.5} design values at each of the monitors in the State over the past ten years compared to twenty-four-hour PM_{2.5} NAAQS.

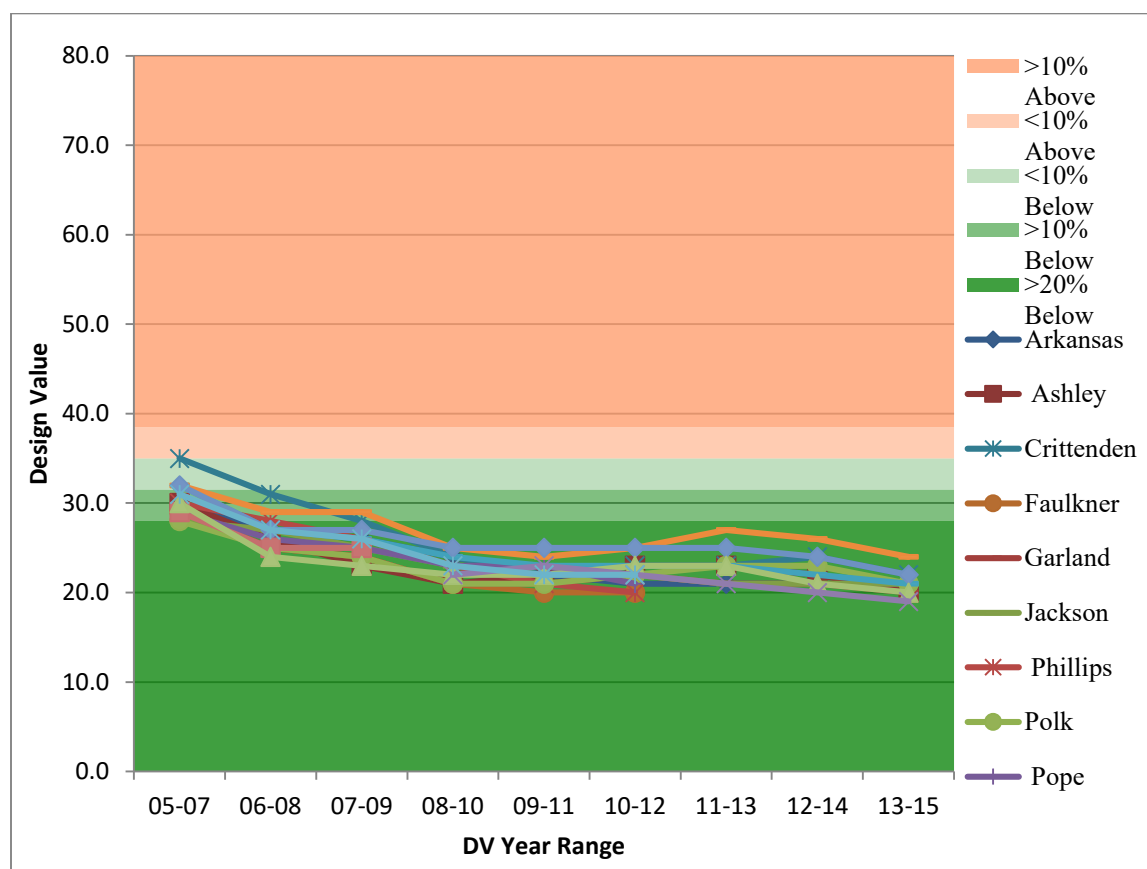
⁸ Environmental Protection Agency Air Quality System Database

Figure B-8 Annual PM_{2.5} Design Values for Arkansas 2005-2015⁹



⁹ Environmental Protection Agency Air Quality System Database

Figure B-9 Twenty-Four-Hour PM_{2.5} Design Values for Arkansas 2005-2015¹⁰



Based on historic PM_{2.5} design value trends, Crittenden County and Pulaski County have borne a disproportionate share of air pollution with respect to PM_{2.5}. As such, these locations would be good locations to target NO_x, a PM_{2.5} precursor, and diesel particulate emission reductions.

IX. Conclusion

This report has evaluated areas that have borne a disproportionate share of air pollution with respect to NO_x emissions from vehicles subject to the Volkswagen Consent Decree, on-road NO_x emissions in general, and ambient air concentrations historically exceeding or near to the level of the NAAQS of pollutants for which NO_x is a precursor. Taking together all evaluated metrics, it appears that Central Arkansas, Northwest Arkansas, and counties near the Memphis metropolitan area have borne a disproportionate share of air pollution and that targeting programs to reduce on-road NO_x emissions in these areas is likely to result in improvements in air quality. The two largest mobile emitters of NO_x are on-road heavy-duty diesel vehicles (vehicle weight classes three through eight) and light-duty non-diesel vehicles. Thus, targeting funding under the Volkswagen

¹⁰ Environmental Protection Agency Air Quality System Database

Environmental Mitigation Trust on eligible mitigation actions one, two, six, and nine would be prudent measures to address the largest contributors to mobile NOx emissions in Arkansas.¹¹

¹¹ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

Appendix C Alternative Fuel Corridors

I. Background

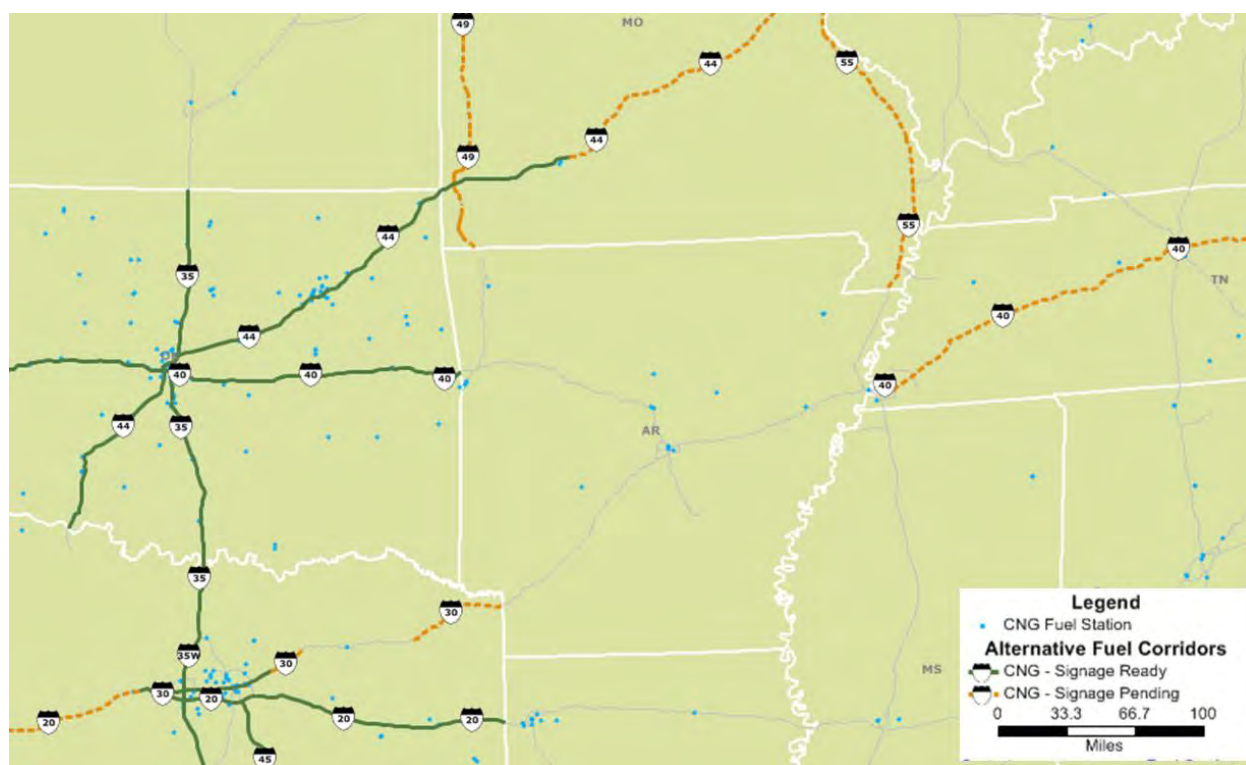
The 2015 Fixing America's Surface Transportation (FAST) Act established an Alternative Fuel Corridors Program to establish alternative fueling and/or charging facilities along national highway system corridors. Under this program, states nominate highways or segments of highways for inclusion in the program. The Federal Highway Administration provides signage to states with corridors designated under the Alternative Fuel Corridors Program to catalyze consumer interest in alternative fuel vehicles. Compressed natural gas (CNG), propane (LPG), and electric vehicle (EV) corridors also have priority for federal Congestion Mitigation and Air Quality Improvement (CMAQ) funds. No alternative fuel corridors are currently designated in Arkansas, but corridors could be established by installation of CNG fueling facilities, LPG fueling facilities, and EV charging facilities in a few key locations.

DEQ submitted an alternative fuel corridor nomination to the Federal Highway Administration (FHWA) on November 30, 2017. Signage-ready and signage-pending segments of I-30, I-40, I-55, and U.S. 67/167 in Arkansas for CNG, LPG, and EV-charging infrastructure were identified and submitted to FHWA for consideration for inclusion in the alternative fuels network. Segments of I-40 and U.S. 67/167 were subsequently approved by FHWA as signage-ready for CNG.

II. CNG Alternative Fuel Corridors

To be designated a CNG alternative fuel corridor, highways or segments of highways must have public, fast-fill, 3,600 pounds per square inch CNG stations no greater than 150 miles apart. Stations must be within five miles of the corridor. Figure C-1 shows for neighboring states the locations of designated CNG alternative fuel corridors and locations where states are working toward CNG alternative fuel corridors. Some of the CNG stations marked in Figure C-1 are not within five miles of the highway and therefore cannot be counted toward the requirements for designation of a CNG Fuel Corridor.

Figure C-1 CNG Alternative Fuel Corridors in States Adjacent to Arkansas¹



A CNG alternative fuel corridor could be established along Interstate Forty (I-40) by the addition of a CNG station somewhere between Conway, AR and Fort Smith, AR and would have to be located within five miles of Interstate Forty per certified alternative fuel corridor requirements. The two CNG stations located in Fort Smith, Arkansas are too far from Interstate Forty to qualify. There is a qualified CNG station in Webber, OK approximately 169 miles away from the CNG station in Conway, AR.

An alternative fuel corridor could also be established along Interstate Thirty through installation of a CNG station midway between stations located in Little Rock, AR and Sulphur Springs, TX, which are approximately 250 miles apart. The addition of one such CNG station would make the entire section of Interstate Thirty in Arkansas eligible for alternative fuel corridor certification.

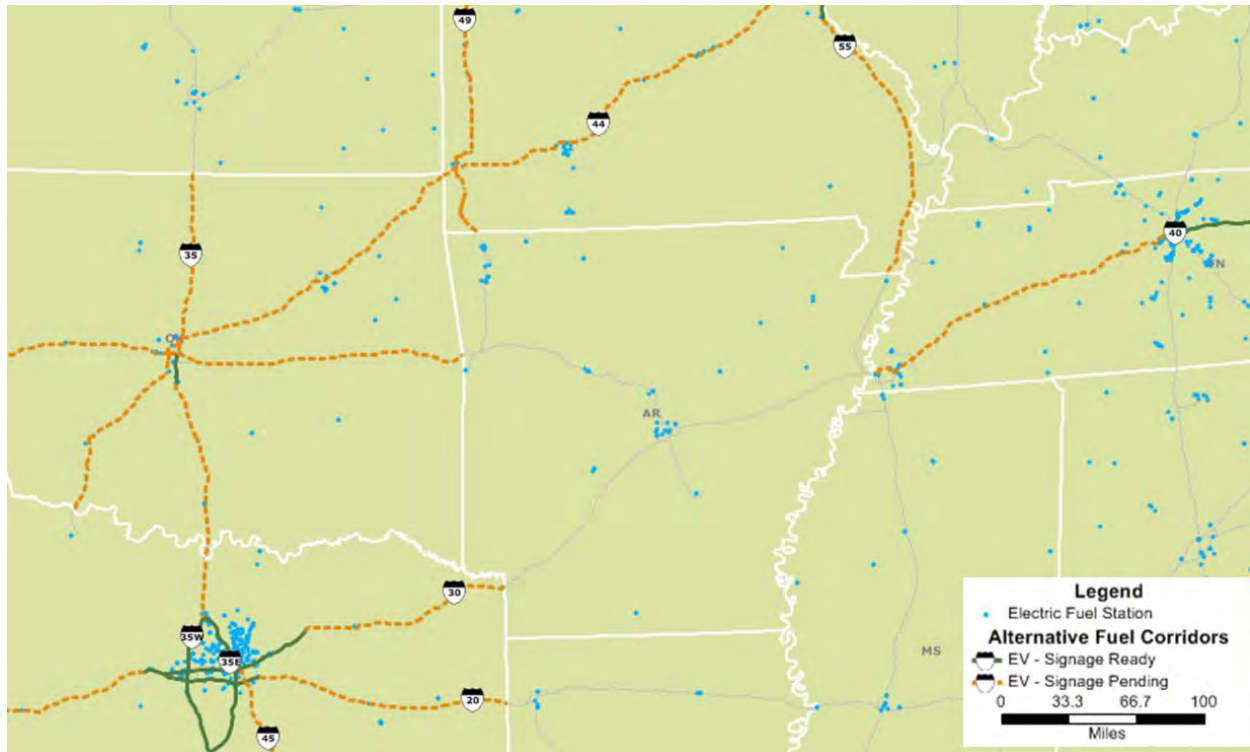
III. EV Alternative Fuel Corridor

To be designated an EV alternative fuel corridor, highways or segments of highways must have public, DC Fast Charging or Level Two chargers no greater than fifty miles apart. Charging stations must be within five miles of the corridor. Figure C-2 shows for neighboring states the locations of designated EV alternative fuel corridors and locations where states are working toward EV alternative fuel corridors. Some of the EV stations marked in Figure C-2 are not within five

¹ Compressed Natural Gas (CNG) Alternative Fuel Corridors obtained from hepgis.fhwa.dot.gov

miles of the highway and therefore cannot be counted toward the requirements for designation of an EV Fuel Corridor.

Figure C-2 EV Alternative Fuel Corridors in States Adjacent to Arkansas²



The segment of Interstate Forty between Russellville and North Little Rock meets the requirements to be designated an EV alternative fuel corridor. There are no public DC Fast Charge or Level 2 EV charging stations in Arkansas within five miles of Interstate Forty west of Russellville or east of North Little Rock. There are no EV stations within five miles of Interstate Thirty south of Little Rock.

IV. Propane Alternative Fuel Corridor

In order to be considered for inclusion in a national alternative fuel corridor, propane stations must include primary auto fueling infrastructure, be open to the public during regular business hours, be located within five miles of the designated alternative fuel corridor, and have a pricing structure specific to auto fuel. There is considerable interest from the propane industry in Arkansas in providing auto fuel service and inclusion in the alternative fuel corridor network. DEQ is currently working with the Arkansas LPG Board and the Arkansas Propane Association to provide information about requirements for LPG auto fueling facilities to become eligible for inclusion in alternative fuel corridors.

² Electric Vehicle (EV) Alternative Fuel Corridors obtained from hepgis.fhwa.dot.gov

V. Conclusion

Funds under the Volkswagen Environmental Mitigation Trust could be used by Arkansas to work toward the designation of major interstates as alternative fuel corridors. CNG fueling infrastructure development could be encouraged by CNG medium-duty, heavy-duty, or bus pilot programs deployed in strategic areas of the State. As part of these pilot programs, Arkansas could solicit private investment in CNG fueling stations to service vehicles repowered or replaced under the CNG pilot programs. The pilot programs could be funded under the Volkswagen NOx Environmental Mitigation Trust Eligible Mitigation Actions One, Two, and/or Six.³ An EV charging infrastructure rebate or grant program would be eligible under Volkswagen NOx Environmental Mitigation Trust Eligible Mitigation Action Nine.⁴

³ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

⁴ Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

Appendix D Public Participation

Request for Information

Volkswagen Consent Decree Environmental Mitigation Trust

Deadline for Submissions

November 1, 2017

Contact:

Tricia Treece

Arkansas Department of Environmental Quality

(501) 682-0055

treecep@adeq.state.ar.us

Asa Hutchinson, Governor

Becky Keogh, Director

I. Statement of Purpose

The State of Arkansas (State), through the Arkansas Department of Environmental Quality (ADEQ), issues this Request for Information (RFI) to solicit input on the State's Beneficiary Mitigation Plan (BMP), as referenced in the partial Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB (JSC)*.

Information received in response to the RFI will inform the State's BMP.

II. Background

The settlement establishes a Mitigation Trust to be used for environmental mitigation projects that reduce emissions and improve air quality. The funding for the Eligible Mitigation Actions is intended to fully mitigate the total, lifetime excess nitrogen oxides (NOx) emissions from vehicles involved in the case. The trust provides \$14.6 million for Arkansas. The funds are to be used during a ten-year period for specific, eligible projects designed to achieve these results.

III. Eligible Projects

The eligible projects are specified in Appendix D-2 of the settlement. The broad categories of projects allowed are:

- Replacement or repower of large and medium trucks.
- Replacement or repower of school buses, shuttle buses, and transit buses.
- Replacement or repower of freight switchers.
- Repower of ferries and tugs.
- Ocean-going vessel shorepower.
- Replacement or repower of airport ground support equipment.
- Replacement or repower of forklifts and port cargo handling equipment.
- Acquisition, installation, operation, and maintenance of new, light duty, zero emission vehicle supply equipment.
- Diesel Emission Reduction Act (DERA) option.

IV. RFI

The State must address the following information in developing the BMP:

- The overall goal for the use of the funds.
- The categories of Eligible Mitigation Actions appropriate to achieve the stated goals, and a preliminary assessment of the percentage of funds appropriate for each category of mitigation action.

- A description of how the State will measure the potential beneficial impact of Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden.
- A general description of the expected ranges of emission benefits that would be realized by implementation of the BMP.

The RFI is intended to provide the State with enough information to develop a high level vision for use of the mitigation funds. The BMP submittal will contain that vision and will be used to guide development of the process for identifying specific projects to be funded.

In order to guide comments, the ADEQ has developed a draft proposal that could be used to achieve the goals of the trust (attached).

V. Submissions

Information responsive to this RFI should be sent to:

Tricia Treece
Arkansas Department of Environmental Quality
(501) 682-0055
treecep@adeq.state.ar.us

The submission deadline is November 1, 2017.

State of Arkansas

Volkswagen Environmental Trust Beneficiary Mitigation Plan



Month 2017

Public Review Draft

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Appendices

Appendix A Eligible Mitigation Projects and Administrative Expenditures and Definitions

Appendix B Identification of Areas that Bear a Disproportionate Share of Air Pollution

Appendix C Alternative Fuel Corridors

Appendix D Public Comment Period Activities

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I. Background

Arkansas is poised to receive \$14,647,709.09 toward projects that reduce emissions from motor vehicles as a result of two partial consent decrees in a case filed against Volkswagen for alleged violations of the federal Clean Air Act by the sale of approximately 500,000 model year 2009 – 2015 vehicles containing two-liter (L) and approximately 80,000 model year 2009 – 2016 three-L diesel engines equipped with emissions control defeat devices (collectively referred to as “subject vehicles”). Use of the defeat devices resulted in significant increases in nitrogen oxide (NOx) emissions and adverse impacts to air quality, violating the Clean Air Act. NOx emissions contribute to the formation of ground-level ozone, which impairs lung function and cardiovascular health.

As part of a partial consent decree finalized between the U.S. Department of Justice and the Volkswagen Corporation and its subsidiaries on October 18, 2016, an Environmental Mitigation Trust (Trust) has been established to mitigate the air quality impacts resulting from use of the defeat devices. The Trust establishes a process to administer the funds, a process for states and tribes to receive the funds and develop state and tribal beneficiary mitigation plans, and the types of mitigation actions allowable under the Trust.

II. Mitigation Plan Overview and Goal

The Arkansas Department of Environmental Quality (ADEQ) has developed this mitigation plan (Plan) to describe the State’s approach to funding mitigation actions under the Trust. The primary goal of the Plan is to achieve significant and sustained reductions of NOx emissions. The State of Arkansas is invested in our future and ensuring that projects funded in Arkansas under the Trust can be leveraged to ensure additional continued reductions in NOx emissions through private investment. Other goals of the Plan include:

- Achieving reductions in emissions of other pollutants, including diesel particulate matter and greenhouse gases;
- Spurring private investment in alternative fueling infrastructure and vehicles;
- Creating jobs by increasing alternative fuel production in Arkansas; and
- Establishing alternative fuel corridors along interstates to link to corridors established in other states.¹

¹ See Appendix C for details on the Alternative Fuel Corridors program.

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III. Available Funding

The initial allocation from the Trust fund under the first partial consent decree for Arkansas is \$13,951,016. Arkansas will receive an additional \$696,692.86 under the second partial consent decree. The Trust funds will likely be made available for mitigation projects by the fall of 2017. The timeline may shift due to required federal actions prior to Trust fund disbursement.

Arkansas may request one-third of its total allocation during the first year or two-thirds of its total allocation during the first two years after initial funding of the Trust. Project funding will be awarded in accordance with Arkansas's procurement laws.

ADEQ will maintain all documentation associated with funding requests and expenditures on eligible mitigation projects. All materials will be available for public review.

IV. Funding Priorities for Categories of Eligible Mitigation Project Types

ADEQ has developed a proposed approach to funding programs consistent with the Eligible Mitigation Actions established under the partial consent decree. The full list of Eligible Mitigation Actions can be found in Appendix A of this Plan. The proposed approach discussed below was developed to advance Arkansas's goals listed in section II of this Plan.

Under the proposed approach, ADEQ would allocate funding to three new programs—a CNG school bus pilot program, an electric vehicle infrastructure rebate program, and a state-wide grant program. The proposed approach targets NOx reductions in the following priority areas:

- Areas that have historically had national ambient air quality standard (NAAQS) attainment issues;
- Areas that receive a disproportionate quantity of mobile NOx emissions, including Volkswagen two-L and three-L vehicles; and
- Areas where alternative fuel infrastructure is lacking.

A. CNG School Bus Pilot Program

Under the proposed approach, ADEQ would collaborate with state agencies in neighboring states to establish a CNG School Bus Pilot program. As part of this program, Arkansas would provide funds to replace up to twenty diesel buses with model years 1992–2009 with new low NOx CNG buses at each pilot school districts in the state of Arkansas. A cost-match would be required from the school districts. The states would also work to recruit private investment in CNG fueling

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stations to service the new CNG school buses in the pilot areas. Such a program is authorized and shall meet the requirements under Eligible Mitigation Action Two.²

B. Light-Duty Electric Vehicle Infrastructure Rebate Program

Under the proposed approach, ADEQ would provide funding for implementation of a rebate program for electric vehicle (EV) charging stations. Such a program is authorized under the terms of the Trust and will meet the requirements for light-duty EV supply equipment under Eligible Mitigation Action Nine.³ ADEQ could utilize Trust funds for rebates on EV charging stations under the rebate program established under the Arkansas Alternative Motor Fuel Development Act or through a new program. The Arkansas Alternative Motor Fuel Development Act authorizes the Arkansas Energy Office, which has recently moved under the umbrella of the Arkansas Department of Environmental Quality, to offer rebates for the installation of alternative motor fuel infrastructure (including EV charging infrastructure). Thus, the integration of the Energy Office and ADEQ has created new synergies that allow ADEQ to better implement programs to improve air quality.

C. Statewide Alternative Fuels Grant Program

ADEQ is seeking comment on the establishment of a statewide grant program to reduce diesel emissions by providing funding assistance to repower/ replace class four through eight diesel vehicles with model years 1992–2009 with low-NOx CNG or all-electric engines/vehicles. Such a program is authorized under the terms of the trust and shall meet the requirements for heavy-duty and medium-duty vehicle repower and replacement under Eligible Mitigation Actions One, Two, and Six.⁴ This grant program could be used to target school districts that fall outside of the pilot areas and to assist other entities with converting their fleets to CNG or All-Electric technologies. Funding would be awarded on a competitive basis and project proposals would be scored based on whether the project would benefit one of the priority areas and the cost effectiveness in dollars per ton of NOx reduced.

Applicants must demonstrate that fueling/charging infrastructure is available or that a commitment exists from a private developer that a fueling/charging station will be in place to service vehicles funded by the project. A cost-share would be required for projects funded under the statewide grant program.

² Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

³ Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

⁴ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

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ADEQ also proposes that a small portion of the Trust funds allocated to the State-wide Alternative Fuels Grant Program may be used to supplement state funding sources for the state voluntary match under the State Clean Diesel Grant should the program continue into the future.⁵ ADEQ has utilized funding under the State Clean Diesel Grant to administer the Reduce Emissions from Diesels (Go RED!) funding assistance program. Go RED! is a competitive funding assistance program that assists Arkansas-based public, private, and nonprofit entities in reducing diesel emissions in the state through exhaust control, engine upgrade, idling reduction, and engine/vehicle replacement projects.

D. Funding Allocation

Table 1 includes an overview of how ADEQ proposes to allocate the Trust funds. ADEQ solicits comment on the percentage of total Trust funds that should be used for each of the proposed programs. ADEQ also solicits comments on whether any additional programs that fall within the eligible mitigation actions should be considered by the State that would further the goals of spurring innovation and investment in alternative fuel consumption to create continued and sustained reductions in pollutant emissions. Each budget category includes administrative expenditures associated with implementing the programs up to, but not exceeding, fifteen percent of the total cost of each program.

Table 1 Proposed Budget Overview

Budget Category	% of Total Funds	Estimated Funding Allocation
CNG Pilot Programs	60%	\$8,788,625
EV Infrastructure	15%	\$2,197,156
Statewide CNG/EV Vehicle Grant	25%	\$3,661,927

V. Anticipated Environmental Benefits

ADEQ anticipates that the proposed approach would yield environmental benefits with respect to NOx pollution and would have co-benefits in terms of reduction of other pollutants; improving ambient air quality with respect to NOx, ozone, fine particulate matter and; and spurring alternative fuel infrastructure development.

Under the CNG School Bus Pilot Program, ADEQ anticipates up to ninety-six percent reduction in annual NOx emissions per vehicle based on replacing a school bus with a 1992 engine model

⁵ Eligible Mitigation Action 10 provides states with the option to use Trust funds for their non-federal voluntary match for Diesel Emission Reduction Act (DERA) grants, such as the State Clean Diesel Grant. See Appendix A for the full list of Eligible Mitigation Actions.

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year with a school bus with a 2017 engine model year CNG school bus.⁶ ADEQ also anticipates up to a ninety-eight percent reduction in annual PM_{2.5} emissions, a ninety-five percent reduction in hydrocarbon emissions, a ninety-three percent reduction in carbon monoxide emissions, and a 0.1% reduction in carbon dioxide emissions.

Under the Light-Duty Electric Vehicle Infrastructure Rebate Program, emission reductions will be dependent upon consumer choices regarding replacement of fossil-fuel-powered vehicles with zero-emitting electric vehicles. Each consumer that chooses to do so would reduce emissions of all pollutants from his or her vehicle tailpipe by one-hundred percent. Total emission reductions would vary depending on the composition of the electricity generating fleet where the EV is charging. Nationwide, emissions of NOx from the energy sector have decreased by more than eighty percent in the last twenty-five years despite increased electricity generation.⁷

Environmental benefits under the statewide grant program would vary based on the type of vehicle or engine being replaced, the initial age of the engine, and the engine power rating. Programs that would be eligible under the statewide grant program would result in tons of NOx and diesel particulate matter pollution avoided over the lifetime of the vehicles and result in improved ambient air quality and human health for Arkansans.

ADEQ anticipates further environmental benefits would be realized from an increased market share of CNG and EV vehicles that the proposed approach could help to facilitate.

VI. Anticipated Energy and Economic Benefits

ADEQ anticipates that, in addition to environmental benefits, the proposed approach would yield positive energy and economic benefits. The proposed approach aims to increase the use of CNG-fueled and electric-powered vehicles. Jumpstarting markets for CNG and EV vehicles serves to support longer term goals of improving energy security and economic development.

Catalyzing the market for CNG has tremendous energy security and economic development benefits for Arkansas. CNG is produced in Arkansas and increasing CNG consumption will drive increased CNG production by Arkansas workers. CNG has historically had a much lower price than traditional fuels, such as gasoline and diesel. Although fuel prices for gasoline and diesel have recently fallen, CNG fuel prices are less volatile and are expected to remain low. CNG vehicles are also less expensive to maintain than gasoline or diesel vehicles. Despite relatively

⁶ Diesel Emission Quantifier using default assumptions for fuel volume, vehicle miles traveled, idling hours. A diesel equivalent calculation for CNG volume consumed was used for the CNG school bus. The Diesel Emission Quantifier bases emission reductions on standards that a vehicle must meet based on its model year rather than fuel powering the vehicle. Vehicles fueled by CNG typically have lower NOx and particulate matter emissions than do clean diesel vehicles; however, current emission quantifier tools do not provide estimates for fuel switching.

⁷ <https://www3.epa.gov/airmarkets/progress/datatrends/index.html>

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higher upfront costs for CNG vehicles, the true cost to own a CNG vehicle is typically lower due to cheaper fuel and lower maintenance costs. By investing in CNG school bus fleets and spurring private investment in CNG infrastructure and private CNG fleets, the proposed approach would shift fuel consumption toward cleaner burning CNG and help create jobs producing CNG in the State.

Catalyzing the market for EVs has energy security and economic benefits those that purchase EVs and for all electricity rate-payers regardless of the vehicle they drive. For EV drivers, the cost of electricity is lower and much less volatile than traditional fuel prices. Electricity rate payers are also likely to benefit because the bulk of charging behavior occurs at night. The increase in off-peak demand will increase revenues from selling electricity without requiring capital investment in additional generation assets by the utility. The result would be a downward pressure on electricity rates. Use of electricity as the fuel also reduces dependence on foreign oil.

Lack of infrastructure is currently a market barrier to consumer adoption of both CNG and EV technology. Thus, utilizing Trust funding to catalyze the markets for these alternative fuel markets is a prudent investment in Arkansas's economy.

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Appendix A Eligible Mitigation Projects and Administrative Expenditures and Definitions

The following mitigation actions are copied without modification from Appendix D-2 of the Volkswagen Partial Consent Decree: Case No: MDL No. 2672 CRB (JSC)

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)

- a. Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Large Trucks shall also include 2010-2012 engine model year Class 8 Local Freight or Drayage.
- b. Eligible Large Trucks must be Scrapped.
- c. Eligible Large Trucks may be Repowered with any new diesel or Alternate Fueled engine or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Large Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Class 8 Local Freight Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Non-Government Owned Eligible Drayage Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 50% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.

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3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
4. Up to 75% of the cost of a new all-electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- f. For Government Owned Eligible Class 8 Large Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)
 - a. Eligible Buses include 2009 engine model year or older class 4-8 school buses, shuttle buses, or transit buses. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed Eligible Mitigation Action, Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.
 - b. Eligible Buses must be Scrapped.
 - c. Eligible Buses may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Bus Mitigation Action occurs or one engine model year prior.
 - d. For Non-Government Owned Buses, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.

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3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
 - e. For Government Owned Eligible Buses, and Privately Owned School Buses Under Contract with a Public School District, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
3. Freight Switchers
- a. Eligible Freight Switchers include pre-Tier 4 switcher locomotives that operate 1000 or more hours per year.
 - b. Eligible Freight Switchers must be Scrapped.
 - c. Eligible Freight Switchers may be Repowered with any new diesel or Alternate Fueled or All-Electric engine(s) (including Generator Sets), or may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Freight Switcher Mitigation Action occurs.
 - d. For Non-Government Owned Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of :
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).

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2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) Freight Switcher.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 75% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.
- e. For Government Owned Eligible Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) Freight Switcher.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 100% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.

4. Ferries/Tugs

- a. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.
- b. Eligible Ferry and/or Tug engines that are replaced must be Scrapped.
- c. Eligible Ferries and/or Tugs may be Repowered with any new Tier 3 or Tier 4 diesel or Alternate Fueled engines, or with All-Electric engines, or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade.
- d. For Non-Government Owned Eligible Ferries and/or Tugs, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 2. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

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- e. For Government Owned Eligible Ferries and/or Tugs, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 - 2. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

5. Ocean Going Vessels (OGV) Shorepower

- a. Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Components of such systems eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Marine shore power systems must comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems) and should be supplied with power sourced from the local utility grid. Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.
- b. For Non-Government Owned Marine Shorepower, Beneficiaries may only draw funds from the Trust in the amount of up to 25% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.
- c. For Government Owned Marine Shorepower, Beneficiaries may draw funds from the Trust in the amount of up to 100% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.

6. Class 4-7 Local Freight Trucks (Medium Trucks)

- a. Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks, and for Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Trucks shall also include 2010-2012 engine model year class 4-7 Local Freight trucks.
- b. Eligible Medium Trucks must be Scrapped.
- c. Eligible Medium Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Medium Trucks Mitigation Action occurs or one engine model year prior.

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- d. For Non-Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 - 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
 - e. For Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) vehicle.
 - 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
7. Airport Ground Support Equipment
- a. Eligible Airport Ground Support Equipment includes:
 - 1. Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and
 - 2. Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment.
 - b. Eligible Airport Ground Support Equipment must be Scrapped.
 - c. Eligible Airport Ground Support Equipment may be Repowered with an All-Electric engine, or may be replaced with the same Airport Ground Support Equipment in an All-Electric form.
 - d. For Non-Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may only draw funds from the Trust in the amount of:

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1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 75% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
 - e. For Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
8. Forklifts and Port Cargo Handling Equipment
- a. Eligible Forklifts includes forklifts with greater than 8000 pounds lift capacity.
 - b. Eligible Forklifts and Port Cargo Handling Equipment must be Scrapped.
 - c. Eligible Forklifts and Port Cargo Handling Equipment may be Repowered with an All-Electric engine, or may be replaced with the same equipment in an All-Electric form.
 - d. For Non-Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 75% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
 - e. For Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.

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2. Up to 100% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
9. Light Duty Zero Emission Vehicle Supply Equipment. Each Beneficiary may use up to fifteen percent (15%) of its allocation of Trust Funds on the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle supply equipment for projects as specified below. Provided, however, that Trust Funds shall not be made available or used to purchase or rent real-estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Supply Equipment).
- a. Light duty electric vehicle supply equipment includes Level 1, Level 2 or fast charging equipment (or analogous successor technologies) that is located in a public place, workplace, or multi-unit dwelling and is not consumer light duty electric vehicle supply equipment (i.e., not located at a private residential dwelling that is not a multi-unit dwelling).
 - b. Light duty hydrogen fuel cell vehicle supply equipment includes hydrogen dispensing equipment capable of dispensing hydrogen at a pressure of 70 megapascals (MPa) (or analogous successor technologies) that is located in a public place.
 - c. Subject to the 15% limitation above, each Beneficiary may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Government Owned Property.
 2. Up to 80% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Non-Government Owned Property.
 3. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a workplace but not to the general public.
 4. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a multi-unit dwelling but not to the general public.
 5. Up to 33% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 250 kg/day that will be available to the public.

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6. Up to 25% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 100 kg/day that will be available to the public.
10. Diesel Emission Reduction Act (DERA) Option. Beneficiaries may use Trust Funds for their non-federal voluntary match, pursuant to Title VII, Subtitle G, Section 793 of the DERA Program in the Energy Policy Act of 2005 (codified at 42 U.S.C. § 16133), or Section 792 (codified at 42 U.S.C. § 16132) in the case of Tribes, thereby allowing Beneficiaries to use such Trust Funds for actions not specifically enumerated in this Appendix D-2, but otherwise eligible under DERA pursuant to all DERA guidance documents available through the EPA. Trust Funds shall not be used to meet the non-federal mandatory cost share requirements, as defined in applicable DERA program guidance, of any DERA grant.

Eligible Mitigation Action Administrative Expenditures

For any Eligible Mitigation Action, Beneficiaries may use Trust Funds for actual administrative expenditures (described below) associated with implementing such Eligible Mitigation Action, but not to exceed 15% of the total cost of such Eligible Mitigation Action. The 15% cap includes the aggregated amount of eligible administrative expenditures incurred by the Beneficiary and any third-party contractor(s).

1. Personnel including costs of employee salaries and wages, but not consultants.
2. Fringe Benefits including costs of employee fringe benefits such as health insurance, FICA, retirement, life insurance, and payroll taxes.
3. Travel including costs of Mitigation Action-related travel by program staff, but does not include consultant travel.
4. Supplies including tangible property purchased in support of the Mitigation Action that will be expensed on the Statement of Activities, such as educational publications, office supplies, etc. Identify general categories of supplies and their Mitigation Action costs.
5. Contractual including all contracted services and goods except for those charged under other categories such as supplies, construction, etc. Contracts for evaluation and consulting services and contracts with sub-recipient organizations are included.
6. Construction including costs associated with ordinary or normal rearrangement and alteration of facilities.
7. Other costs including insurance, professional services, occupancy and equipment leases, printing and publication, training, indirect costs, and accounting.

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Definitions/Glossary of Terms

“Airport Ground Support Equipment” shall mean vehicles and equipment used at an airport to service aircraft between flights.

“All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

“Alternate Fueled” shall mean an engine, or a vehicle or piece of equipment which is powered by an engine, which uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., CNG, propane, diesel-electric Hybrid).

“Certified Remanufacture System or Verified Engine Upgrade” shall mean engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)” shall mean vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs used for transporting people. See definition for School Bus below.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“CNG” shall mean Compressed Natural Gas.

“Drayage Trucks” shall mean trucks hauling cargo to and from ports and intermodal rail yards.

“Forklift” shall mean nonroad equipment used to lift and move materials short distances; generally includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

“Freight Switcher” shall mean a locomotive that moves rail cars around a rail yard as compared to a line-haul engine that move freight long distances.

“Generator Set” shall mean a switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

“Government” shall mean a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port

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authority, owning fleets purchased with government funds), and a tribal government or native village. The term ‘State’ means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Gross Vehicle Weight Rating (GVWR)” shall mean the maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo.

Class 1: < 6000 lb Class 2: 6001-10,000 lb Class 3: 10,001-14,000 lb Class 4: 14,001-16,000 lb Class 5: 16,001-19,500 lb Class 6: 19,501-26,000 lb Class 7: 26,001-33,000 lb Class 8: > 33,001 lb

“Hybrid” shall mean a vehicle that combines an internal combustion engine with a battery and electric motor.

“Infrastructure” shall mean the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

“Intermodal Rail Yard” shall mean a rail facility in which cargo is transferred from drayage truck to train or vice-versa.

“Port Cargo Handling Equipment” shall mean rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

“Plug-in Hybrid Electric Vehicle (PHEV)” shall mean a vehicle that is similar to a Hybrid but is equipped with a larger, more advanced battery that allows the vehicle to be plugged in and recharged in addition to refueling with gasoline. This larger battery allows the car to be driven on a combination of electric and gasoline fuels.

“Repower” shall mean to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

“School Bus” shall mean a Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

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“Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any Eligible Vehicle will be replaced as part of an Eligible project, scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

“Tier 0, 1, 2, 3, 4” shall refer to corresponding EPA engine emission classifications for nonroad, locomotive and marine engines.

“Tugs” shall mean dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

“Zero Emission Vehicle (ZEV)” shall mean a vehicle that produces no emissions from the on-board source of power (e.g., All-Electric or hydrogen fuel cell vehicles)

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Appendix B Identification of Areas that Bear a Disproportionate Share of Air Pollution

I. Introduction

The Arkansas Department of Environmental Quality has examined several metrics in identifying areas of the State that bear a disproportionate share of air pollution that may benefit from projects to reduce nitrogen oxide emissions under the Volkswagen Environmental Mitigation Trust. These metrics include:

- The number of vehicles subject to the Volkswagen Consent Decree located in each county;¹
- The amount of nitrogen oxides (NO_x) by mobile sources emitted in each county;
- National ambient air quality standard (NAAQS) design values for nitrogen dioxide (NO₂), ozone, and fine particulate matter (PM_{2.5})

This report provides an overview of data obtained for each of the three metrics.

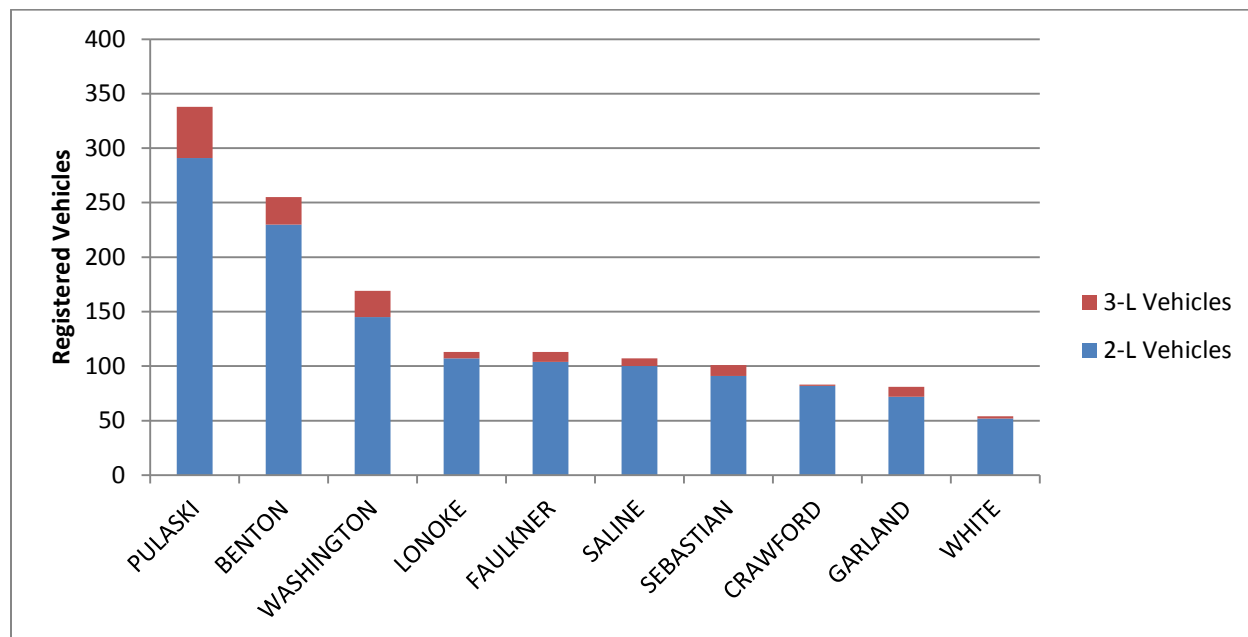
II. Subject Vehicle Registrations by County

A total of 2050 subject two-Liter and three-Liter Volkswagen turbocharged direct injection diesel vehicles are registered in Arkansas. Figure B-1 indicates the top ten counties for subject vehicle registration and indicates that the majority of subject vehicles are registered in central and northwest Arkansas. Sixteen percent of subject vehicles are registered in Pulaski County, twelve percent are registered in Benton County, and eight percent are registered in Washington County.

¹ Case 3:15-md-02672-CRB (JSC)

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Figure B-1 Top Ten Arkansas Counties for Subject Vehicle Registration²



Based on registration data for subject diesel vehicles, it appears that Central and Northwest Arkansas have borne a disproportionate share of NOx emissions from subject vehicles.

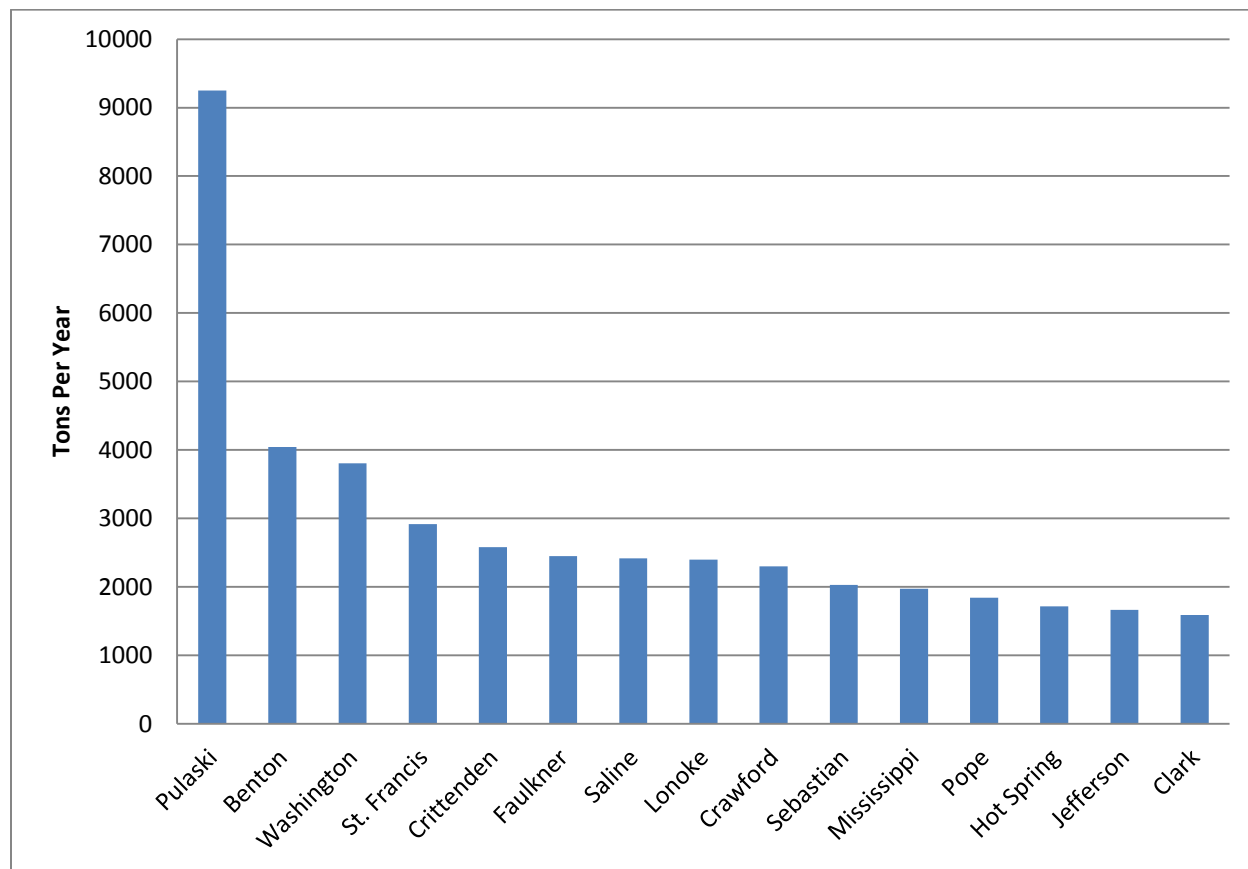
III. On-Road Nitrogen Oxide Emissions

On-road NOx emissions vary across Arkansas. Emissions in the top fifteen counties account for nearly sixty percent of all on-road NOx emissions in the State. Sixty percent of on-road NOx emissions are from on-road heavy duty diesel vehicles, which are the largest contributor to mobile NOx emissions in Arkansas, followed by on-road light-duty non-diesel vehicles, locomotives, and non-road diesel equipment. In the EPA National Emission Inventory, the heavy-duty mobile category includes vehicle weight classes three through eight. Emissions from the other mobile source categories only make up six percent of the mobile NOx inventory combined. When NOx emissions from only diesel-fueled vehicles are considered, on-road heavy duty diesel vehicles comprise the majority of emissions followed by locomotives and non-road diesel equipment. Emissions from other diesel mobile source categories make up approximately three percent of the diesel mobile NOx inventory combined. Figure B-2 shows fifteen counties in Arkansas with the highest on-road NOx emissions. Figure B-3 shows the distribution of NOx emissions in Arkansas by mobile category. Other sources contribute only minor amounts of NOx emissions. Figure B-4 shows the distribution of NOx emissions from mobile diesels in Arkansas by category.

² Personal communication from Arkansas Highway and Transportation Department

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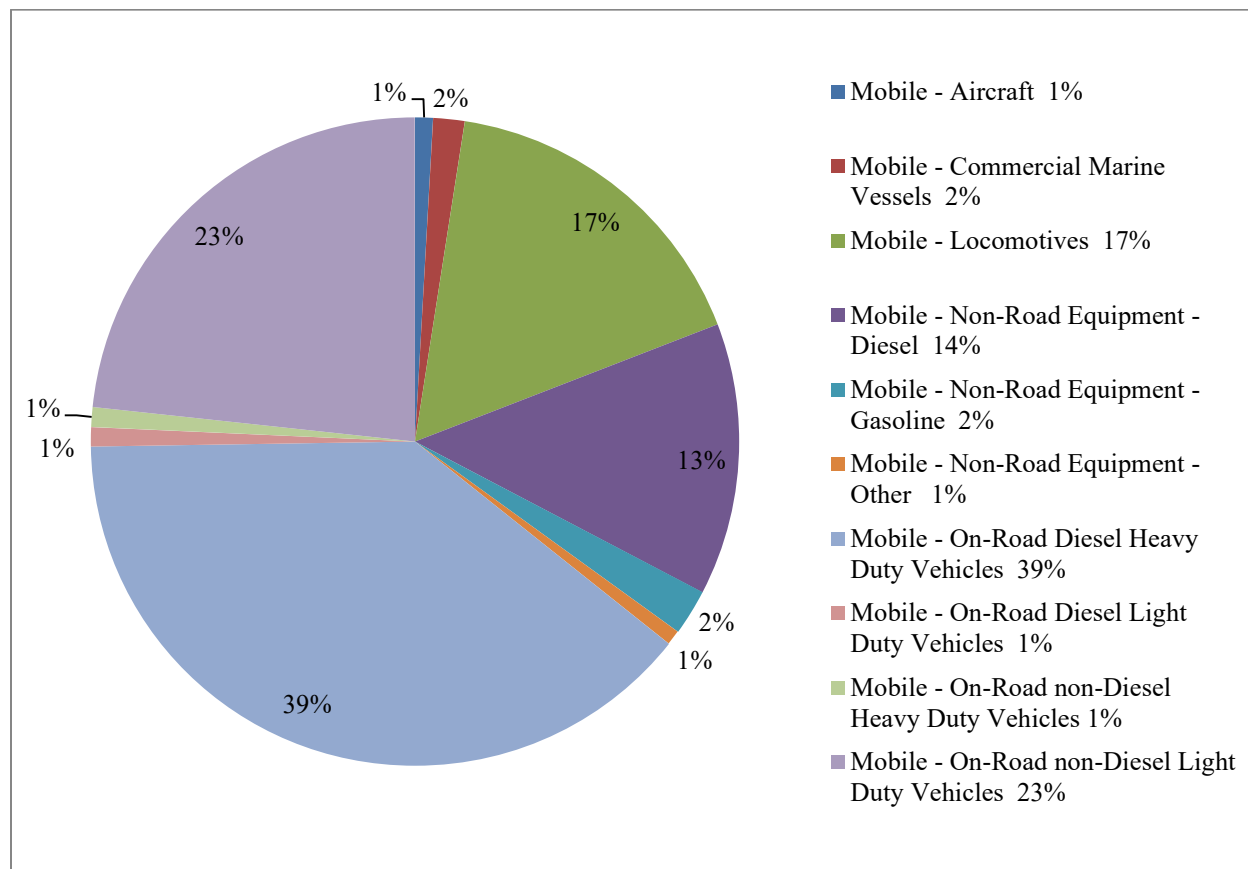
Figure B-2 Top Fifteen Counties for On-Road NO_x Emissions in Arkansas³



³ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, version 1)

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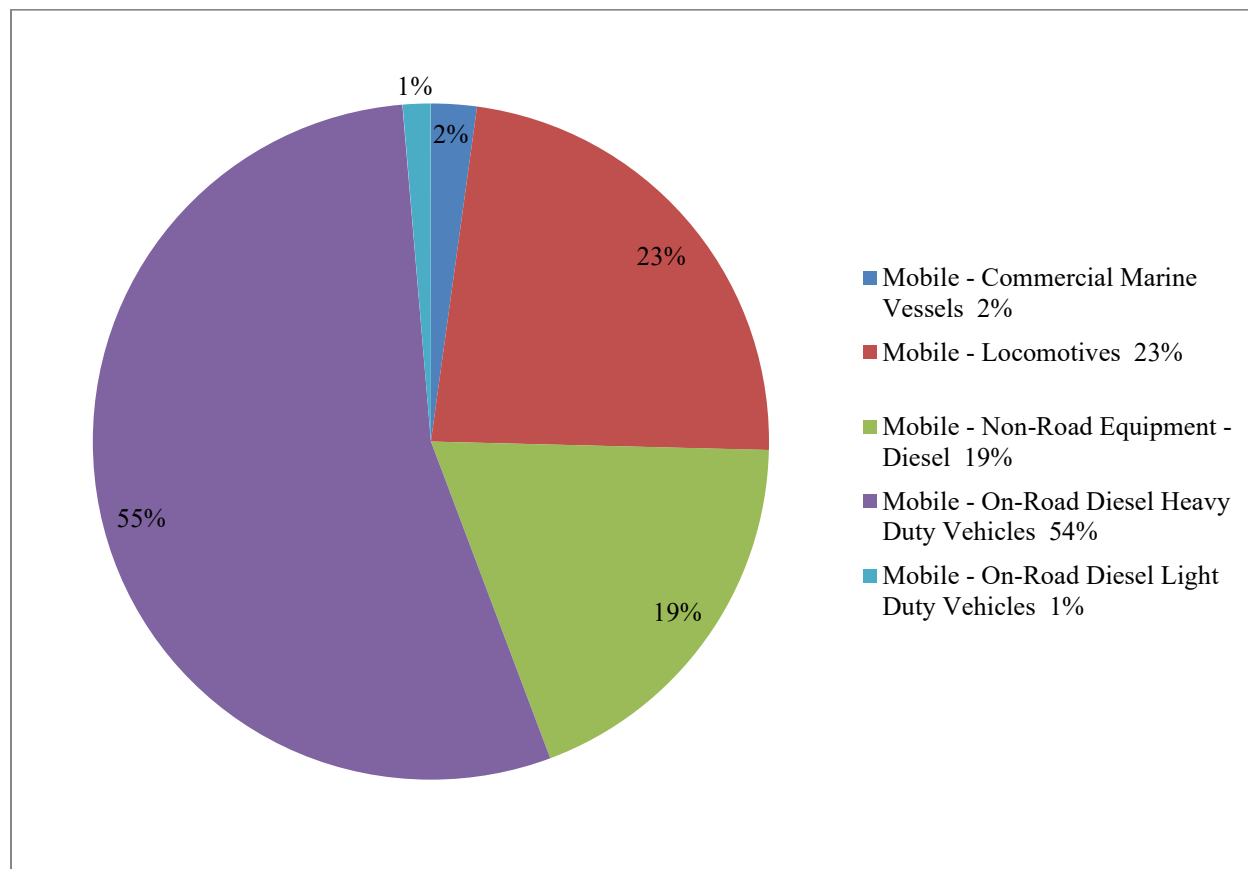
Figure B-3 NOx Mobile Emission Inventory for Arkansas⁴



⁴ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, Version 1)

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Figure B-4 NO_x Mobile Diesel-Powered Emissions Inventory for Arkansas⁵



Based on the relative amounts of on-road NO_x emissions in each county and the relative contribution to the NO_x inventory of each mobile source category, it appears that targeting emission reductions from on-road heavy duty diesel vehicles (vehicle weight classes three through eight) and on-road light duty non-diesel vehicles in Central Arkansas, Northwest Arkansas, and counties in the Memphis area would address the largest contributors to mobile NO_x in those areas that bear a disproportionate share of on-road NO_x emissions.

VII. NAAQS Design Values for NO₂, Ozone, and PM_{2.5}

All counties in Arkansas are in attainment with the NAAQS for all criteria pollutants. Attainment status is determined by comparing design values, which are computed for each monitor location based on the time-weighted averages of the criteria pollutant in ambient air and the form of the NAAQS, to the level of the NAAQS. Crittenden County, located in the Memphis metropolitan

⁵ Environmental Protection Agency National Emissions Inventory 2014 (2014 National Emissions Inventory, Version 1)

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area, has experienced periods during which the area was in nonattainment with ozone national ambient air quality standards as standards became more stringent in 1997 and 2008; but, as a result of monitored improvements in air quality between 2012 and 2014, the county was redesignated to attainment in 2016 and is currently under a maintenance plan to ensure continued attainment of the 2008 ozone NAAQS.

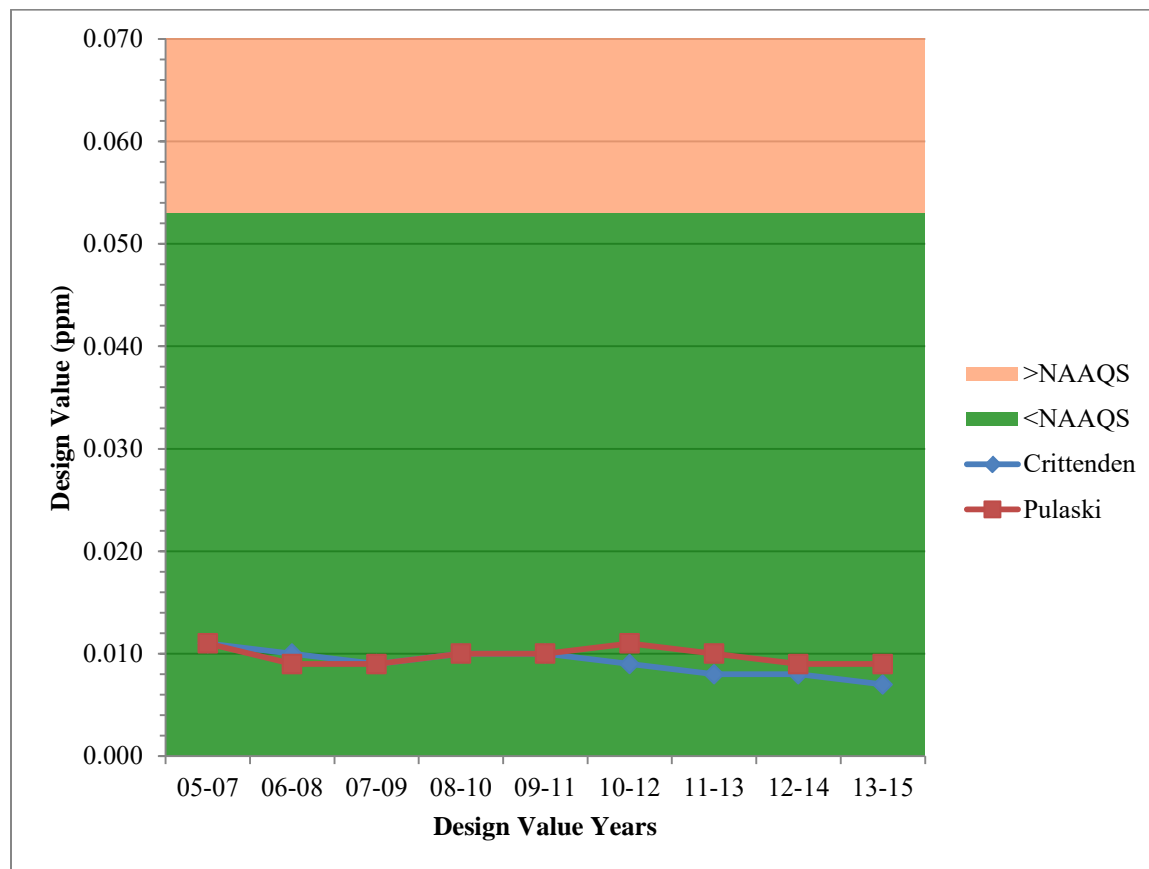
All counties in Arkansas are anticipated to continue to attain all of the NAAQS, including the recently promulgated 2015 ozone NAAQS set at seventy parts per billion (ppb). On September 29, 2016, Governor Asa Hutchinson recommended to EPA Region Six that all counties in Arkansas be designated attainment or attainment/unclassifiable (for counties that do not have a monitor) for the 2015 ozone NAAQS based on 2013 – 2015 data.

A. Nitrogen Dioxide

Arkansas is in attainment with both the annual and one-hour NO₂ NAAQS. There are two NO₂ monitors in the state. One is located in Pulaski County and the other is located in Crittenden County. Over the past ten years, NO₂ design values in Crittenden County have declined because of measures to reduce ozone concentrations in the area. NO₂ design values in Pulaski County have also declined. All NO₂ design values over the past decade have been well below the level of the NAAQS. Figure B-5 shows trends in the annual NO₂ design values at each monitor and Figure B-6 shows trends in one-hour design values at each monitor.

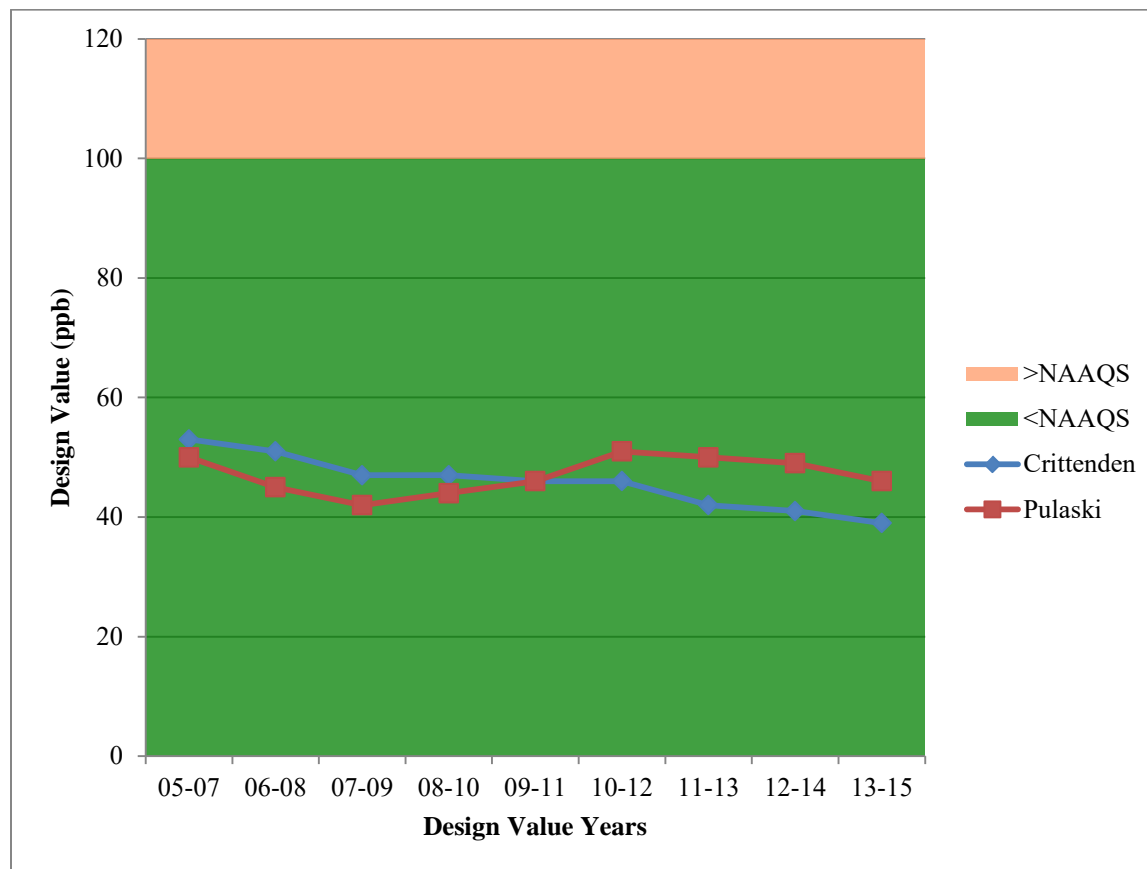
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Figure B-5 Arkansas Annual NO₂ Design Values 2005–2015⁶



⁶ Environmental Protection Agency Air Quality System Database

Figure B-6 Arkansas NO₂ One-Hour Design Values⁷



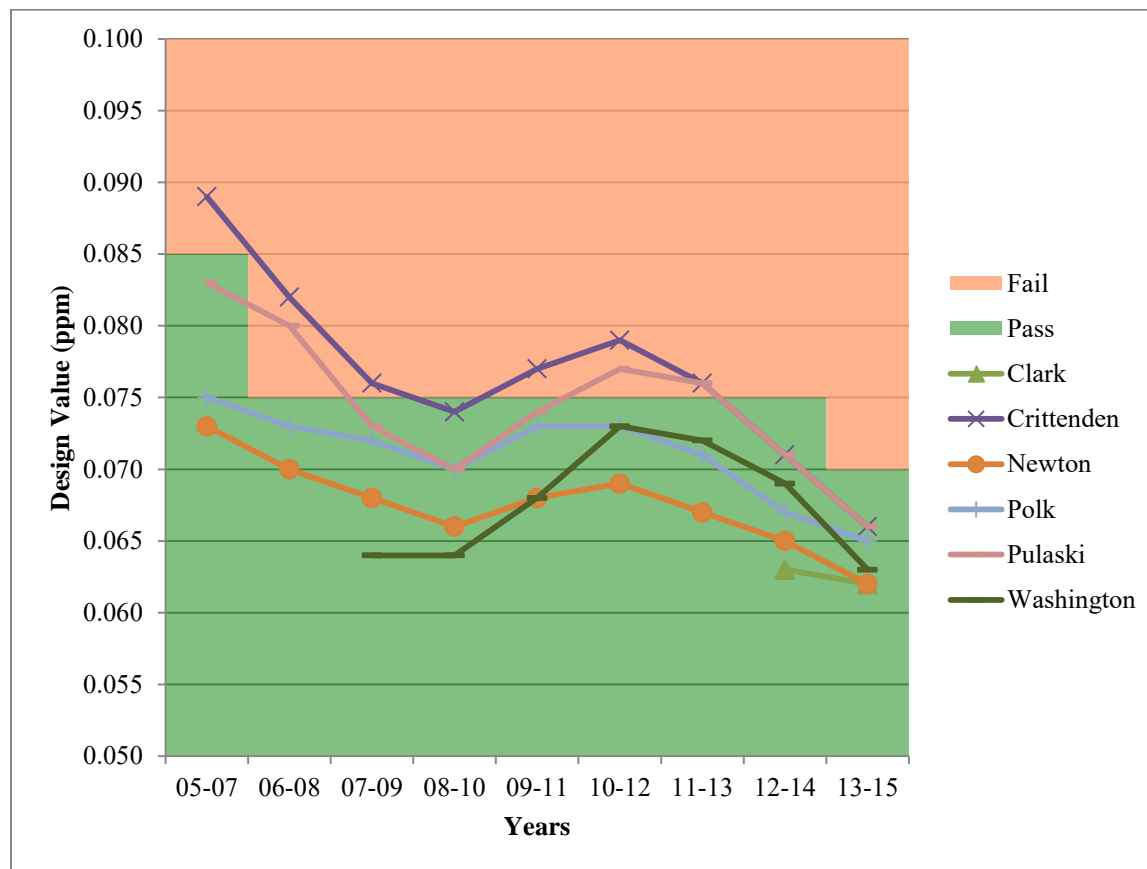
Based on trends in the 1-hour and annual NO₂ NAAQS, it appears that no monitored locations in the state bear a disproportionate share of air pollution with respect to either of the two NO₂ NAAQS.

B. Ozone

All areas of the state have ozone design values below the level of the current NAAQS for ozone (seventy ppb). Crittenden County was designated a marginal nonattainment area for the 1997 ozone standard and the 2008 ozone standard, but ultimately re-attained each standard through continued improvements in air quality. Over the past ten years, concentrations of ozone have dropped in Crittenden County and across the state because of federal and State air quality programs to reduce emissions of precursor pollutants, particularly NO_x. Figure B-7 shows trends in ozone design values at each of the monitors in the State over the past ten years compared to the concurrent ozone NAAQS.

⁷ Environmental Protection Agency Air Quality System Database

Figure B-7 Ozone Design Values at Arkansas Monitors 2005-2015⁸



Based on historic ozone design value trends and attainment designations, Crittenden County and Pulaski County have borne a disproportionate share of air pollution with respect to ozone. As such, these locations would be good locations to target NO_x, an ozone precursor, emission reductions.

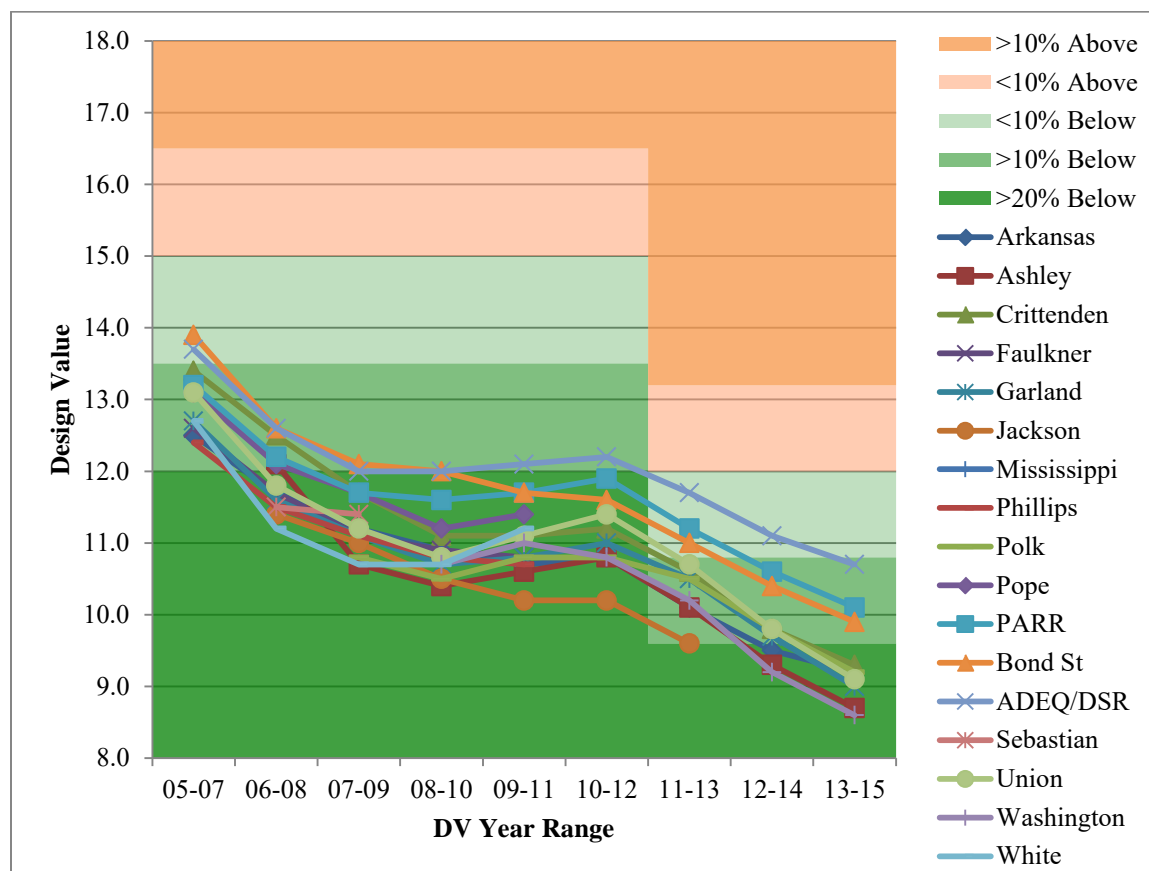
C. Fine Particulate Matter (PM_{2.5})

All areas of the state are in attainment with the current annual and twenty-four-hour NAAQS for PM_{2.5}. The annual PM_{2.5} NAAQS was revised from fifteen micrograms per cubic meter (µg/m³) to twelve µg/m³ in 2013. Figure B-8 shows trends in annual PM_{2.5} design values at each of the monitors in the State over the past ten years compared to the concurrent annual PM_{2.5} NAAQS. Three monitors—PARR, Bond St., and ADEQ/DSR—are located in Pulaski County. Figure B-9 shows trends in twenty-four-hour PM_{2.5} design values at each of the monitors in the State over the past ten years compared to twenty-four-hour PM_{2.5} NAAQS.

⁸ Environmental Protection Agency Air Quality System Database

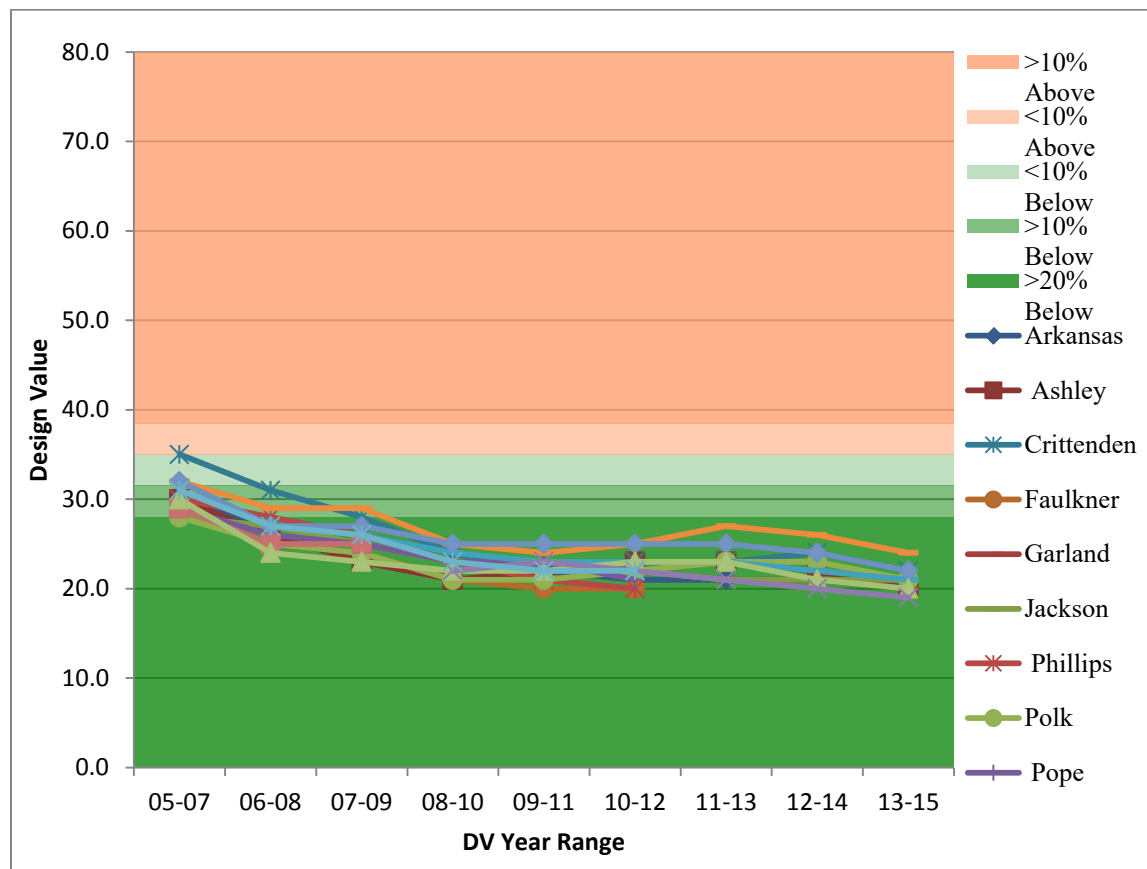
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Figure B-8 Annual PM_{2.5} Design Values for Arkansas 2005-2015⁹



⁹ Environmental Protection Agency Air Quality System Database

Figure B-9 Twenty-Four-Hour PM_{2.5} Design Values for Arkansas 2005-2015¹⁰



Based on historic PM_{2.5} design value trends, Crittenden County and Pulaski County have borne a disproportionate share of air pollution with respect to PM_{2.5}. As such, these locations would be good locations to target NO_x, a PM_{2.5} precursor, and diesel particulate emission reductions.

VIII. Conclusion

This report has evaluated areas that have borne a disproportionate share of air pollution with respect to NO_x emissions from vehicles subject to the Volkswagen Consent Decree, on-road NO_x emissions in general, and ambient air concentrations historically exceeding or near to the level of the NAAQS of pollutants for which NO_x is a precursor. Taking together all evaluated metrics, it appears that Central Arkansas, Northwest Arkansas, and counties near the Memphis metropolitan area have borne a disproportionate share of air pollution and that targeting programs to reduce on-road NO_x emissions in these areas is likely to result in improvements in air quality. The two largest mobile emitters of NO_x are on-road heavy-duty diesel vehicles (vehicle weight classes three through eight) and light-duty non-diesel vehicles. Thus, targeting funding under the Volkswagen Environmental Mitigation Trust on eligible mitigation actions one, two, six, and

¹⁰ Environmental Protection Agency Air Quality System Database

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nine would be prudent measures to address the largest contributors to mobile NOx emissions in Arkansas.¹¹

DRAFT

¹¹ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

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Appendix C Alternative Fuel Corridors

I. Background

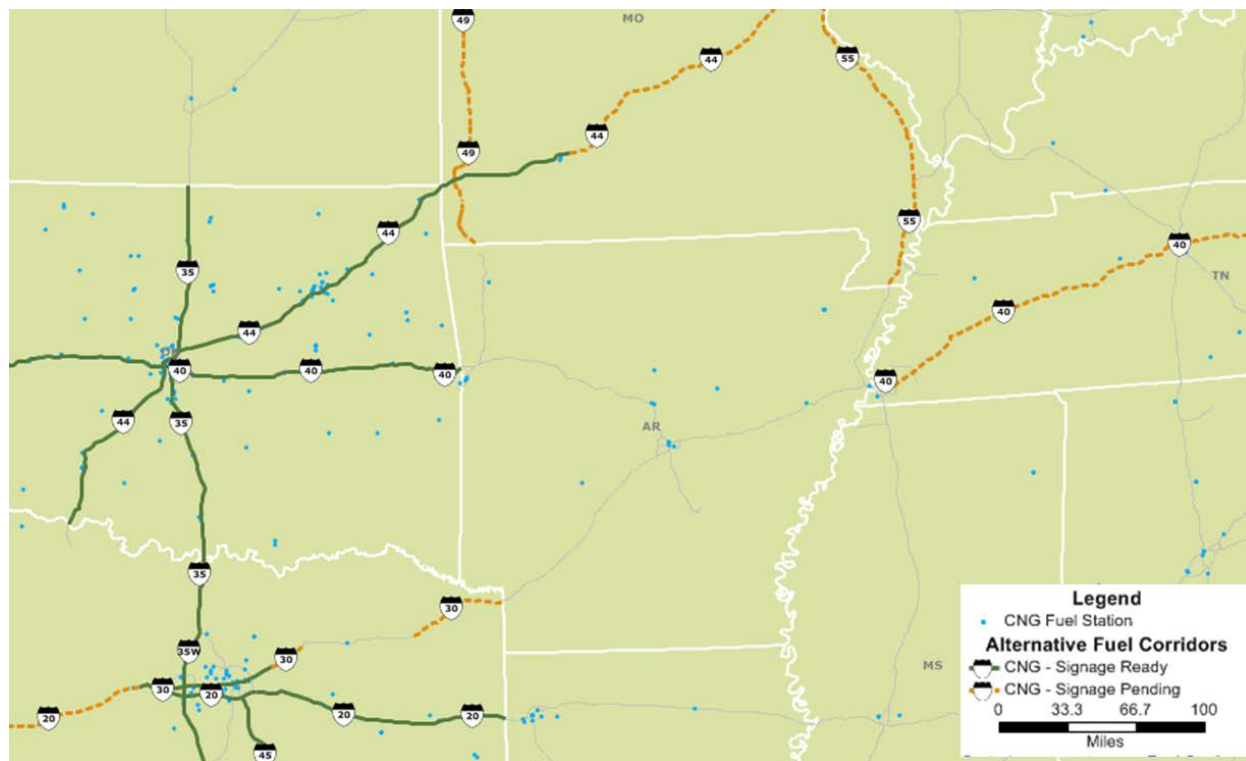
The 2015 Fixing America's Surface Transportation (FAST) Act established an Alternative Fuel Corridors Program to establish alternative fueling and/or charging facilities along national highway system corridors. Under this program, states nominate highways or segments of highways for inclusion in the program. The Federal Highway Administration provides signage to states with corridors designated under the Alternative Fuel Corridors Program to catalyze consumer interest in alternative fuel vehicles. Compressed natural gas (CNG) and electric vehicle (EV) corridors also have priority for federal Congestion Mitigation and Air Quality Improvement (CMAQ) funds. No alternative fuel corridors are currently designated in Arkansas, but corridors could be established by installation of CNG fueling facilities and EV charging facilities in a few key locations.

II. CNG Alternative Fuel Corridors

To be designated a CNG alternative fuel corridor, highways or segments of highways must have public, fast-fill, 3,600 pounds per square inch CNG stations no greater than 150 miles apart. Stations must be within five miles of the corridor. Figure C-1 shows for neighboring states the locations of designated CNG alternative fuel corridors and locations where states are working toward CNG alternative fuel corridors. Some of the CNG stations marked in Figure C-1 are not within five miles of the highway and therefore cannot be counted toward the requirements for designation of a CNG Fuel Corridor.

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Figure C-1 CNG Alternative Fuel Corridors in States Adjacent to Arkansas¹



A CNG alternative fuel corridor could be established along Interstate Forty by the addition of a CNG station somewhere between Conway, AR and Fort Smith, AR and would have to be located within five miles of Interstate Forty per certified alternative fuel corridor requirements. The two CNG stations located in Fort Smith, Arkansas are too far from Interstate Forty to qualify. There is a qualified CNG station in Webber, OK approximately 169 miles away from the CNG station in Conway, AR.

An alternative fuel corridor could also be established along Interstate Thirty through installation of a CNG station midway between stations located in Little Rock, AR and Sulphur Springs, TX, which are approximately 250 miles apart. The addition of one such CNG station would make the entire section of Interstate Thirty in Arkansas eligible for alternative fuel corridor certification.

III. EV Alternative Fuel Corridor

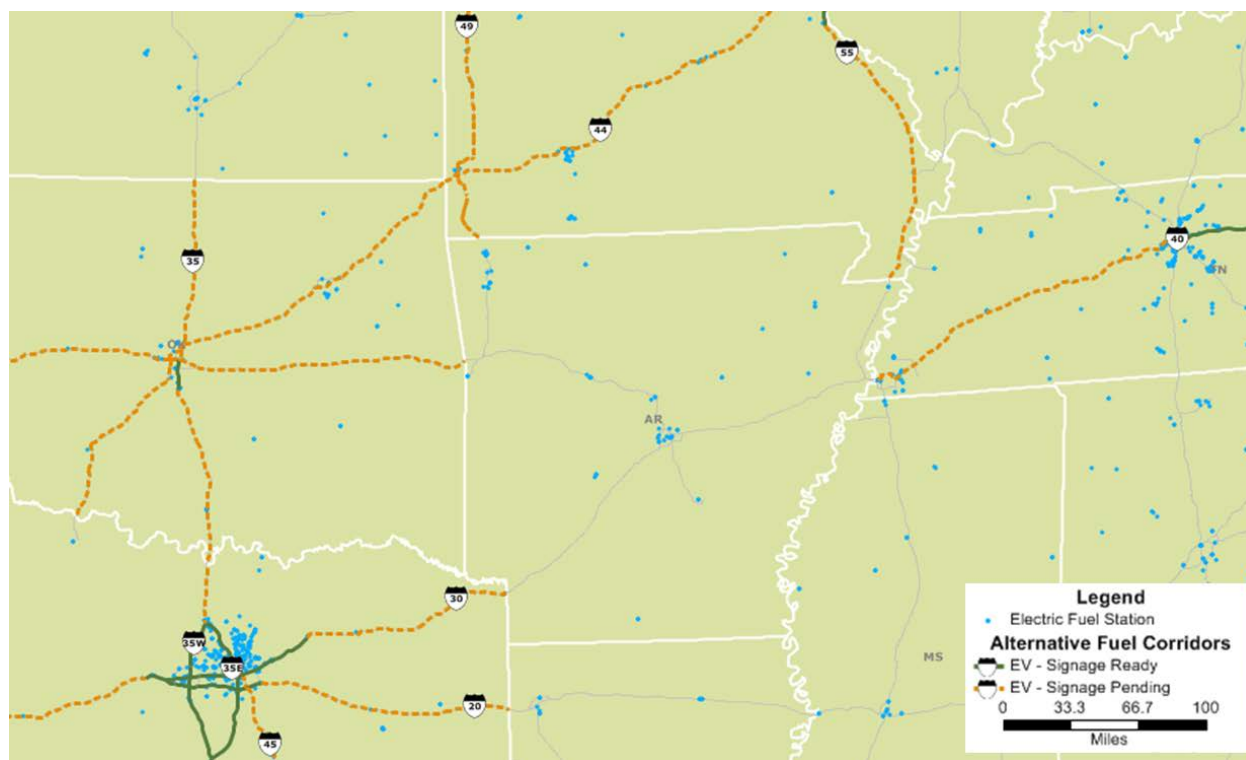
To be designated an EV alternative fuel corridor, highways or segments of highways must have public, DC Fast Charging or Level Two chargers no greater than fifty miles apart. Charging stations must be within five miles of the corridor. Figure C-2 shows for neighboring states the

¹ Compressed Natural Gas (CNG) Alternative Fuel Corridors obtained from hepgis.fhwa.dot.gov

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locations of designated EV alternative fuel corridors and locations where states are working toward EV alternative fuel corridors. Some of the EV stations marked in Figure C-2 are not within five miles of the highway and therefore cannot be counted toward the requirements for designation of an EV Fuel Corridor.

Figure C-2 EV Alternative Fuel Corridors in States Adjacent to Arkansas²



The segment of Interstate Forty between Russellville and North Little Rock meets the requirements to be designated an EV alternative fuel corridor. There are no public DC Fast Charge or Level 2 EV charging stations in Arkansas within five miles of Interstate Forty west of Russellville or east of North Little Rock. There are no EV stations within five miles of Interstate Thirty south of Little Rock.

IV. Conclusion

Funds under the Volkswagen Environmental Mitigation Trust could be used by Arkansas to work toward the designation of major interstates as alternative fuel corridors. CNG fueling infrastructure development could be encouraged by CNG medium-duty, heavy-duty, or bus pilot programs deployed in strategic areas of the State. As part of these pilot programs, Arkansas could solicit private investment in CNG fueling stations to service vehicles repowered or replaced under the CNG pilot programs. The pilot programs could be funded under the

² Electric Vehicle (EV) Alternative Fuel Corridors obtained from hepgis.fhwa.dot.gov

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Volkswagen NOx Environmental Mitigation Trust Eligible Mitigation Actions One, Two, and/or Six.³ An EV charging infrastructure rebate or grant program would be eligible under Volkswagen NOx Environmental Mitigation Trust Eligible Mitigation Action Nine.⁴

³ Eligible Mitigation Action One defines the eligibility of heavy-duty freight and port drayage trucks for repower and replacement projects. Eligible Mitigation Action Two defines eligibility of buses for repower and replacement projects. Eligible Mitigation Action Six defines the eligibility of medium-duty vehicles for repower and replacement projects. See Appendix A for the full list of Eligible Mitigation Actions.

⁴ Eligible Mitigation Action Nine defines eligibility of light-duty zero emission vehicle supply equipment. See Appendix A for the full list of Eligible Mitigation Actions.

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Appendix D Public Comment Period Activities

A summary of public comment activities will be included in the final mitigation plan.

DRAFT

Arkansas Environmental Mitigation Plan

Request for Information and Draft Plan

DRAFT PLAN GOALS

- ✓ Achieve significant & sustained reductions of NOx emissions
- ✓ Achieve emission reductions of other pollutants
- ✓ Spur private investment in alternative fuels
- ✓ Foster economic development
- ✓ Establish alternative fuel corridors

PROPOSAL



Compressed Natural Gas (CNG) School Bus



Electric Vehicle (EV) Infrastructure Rebate

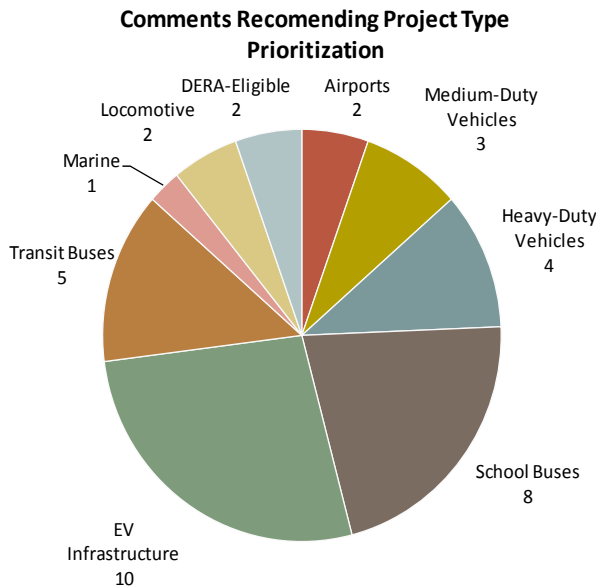


Alternative Fuels Statewide Grant

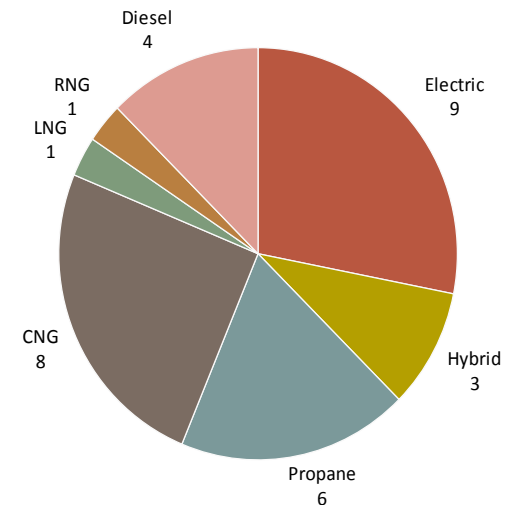
Programs included in the Arkansas draft plan are subject to change in response to comments received at the direction of Director Keogh and Governor Hutchinson.

PUBLIC PROCESS

On September 5, 2017, ADEQ issued a request for information and draft Environmental Mitigation Plan for feedback from the public. The comment period on the request for information and draft plan closed November 1, 2017. ADEQ received 32 comments from individuals, other government agencies, and private organizations. ADEQ is in the process of making revisions to the plan in response to comments received. The charts below provide a summary of the types of projects and fuel types advocated.



Comments Recommending Fuel Type Prioritization for Replacements/Repowers



ARKANSAS DEPARTMENT OF
ENVIRONMENTAL QUALITY

From: [Barbara Jarvis](#)
To: [Treece, Tricia](#)
Subject: Use of Volkswagen Environmental Mitigation Funds
Date: Tuesday, September 05, 2017 7:30:28 PM

Use all of the money on the objective of establishing a system of clean-powered multimodal public transit to reduce traffic and emissions in Little Rock. This would be by far the most efficient and effective use of the money. Please don't spread it out over numerous half-baked projects and less-than-half-baked results.



615 N. Nash Street, Suite 203 | El Segundo, CA 90245 USA | (866) 790-3155 | info@evconnect.com

RE: Request for Information

Submission deadline: November 1, 2017

Recipient: Tricia Treece

Department: Arkansas Department of Environmental Quality

Wednesday, September 6, 2017

Dear Tricia,

EV Connect would like to thank the Arkansas Department of Environmental Quality, for the opportunity to participate in its Request for Information (RFI). We believe EV Connect has the experience and tools to assist Arkansas efforts in reducing NOx emissions through the promotion of Electric Vehicles (EVs). If there is anything we can assist with during these early stages, feel free to reach out.

Sincerely,

Steve Bloch

Vice President of Sales and Partnerships

615 N. Nash Street, Suite 203

El Segundo, CA 90245 USA

(818) 318-9715

sbloch@evconnect.com

Company: EV Connect

EV Connect is a leading provider of electric vehicle (EV) charging solutions for commercial, enterprise, hospitality, university and government facilities. EV Connect developed and operates the industry's most open, robust and flexible cloud-based platform for the management of charging stations and the drivers that use them. The EV Connect platform provides charge station-agnostic command & control; enterprise and energy systems integration via an open API; driver communications and support; and demand-response functionality across multiple charging networks.

- **Founded:** 2009
- **Location of office:** 615 North Nash Street, Suite 203 El Segundo, CA USA 90245
- **Website:** <https://www.evconnect.com/>

Services:

- Open and flexible cloud-based EV charge station solution. Our solutions are industry specific, which means we understand and customize our systems to work with specific and unique challenges.
- Turn key provider which can provide hardware, software, installation, and management for EV charging stations.

Contacts:

- **Steve Bloch**
 - Vice President of Sales and Partnerships
 - (818) 318-9715
 - sbloch@evconnect.com
 -
- **Jordan Ramer**
 - Founder & CEO
 - (310) 894-6822
 - jordan@evconnect.com

PDF overviews:



ev-connect-overview Q4 2015.pdf



ev-connect-software-overview Q4 2015 (2) (1).pdf

EV Connects Request for Information (RFI) Response

a) The overall goal for the use of the funds

To decrease harmful NOx emissions while electrifying roads for Electrical Vehicle owners, Arkansas should consider allocating the recommended 15% towards EV charging Infrastructure. Installation of public Level 2: workplace and Multi-Unit Dwelling (MUD) charging stations, will benefit Arkansas by increasing electrical vehicle ownership -- suppressing the anxiety of having to charge a vehicle instead of easily filling it with gas.

b) Categories of Eligible Mitigation Actions appropriate to achieve the stated goals

To meet the stated goals, 15% should be allocated toward the Acquisition, installation, operation, and maintenance of new, light duty, zero emission vehicle supply equipment. Confirmation that 15% will be allocated, will spur private investment in alternative fueling infrastructure and vehicles.

c) A description of how the State will measure the potential beneficial impact of Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden

Install level 2 charging stations in counties experiencing the highest levels of NOx emissions. The Light-Duty Electric Vehicle Infrastructure Rebate Program will help incentivize people to purchase electric vehicles. However public charging stations are necessary to persuade people to turn electric. Also, searching for sites within five miles of Interstate 40 west, will help strengthen the EV Alternative Fuel Corridor.

d) A general description of the expected ranges of emission benefits that would be realized by implementation of the BMP

Arkansas's two largest mobile emitters of NO_x are on-road heavy-duty diesel vehicles (vehicle weight classes three through eight) and light-duty non-diesel vehicles. An EV Alternative Fuel Corridor and Alternative Fuel Corridor, will help ignite a shift toward electric and alternative fuel vehicles – resulting in the decrease of NO_x emissions.

From: frank@medicaire.net
To: [Treece, Tricia](#)
Subject: VW Settlement- Request for Information (RFI) to solicit input on the State's Beneficiary Mitigation Plan (BMP)
Date: Friday, September 22, 2017 10:49:23 AM

Ms. Tricia Treece

Arkansas Department of Environmental Quality

(501) 682-0055

Comments: September 22, 2017

Use of Volkswagen settlement funds for Medidocks to advance Ambulance/Emergency Vehicle Idle Reduction:

Idling of ambulances is a significant contributor to air pollution, particularly as the majority of the idling occurs adjacent to healthcare facilities with their sensitive populations exposed. Reducing this idling provides a direct air quality improvement. Problematic to not idling the ambulance is the fact that interior temperatures and medical equipment must be maintained in a state of readiness, requiring power. My firm's product, the Medidock, provides a real solution to this problem by allowing an ambulance to remain 'mission-ready' without idling.

Our system is a kiosk, installed at Emergency Departments and other medical facilities and at remote locations where ambulances are 'posted' to improve response times and improve air quality. The Medidock requires no special equipment to be installed onboard the vehicle – any & all ambulances can use it. In addition to electrical power for the onboard emergency medical equipment it also provides vehicle interior climate control - without the need to run the engine. Our units ease of operation encourages EMT's to actually use the machines, resulting in fuel and maintenance savings for the vehicle operators and environmental benefits for everyone. On our website www.medicare.net you will find a study done by the Ozone Transport Commission (OTC) which indicates a significant NOx reduction as noted from sites in VT & NH.

Medidocks are presently successfully operating in northern New England and locations in the Midwest.

While vehicle idle reduction is not specifically indicated in the settlement, augmentation of DERA is, allowing a pathway for funding this important public health/air quality improvement.

I urge you to consider earmarking funding for the Medidock in the final Beneficiary Mitigation Plan. Thank you for your consideration.

Frank Podgwaite

MedicAire, LLC

Medidock

North Haven, CT 06473

203-887-0209 cell

frank@medicaire.net

www.medicare.net

"The ambulance idle reduction solution"

"Exclusive Distributors of the Medidock"



September 22, 2017

Arkansas Department of Environmental Quality
5301 Northshore Dr
North Little Rock, AR 72118
montgomery@adeq.state.ar.us
treecep@adeq.state.ar.us

Re: Penske Comments on VW Funding Planning

To Whom It May Concern:

Penske would like to thank the Arkansas Department of Environmental Quality (ADEQ) for the opportunity to provide comments on the Volkswagen settlement funding plan for the state. ADEQ has consistently provided an opportunity for stakeholder engagement and feedback to shape and refine programs to ensure they are meeting their intended purposes—a process we strongly respect and admire.

Penske remains committed to reducing vehicular emissions and accelerating deployment of cleaner vehicle technology and can be a natural partner with the state in achieving some of its goals to reduce emissions from transportation. Penske's average customer size is between 8 and 12 trucks and is able to provide comprehensive vehicle services to companies that do not have the financial capital and necessary experience to purchase and maintain alternative fueled vehicles. Leasing with Penske provides the following benefits to fleets:

- No upfront purchase costs and concerns about vehicle residual/resale
- No costs to modify maintenance facilities
- No maintenance training costs and investment in special tools
- No fueling anxiety as Penske will help with vehicle routing and fueling contracts
- 24/7 Roadside assistance & nationwide service network
- Cost savings from Penske's purchasing power for fuels and vehicles that can be passed onto customers

In order to provide alternative fuel vehicles at competitive rates with their diesel and gasoline counterparts, Penske leverages incentives, such as grant programs and tax credits. Since Penske accesses these programs throughout the U.S., we have come to understand the programs that work best to incentivize clean vehicle deployment for small, mid-sized and large fleets alike. We are providing this insight to you so that you may consider it as you work to create funding programs from the VW settlement but also in your efforts to create future incentive programs to deploy cleaner and more advanced vehicle technology within the state. Specifically, we would recommend the following:

1. **Treat vehicle leasing like any other financing mechanism and allow fleets the opportunity to have equal access to program funding regardless of the financing mechanism.** Programs can be created in ways that allow you to achieve your objectives in terms of the certain number of years in operation; requirements to hold onto the vehicle for a certain length of time; and targets on mileage/area operation. This can all be done with leasing—just like it can be done



with vehicle loans directly by the fleet. We would encourage that you develop programs that do not differentiate between the financing mechanisms used and instead focus on the specific objectives you are trying to achieve, regardless of the financing mechanism utilized to get there.

2. **Create a priority list** versus a wait list that will allow for you to rank projects that achieve better emissions reductions through replacement of vehicle miles travelled of traditional diesel or gasoline.
3. If you do create a waiting list mechanism for an ongoing program, **provide waiting list and application funding transparency.** Funds for clean vehicle programs frequently become oversubscribed almost immediately upon program opening for popular funding programs. A simple email list that lets people know weeks before the date it will open will allow for transparency in the program.
4. **Ability to move between weight classes and increase number of vehicles** once awarded. From the period of application to award, things change. Maintaining programmatic flexibility while ensuring that projects are still held to their allocated dollar amount and program effectiveness (e.g., meeting emissions requirements) is key.
5. **Simple contracting mechanisms** are key to ensure faster deployment. We have seen that purchase order formats with terms and conditions in a 1-2 page format on the back of a purchase order, such as that in Colorado, work really well and are easy to understand and follow.
6. **Simple reporting templates** are key to encourage and receive timely reporting. We recommend 2-4 times a year and have it specific to fuel use, mileage and listing of any project challenges encountered.
7. **Quick payment periods** are essential, especially for smaller fleets, so they don't have to carry expenses for too long without reimbursement.
8. **Scrappage alternatives** are very helpful as frequently companies will see this as a barrier to entry. Many fleets know that their 10 year old truck, for example, carries more value than what can be achieved when just sending it to a dismantler and collecting scrap value. Yet we recognize the state might not want these vehicles to reenter the state. Allow for flexibility here to dispose of the vehicles in ways other than outright scrappage—perhaps an export option like that allowed in Texas or even the opportunity to sell the vehicle to a fleet who has much older units in operation as a 10 year diesel vehicle would be cleaner than a 20 or 30 year old unit that is in operation. Another key opportunity area is to provide a way for an entity like Penske to apply for the funding but for the end user (the actual fleet) to turn in one of their vehicles.

We are eager to work with you and your team to advance cleaner vehicle technology and to reduce emissions in the state. When fleets choose Penske for their clean vehicle needs, it's analogous to hiring an experienced in-house alternative fuel team, and the fleets we work with in your state are eager to replace some of their older vehicles with cleaner and more fuel efficient, less polluting options.

Sincerely,

A handwritten signature in dark ink, appearing to read "D Stapleton", with a long horizontal stroke extending to the right.

Dean Stapleton, Senior Manager of Alternative Fuels
Penske Truck Leasing



October 1, 2017

State of Arkansas

Dear Sir / Madame,

We are a collection of Louisiana born and raised Aerospace engineers who decided in 2007 to tackle compression, storage and distribution of any gas but notably natural gas and hydrogen for fuel cell cars. During these years we have been working in stealth to develop a product line of systems that are completely unlike those currently being used to fuel natural gas vehicles. We have units that deliver cold gas not hot, and fast fill not just slow fill. They have a minimum of 20 years lifespan rather than less than six, are as quiet as a dishwasher (not as loud as a clacking multi stage compressor) and can run on 110 volts instead of 220+ volts. They are installable anywhere minimal power and natural gas are available at the street or as renewable gas on rural farms.

We have been in stealth mode working amongst the industry giants who were also trying to achieve what we have, but have seen the likes of GE, Eaton, Whirlpool and many others fail over these years. There are only a few officials in the State of Louisiana (LDEQ and the DNR) who know of us. We have been diligently working over the past 10 years developing the system designs, patents (starting to receive) and developing U.S. based industry partnerships. We have been design analyzed and validation tested by the U.S. natural gas consortium Gas Technology Institute (GTI), and our own Louisiana partner Audubon Engineering. Our technology is valid and near ready for deployment. With the recent changes in the U.S. for the need to be far more energy independent and environmentally friendly, we are now preparing to finally move towards any one of a myriad of options we have available as laid out in our business plan. We therefore desire to proceed towards a low level production run for certification of the units to the U.S. and International listing standards along with placement of in-field units supporting various state initiatives and industry corporations who have professed a desire for the units. Therefore in our efforts to help our Gulf South secure its future, the attached proposal was also tailored and sent to LA, TX, MS, AL, FL, and GA.

We are the answer to the lagging U.S. infrastructure for fueling natural gas cars and trucks at your home, at your business and at commercial stations, delivering cold gas to the vehicles at costs as low as \$0.80 per gallon equivalency.

We therefore would like to urgently come and brief you and your team about the dramatic differences we can make for your state's benefit and for the entire Gulf South.

On Behalf of Our Team,

Carl T. Guichard Jr.

Carl Guichard Jr.

CTGuichard@Gmail.com

(985) 960-7089

903 Winona Dr., Mandeville, LA 70471



NGI-LA, LLC PROPOSAL

ARKANSAS— FIRST VW FUNDING FOR EMISSIONS MITIGATION

CROSS INDUSTRY PLAN FOR Arkansas FUELING & REVENUE SAVINGS INTO THE FUTURE

PROPOSAL FROM:
CARL GUICHARD
GLOBAL-E ENGINEERING
FOR: NGI-LA, LLC
MANDEVILLE, LA
(985) 960-7089

FOR:
ARKANSAS RFP
VW MITIGATION FUNDING
LITTLE ROCK, AR
ADEQ, ANRC, ArDOT





The Enclosed Focuses on Arkansas-First

- Gives Arkansas first and foremost a more secure energy policy
- Gives Arkansas State and Local Governments a reduced operating budget now and into the future
- Gives Arkansas's a true first chance at purchasing affordable and fuelable CNG vehicles
- Gives Arkansas the first shot at new technology that is about to be introduced to the rest of the world, NGI
- Gives Arkansas agriculture and livestock business their first chance to reduce operating costs with RNG
- Gives Arkansas the ability to gain first fruits from the natural gas resources that come from your state

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WHO WE ARE AND WHAT WE HAVE TO HELP ARKANSANS

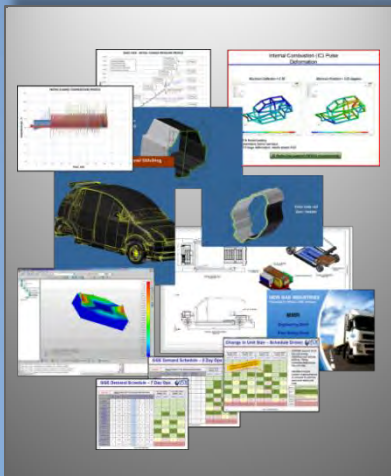
Thank you for giving us the opportunity to submit this proposal on behalf of our team. We can far exceed the desired goals for your RFP. First though, we would like to share with you who we are, and share some valuable insight that we have been privy to over the past 10 years of our existence as an electric and hybrid electric vehicle engineering firm.

In 2007 we, 15 Aerospace Engineers and businessmen entered the burgeoning new fuel efficient vehicle movement. Our principle focus was on the electric vehicle industry during the early years of lithium ion battery usage. We had designed, built and tested three 100% electric four passenger vehicles for a California company called Pulse Motors, built and campaigned an 80 MPG hybrid full size new to the world car to finish in the top five of an international competition, and also worked on new high-tech compressed natural gas hybrid electric Class IV trucks for Bremach USA.

The electric car movement in 2007 was just getting started and with a great deal of resistance, so the amazing growth it has seen in only 10 years is due to the private sector push-back against the established automotive industry and their parts-sales based business above a vehicle-sales marketing plans. Electric vehicle designs are approximately one-third the number of total parts and the electric motors should last well past 50 years of service. However, the electric vehicle market is only as good as the battery health and the amount of energy stored, repeatedly day after day for at least 8 years (average current life of a gasoline vehicle.)

Once the United States suffered the economic plight starting in 2009 we focused our attention on a patentable system that would have complimented the Bremach USA truck project. We therefore launched New Gas Industries, LLC (NGI) a Louisiana based business focused on the technology needed to efficiently fuel compressed natural gas (CNG) vehicles. The previous technology created relatively expensive to build, and install CNG commercial stations.

The NGI technology that was in part created by and now majority owned by Global-E Design, LLC compresses, stores and distributes natural gas or any other flammable or nonflammable gas, quietly and for substantially less cost. The international patent applications are a game-changer for the way the entire world currently compresses natural gas (CNG.) The hardware patents compliment the process patents by allowing for the elimination of system complexity which makes it more economical for the sale of at-home, service station or fleet truck facility systems. The NGI technology, dramatically reduces the energy needed for the compression cycle, it is greatly more economical to fabricate, it operates as quietly as a refrigerator, it offers the ability to fast-fill or slow-fill a vehicle when current home and fleet systems can only slow-fill a vehicle, improves safety by reducing the overall heat transfer during compression, and both the process and hardware are 'scalable' which means our products can be made larger or smaller, as the market warrants which was previously not cost effectively plausible.



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 Filed on:
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(73) Applicant: NEW GAS INDUSTRIES, LLC (US);
 825 Ashby Drive, Mandeville, Louisiana 70471 (US)

(72) Inventors: KILLEEN, Walter, H., 580 Lotus Drive North, Mandeville, Louisiana 70471 (US); KILLEEN, Bryan, 1411 Anglin Street, Arabi, Louisiana 70032 (US); GUICHARD, Carl, 903 Wilcox Drive, Mandeville, Louisiana 70471 (US)

(74) Agents: NORTH, Brett et al., 3838 North Causeway Boulevard, Suite 1200, Metairie, Louisiana 70002 (US)

(54) Title: METHOD AND APPARATUS FOR COMPRESSING GAS IN A PLURALITY OF STAGES TO A STORAGE TANK ARRAY HAVING A PLURALITY OF STORAGE TANKS

(57) Abstract: A method and apparatus for compressing gases and supplying compressed gaseous fuel to a consuming device, such as a gaseous fueled vehicle or the like. One embodiment includes a gas compressor for compressing the gaseous fuel to an array of tanks having predetermined initial set points which are increasing for tanks in the array. One embodiment provides a selecting valve having first and second families of ports wherein the valve can be operated to select a plurality of ports from the first family to be fluidly connected with a plurality of ports with the second family, and each fluid connection can be changed by operation of the valve.

(110) International Publication Number
 WO 2013/166314 A1

(111) Designated States (unless otherwise indicated, for every kind of national protection available): AE, AG, AL, AM, AO, AT, AU, AZ, BA, BB, BG, BH, BR, BW, BY, BZ, CA, CH, CL, CN, CO, CR, CU, CZ, DE, DK, DM, DO, DZ, EC, EE, EG, ES, FI, GB, GR, GU, HK, HN, HU, ID, IL, IN, JP, KE, KG, KM, KN, KP, KR, KZ, LA, LC, LR, LS, LT, LU, LV, LY, MA, MD, ME, MG, MK, MN, MW, MX, MY, MZ, NA, NG, NI, NO, NZ, OM, PA, PE, PG, PH, PL, PT, QA, RO, RS, RU, RW, SC, SD, SE, SG, SK, SL, SM, ST, SV, SY, TH, TJ, TM, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, ZA, ZM, ZW

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(113) Published:
 — with international search report (Art. 21(3))
 — before the expiration of the time limit for amending the claims and/or to be republished in the event of receipt of amendments (Rule 41.2(a))

FIG. 1

* Patent Protected Technology

The development of the NGI systems has been timely as the market for CNG technology in the United States began to rapidly grow due to a multiplicity of reasons, but principally due to the need for more inexpensive and far less polluting fuels. Additionally, there are very large strides being made to switch all government vehicles to CNG. The Pickens Plan is to move the whole U.S. economy towards sustained CNG energy usage, there is a need for the working-men and women to reduce their costs, and now we have states like California, Texas, Pennsylvania, Florida, Georgia, Oklahoma, Utah... now pushing to swap every vehicle of any class or size to CNG or electricity.

We are therefore able to install inexpensive, small systems when and where the larger commercial stations cannot. Our systems can be deployed individually at homes or business, individually retrofitting an existing gas station, grouped for small fleets, or used to build a small scale inexpensive station. And, this is not just a scaling down of current cumbersome technology.



Note: This picture is only a sample rendering to be used as a visual for production.





Carl Guichard (Acting Director) has spent 30 years in Aerospace Engineering for the McDonnell Douglas and Boeing Corp. on the MD-80 and C-17 flight test programs, design engineering for Boeing's Evolved Expendable Launch Vehicle (EELV) program, as Project Manager for the Boeing Delta IV Launch vehicle's booster test firing project. He was part of the Space Shuttle Program's Return to Flight effort after the Columbia accident and has lead interdisciplinary teams of corrective/preventive actions, safety, process and design reviews and investigations. Founder of Global-E, Florida State University and Florida University, Aerospace Engineering.

Roger Nagy (In Memorium) was a Retired Director of Consolidated Natural Gas Inc.

which was one of the leading natural gas supply companies throughout the 70's, 80's and 90's. With a Masters from the University of Pittsburgh Engineering College, he led the company into the digital age and helped continually improve the company's performance by keeping them ahead of the competition. He also resided on the board of directors for the Pittsburgh-based 130 year-old William Penn Association.



William Hamp Stewart (Assembly Operations Management) has been managing production assembly operations for The Boeing Company and Rockwell Aerospace with over twenty years centered on team assembly of high tech launch vehicle components. His team will define and maintain control of assembly level processes, procedures, maintaining foreign object damage control and still maintaining the same production rates for assembly operations.



Dr. Jeffery Guichard (Engineering Director) was Test & Evaluation Engineering for Boeing's C-17, B-2 bomber program and F/A-22 fighter programs. As adjunct professor, Dr. Guichard has taught business and organizational leadership at the graduate and undergraduate levels for ethics, corporate & social responsibility, organizational change, and global entrepreneurship. He was also involved with the International Conference on Autonomous Learning and Self-Directed Learning at Oxford University, United Kingdom.

Blair Touchard (Marketing) has been the CEO/Owner since 1994 of Blare Inc., a Marketing and Branding Company. Has worked with various local, regional and international companies on web-based solutions, marketing, and advertising campaigns. Some of these include: Binora Pharmaceutical, Pat Benatar, and Delacombaz Motos (Switzerland). Blair was previously Director of Marketing of Sports & Recreation Inc in Florida and a manager at Hilton Hotels in New Orleans. University of New Orleans.



Global-E Design, LLC

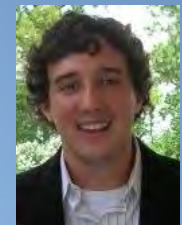
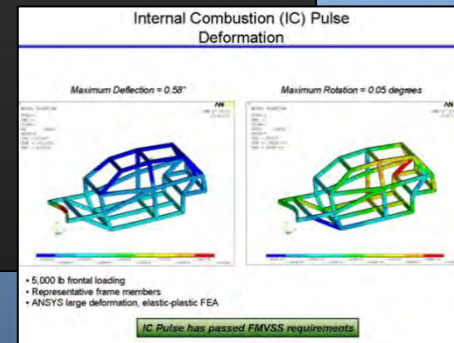
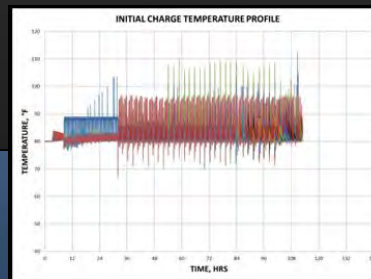
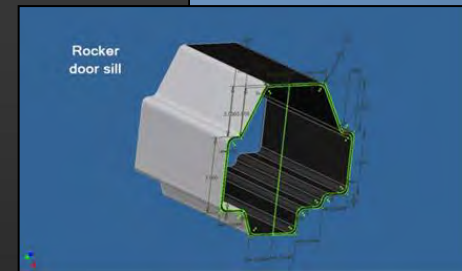
- ENGINEERING FIRM FOR DESIGN, FABRICATION AND TESTING
- U.S. AND INTERNATIONAL PATENT CREATION AND MAINTENANCE
- SUPPLIER & ASSEMBLY OPS MANAGEMENT
- MAJORITY STAKEHOLDER IN NGI

NGI Louisiana, LLC

- CNG FUELING SYSTEMS
- IN STATE LICENSING
- SYSTEM SALES
- INSTALLATION
- SERVICING

TEAM

- Carl Guichard –Management / Engineering
- Ryan Thiel – Engineering / Management
- Jeffery Guichard – Engineering / Management
- Blair Touchard – Marketing
- Nathan Henderson – Engineering
- Daryl Marse – Engineering / Standards
- William Stewart –Assembly Ops / Quality
- Miro Cutura – Manufacturing
- Eric Zeringue – Purchasing
- Mark Sanborn – Finance
- Dan Sle Zack – Finance
- Charles Swift – Engineering
- Andrew Roberts – Designer



PULSE



Home Unit, NGI-15

- Sizes 5 – 50 GGE / week
- Only 120 VAC, ¼ psi Suction
- Approx. 90 cents/GGE over life of unit
- 20 year+ life, Very Quite
- Less than \$4,000

Fleet & Large Units NGI-30 - NGI-250

- Fleet and Island units sized to meet demand or cost needs
- 110 or 220 VAC, ½ psi – 60 psi suction capable, 30 – 150 GGE/Wk.
- Very inexpensive and 20+ year life
- Solves the U.S. lagging CNG fueling issue

Worldwide licensing to:

- Natural gas providers | Oil companies | Private Station Owners
- Federal, State, and Local Governments
- Vehicle Manufacturers
- Service Industry Businesses (sales, installation, service)
- Fleet Companies
- Home / Private Usage



*Home Unit

E F F I C I E N T G A S C O M P R E S S I O N | S T O R A G E | D E L I V E R Y

New Gas Industries is the solution to immediately solve the United States' lack of natural gas sales due to lagging infrastructure.

With the U.S. poised for explosive growth over the next 30 years in natural gas vehicles, and also with hydrogen and specialty gases determined to be a billion dollar market, New Gas Industries provides an **efficient, smart solution** utilizing the natural gas infrastructure that is currently in place.

110 VAC

Just Plug In | No 220 VAC retrofit needed, 220 VAC faster

1/2 PSI or Greater Supply

Higher supply pressure refreshes system linearly faster

FOR:

Individual private vehicles

Fleet cars, trucks and vans

Renewable Natural Gas (RNG) from waste products, farms...

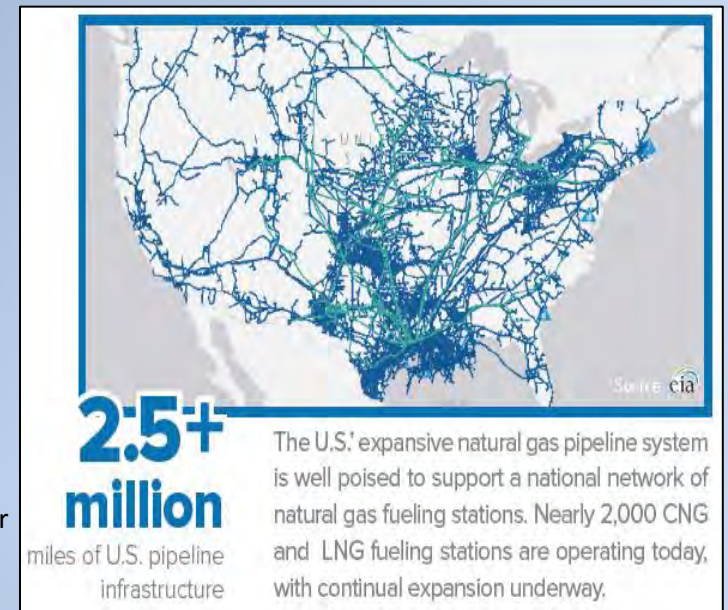
Retrofit of gasoline station for CNG on island or off island



*Fleet or Existing Gasoline Pump Replacement Unit

Given the fact that Arkansas and your neighboring states Texas and Oklahoma are the primary U.S. states delivering natural gas to the rest of the country, and given the fact that you are now privy to our existence, the knowledge that would change the way compression, storage and delivery of gas can be accomplished, the state can take advantage of the existing resource it already has, its natural gas and our burgeoning technology.

Therefore, we intimately know the electric vehicle and CNG vehicle markets and we assuredly can say that for states like ours, with natural gas as a principle commodity, a geographically rural based topography with only a few major cities, a lower median income per constituent, more vast distances between where we live and where and how we work, the electric vehicle argument is more difficult to enact, more costly to implement and not a likely candidate that will drive a new Arkansas-First energy based plan for economic security. With Arkansas being the tenth largest producer and the twenty-eighth largest consumer of natural gas, you should be focused on CNG as a your primary use for driving your economy and fueling your vehicles.



THE ROOT CONCERN OF WHAT WE SEE IN THE AUTOMOTIVE AND TRANSPORTATION SECTOR

The dilemma of how to effectively spend incoming funding and the ultimate plan is far more reaching than the simple acceptance and use of the Volkswagen settlement funds, and it impacts all the citizens of Arkansas for generations to come if we act prudently now.



To first understand the true root dilemma helps to then understand why the current actions and the development of a 25 year Arkansas-First vehicle fuel energy transformation plan is so important to be acted upon. What Volkswagen did is far more telling than just a blatant disregard for the laws of United States. It is far more telling than the obvious EPA and court agreed to funding of the lion's share of the restitution funds principally to just a few states. The outcome of the settlement is a telltale sign of what Volkswagen, Audi and Bosch, three of the most powerful automobile conglomerates are actively doing with the future of transportation, as well as their country of German's plans. They are not only going to change the transportation landscape in only a few select noted States of America but will be globally making similar dramatic changes over the next 10 years. And, please be mindful that 10 years ago was a blink of your eye so what is about to occur will leave Arkansas behind.

For over 10 years the country of Germany and many other nations have been successfully implementing energy independence plans that are second to only Saudi Arabia. Their companies with their 50-year forecasted business plans in hand were making movements to change not only the landscape of vehicle manufacturing and sales within their own countries but knew that the domino effect would soon grab the attention of the whole world, and thus see the movement of all other countries as well. Germany, Norway, the middle east... started by being the number one purchasers of solar panels. They are now mandating that their countries will convert to fully electric vehicles before 2030, only 13 years from now. Therefore, why Germany do what they did violating emissions testing with your EPA, they rolled the dice and won. The profits they gained from selling non-compliant diesels are now the profits they are about to use to majorly transform only a few states in the U.S. onto zero emission vehicles, electric vehicles.

They turned their sights onto California (nearly 1 Billion dollars from the settlement + additional electric vehicle funds) and similar for such states as Washington, Oregon, New York and Colorado where the adoption of electric vehicles is more easily possible due to the very short commute distances, already emerging infrastructure being placed there over the past 10 years via private and U.S. federal dollars through Tesla and other such self-interest serving electric car charging station companies, and most importantly due to already adopted State led initiatives. Thus, there is an evident movement to radically change the transportation sectors within specifically those states, and it will therefore only directly benefit all of their consumers, businesses, constituents by lowering their fuel and maintenance costs to less than one-third their current cost, and therefore places all of those financial savings back into individual's pockets that can then be used within that state for other purchases. In those select states vehicle sales will rise, financing will rise, job growth will rise... their economies will be greatly stimulated while the rest of the states remain stagnant and burdened with higher fuel costs due to the loss of sales of gasoline and diesel in those privileged states and by fluctuating prices of oil which are controlled outside of your borders.

You and all of the Gulf South States will feel the brunt of not only the financial benefits then held by other states not using oil as fuel but also be burdened by the impact felt from all countries in the world becoming more energy independent. The wisdom-based free will choices you make today, to safeguard your citizens and way of life will be far more impacting than can be imagined, if your choices are based on sound wisdom of implementing a Arkansas-First transportation energy plan.

Therefore, the below proposal focuses on a plan that will quickly lead Arkansas towards the mid-century as one of the most energy independent states in America, and it will do such at minimal cost. It will leverage your number one asset, the energy industry product that you are the tenth largest state in production of, natural gas. You are also one of only a few liquid natural gas port facilities in the U.S. and thus capable of exporting the commodity. However, you should be taking advantage of these assets, as the rest of the world is already doing. There are nearly thirty million natural gas vehicles in the world, yet only one hundred thousand in the U.S. Additionally, your state has the benefit of having the latest CNG fueling technology right here with us at NGI. Arkansans should be taking advantage of YOUR resources.

**** NGI NEEDED TO OFFER YOUR STATE FLEETS THE ABILITY TO EASILY FUEL, AND AT THE SAME TIME MAKE IT POSSIBLE FOR ALL CITIZENS TO SHARE IN THE SAME BENEFITS. EVERYONE WINS.**



THIS IS HOW WE EQUALIZE THE ELECTRIC VEHICLE MARKET MOVEMENTS , WITH JUST AS ENVIRONMENTALLY BENEFICIAL AND INEXPENSIVE OF A FUEL, Arkansas CNG

We focused our design efforts on solving the fueling infrastructure dilemma and have thus created systems that can be inexpensively deployed in any location and thus remove fueling anxiety



I “CERTAINLY WOULD” CONVICTIONS:

- I definitively would buy a CNG car or truck if I can fill up at the house, especially at \$1 / gallon equivalency
- I would buy a CNG car or truck if I can then add fuel within 25 miles of my home
- I would buy a CNG car or truck if I can get fuel along the major freeways every 70 miles

OUR BUSINESS PLAN IS FOR THE INTRODUCTION OF NGI PRODUCTS WORLDWIDE

- 1

World is the market for NGI products and patent licensing because the world has already adopted over 25 million CNG vehicles in the past 20 years while the U.S. has not
- 2

We have no competitors for fast fill residential nor small fleet systems. The only competitors are for much more expensive slow fill noisy compressors that take a long time to fuel the vehicle, much like the electric car dilemma
- 3

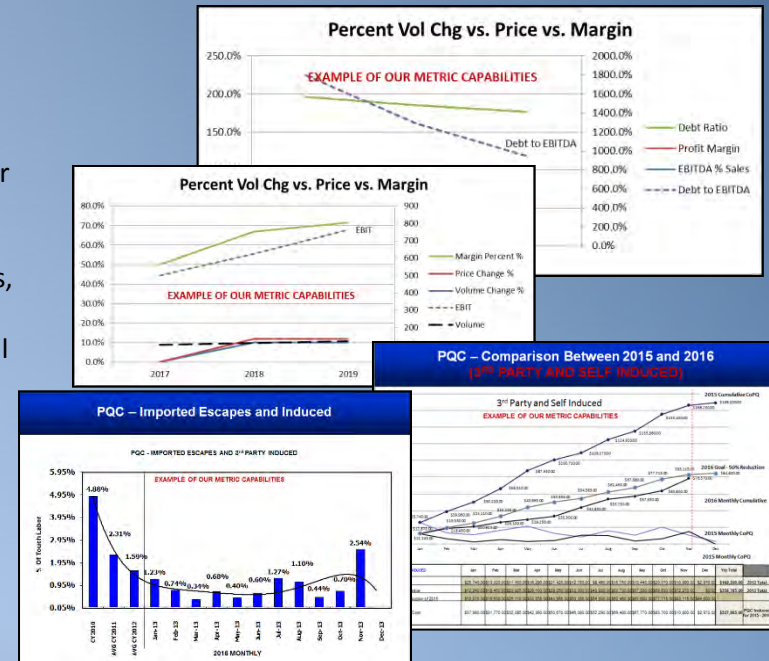
The United States has been pushing hard to change either the car or truck fleets, and government cars, vans, and trucks to CNG. The natural gas suppliers desire our Home Refueling Appliance for direct fueling at your home.
- 4

Electric vehicles are not viable for the majority of states, only very short trip congested cities. Thus, CNG reduction to only 1/3rd current emissions is the same green house gas output as electric vehicles
- 5

Gasoline, Diesel and even electricity will NEVER go down to \$1/gallon equiv. Our inexpensive, long life, fast fill, residential units give fuel at less than \$1/GGE (Gas Gallon Equivalency)

WHY WE CAN DO WHAT WE PROPOSE

We are qualified to accomplish the noted proposal as based on our years of engineering and cost account managing experience within the Aerospace industry for complex government and commercial projects. We are additionally intimately involved with this CNG fueling industry with the expertise garnered over the past 10 years of the NGI project with our design and development of the equipment, patents, testing validation with national natural gas agencies, associations and our close relationship with the U.S. Gas Technology Institute (GTI.) We have the direct, internal ability to leverage additional engineering support through Audubon Engineering and an additional third party associated engineering firm. Because we were the principal driving company over the past four years creating the two CSA agency national and internationally recognized Listing Standards specifically for this new burgeoning technology, we are also able to lead industry certification changes. With our vast aerospace industry background we are naturally very attention-to-detail oriented, financially responsible, schedule driven, quality plan focused, and we take the high-road with ethics.



To further enhance our team we have supplemented it with support from the Gas Technology Institute (GTI). GTI is an independent not-for-profit organization serving research, development, and training needs of the natural gas industry and energy markets for over 75 years. Nearly 250 of GTI's professional staff is based at their headquarters located on an 18-acre campus in the Chicago suburb of Des Plaines, Illinois. Over 70% of our personnel are technically trained engineers and scientists. GTI has over 280,000 square feet of office, laboratory, shop, library, and training space with over 110,000 square feet devoted to laboratory, fabrication and testing facilities. GTI provides programs and services (contract R&D, collaborative R&D, technical services, and education programs) to industry, government and consortia that seek competitive advantages through the development and implementation of technology. GTI programs help organizations outsource and leverage technology investments. GTI also operates offices and facilities in Washington, D.C., Houston, Texas, Dallas, Texas, Sacramento, California, Needham, MA, Pittsburgh, Pennsylvania, and Birmingham, Alabama.



GTI currently manages approximately \$60 million in government and industrial research and development contracts per year (over 100 projects), and has been managing contracts of this type since the 1940's. GTI's RD&D (Research, Development, and Demonstration) project management process has been recommended as a model for other RD&D management agencies, and has been used successfully to commercialize more than 500 products. GTI has almost 1200 patents and has entered into 750 licensing agreements by applying its research, development, and demonstration processes.



We are confident that we can greatly stretch the VW settlement funds of \$18MM by planting the seeds for a Arkansas-First CNG plan for the future. While our CNG based plan, on these limited funds won't seem to be nearly as impactful as California's \$500MM installation of electric charging stations, at first glance, we need to realize that **CNG access is to Arkansas as is electric car charging stations are to California.** Your state industries have the commodity of natural gas, and we NGI have the quick fix for the lagging CNG infrastructure for the entire United States. Coupled with large scale commercial station partners we can secure Arkansas's low emissions, lower cost transportation fueling future.



WHOEVER THE
STATION AND
VEHICLE
SUPPLIERS ARE,
WE ARE HERE TO
INTEGRATE IT PER
PROPOSAL 'A'



PROPOSAL PRE-REQUISITS

We fully appreciate and understand the denoted approach from the state officials regarding a project target of replacing public school bus fleets, and with updating the engines of existing Arkansas DOT vehicles. This approach has been used before across the nation with regards to improving air quality and reducing State and local jurisdiction costs for fueling and maintenance. However, through Clean Fuels we understand the state may be considering spending funds to swap diesel engines for new diesel engines. Merely replacing engines of older diesel vehicles with new diesel engines falls into the trap that VW, Audi and Germany wants us to fall into. It ties your hands for the next 10 years to old energy and money wasting technology. It doesn't address the root problem of higher fuel costs, and it actually causes the implementation of the newly imposed use of DEF additive and far more complex emissions standards hardware on the vehicles. This doesn't improve the life of the vehicle, it adds cost to the aggregate cost of operations, increases the maintenance cycle costs. It becomes a major state cost burden. See the attached supplemental article and reference all of the readily available public data regarding aggregate cost burdens associated with diesel maintenance, life and cost burdens.

What we envision is that the state jointly negotiates with one, two or more commercial station installers such as Trillium or Clean Energy, and with the CNG bus manufacturers such as Blue Bird and/or Thomas Built for six each sets of 15 or more each buses coupled with one each station subsidized for \$1MM each. This coupled with our Proposal 'A' will be the first wise steps to take.

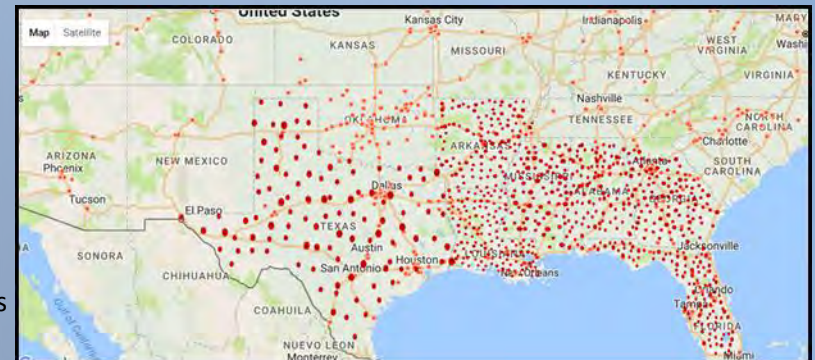
If the State needs your support, coupled with our partner GTI then we can surely assist with that aspect as well.

If the above mentioned major bus and commercial station providers do not extend value-added-propositions, please consider NGI-LA, LLC for making that proposal, coupled with a loosely associated commercial station provider. Additionally, if preferred, we can enact some level of our mentioned "organic growth" plan now, rather than later

OVERVIEW OF OUR PROPOSAL GOALS:

Poise your great state for the future with our team integrating across all participants:

- o State agencies and the CNG industry private sector will formulate a plan of action for deployment of CNG school bus or truck fleets across the state
 - NGI and Gas Technology Institute (GTI) cross-industry support and knowledge base leading with integration
 - Several Commercial Station Installation companies
 - The principal U.S. based automotive CNG car, truck and van companies such as Westport, Ford, GM, PSI will be invited
 - Our Arkansas energy companies CenterPoint Energy, Entergy, and Atmos Energy are aware and been very supportive of NGI for 10 years
 - State supporting divisions such as ADEQ, ALNRC, and ALDOT
- o A plan of action for the commercial station fueling systems
- o A plan of action that includes the deployment of NGI smaller systems to boost vehicle sales in the areas near the commercial stations
- o Roll these plans into a comprehensive Arkansas-First vehicle fueling plan that will benefit all constituents and move us into the mid-century securely
- Deploy select sets of well placed school bus or truck fleets as defined per the developed plan
- Deploy several larger commercial station installations, principally cost burdened by the station installation companies and partly subsidized by very limited VW funding, but principally by the installation companies who will offer the state a greatly reduced rate for CNG fuel
- Deploy NGI systems in the relative vicinity of the larger commercial station installations also giving greatly reduce pricing on fuel for state vehicles. This will help promote the ready availability of fuel in the outlying areas. This will more quickly help turn Arkansas into a CNG Corridor, and the U.S's principal user of natural gas
- o NGI smaller system installations all supporting the derived plan
- o Commercial station installations all supporting the derived plan
- o We envision organic, indirect support from such companies as Westport, Ford, PSI, GM family of vehicles more readily available
- Work with your sister Gulf South states to promote the same approach
- React and be supportive of additional organic growth across the state
- Promote the movement through social media, national news media and events



NGI PROPOSAL 'A'

We NGI will lead a series of first-six-month's Kaizen events (short duration trade study / improvement project planning sessions; typically a week long led by a facilitator for the benefit of team defined goal of defining strategy, design, implementation and success criteria.)

The NGI installations will quickly aid in the organic future growth of CNG use throughout the state, and therefore consequently freely support the state's ability to further convert all of its other vehicle assets to a much more inexpensive and far less polluting fuel. All three aspects of our proposed plan will place your great state of Arkansas into a fiscally beneficial position and economically driven economy centered around your state's principal commodity of natural gas. In parallel, NGI will be introducing its at-home, residential CNG fueling system in such ways that consumers will be able to bundle the purchase price of the relatively inexpensive, 20 year life span, approximately \$1/gas gallon equivalent system along with the purchase price of the CNG vehicle.



** Proposal 'A' Anticipated Timing, Key Milestones*

This will further drive Arkansas economic growth by:

1. Creating jobs producing a Arkansas based product line that is exportable worldwide
2. Places fuel savings dollars back into the pockets of your citizens who then spend it on Arkansas taxable purchases
3. Creates jobs for new to the industry sales, installation and maintenance of residential, fleet and commercial fueling systems

In parallel, each of the private sector and state departments will be independently working on their individual planning, scheduling and purchasing the needed equipment, property... for the subsequent implementation phase. The second and third years of the project will be the implementation phase as based on the jointly developed Kaizen built plan. We will perform a three yearlong study / cross team integration role, coupled with the state's three appointed departments DOT, NRC, and DEQ, along with support from the Gas Technology Institute, and the selected large commercial station companies to strategically identify the locations for the changes. As any good marketing team for growth of any product, service or capability will tell you it's all about location, location, location. Therefore it is imperative that we first use sound and wise judgment to build the implementation plan based on correct germination points. This overall plan of attack will undoubtedly include a lot of engineering study as based on currently utilize fuel consumption, maintenance costs, bus schedules and off use schedules. It will additionally review and plan for any augmented maintenance and training as appropriately needed.

Both Westport and PSI are independently constantly making plans to support needed sales of CNG vehicles via the Ford and GM monikers. They are already heavily focused on growing the deployment of such vehicles and are only awaiting the installations of the fueling systems. Therefore while much of the funding will go towards the replacement costs of subsets of state vehicles and buses throughout the state, a smaller balance of the VW settlement funds will help augment the installation of fueling stations throughout the state in such a manner that the commercial station installation companies will maintain and operate the stations for the joint benefit of lowering fueling costs for the state owned new CNG fleets, and additionally make the stations commercially accessible by local constituents who also assuredly can benefit from the inexpensive cost of CNG. This level of partnering with commercial station installation companies gives your state the benefit of not having to personally own, operate and manage the maintenance of the stations yet still gives the state needed reduced fueling cost benefits. It most assuredly also now allows for organic growth within the located cities for Boudreaux, Rose Marie and Pierre to purchase CNG delivery trucks, pickup trucks, vans or cars for their own businesses or personal use.

Even though we NGI are not proposing the estimated costs for the implementation of the CNG bus fleets or the ability of the state to broker a shared burden for the installation of publicly accessible CNG stations we can only approximate that to be a projected expense of \$15MM. Couple that with our estimated cost for NGI Proposal 'A' overall project management at an NGI proposed \$630K gives an aggregate of approximately \$16MM expenditure.

NGI's marketing department will help coordinate a cross state marketing campaign to support the Arkansas-First CNG Movement plan. As other Gulf South states also move in this direction and as organic growth occurs, the marketing plan will also grow to include the intertwined support of those states.

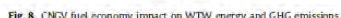
AUGMENT EXISTING INSTLNS BY ADDING 6 NEW SUBSIDISED \$1MM EACH LARGE STATIONS, SUPPORTING 6 NEW BUS FLEETS AT \$1.5MM EACH = \$15MM + NGI PROJECT MANAGE / INTEGRATE/LEAD ALL TEAMS THROUGH A LOUISIANA-FIRST PLAN CREATION AND ENACTMENT



** Proposal 'A' Possible Commercial System Installation Locations*

**** We are fully capable of supporting Proposal 'A' right now.**





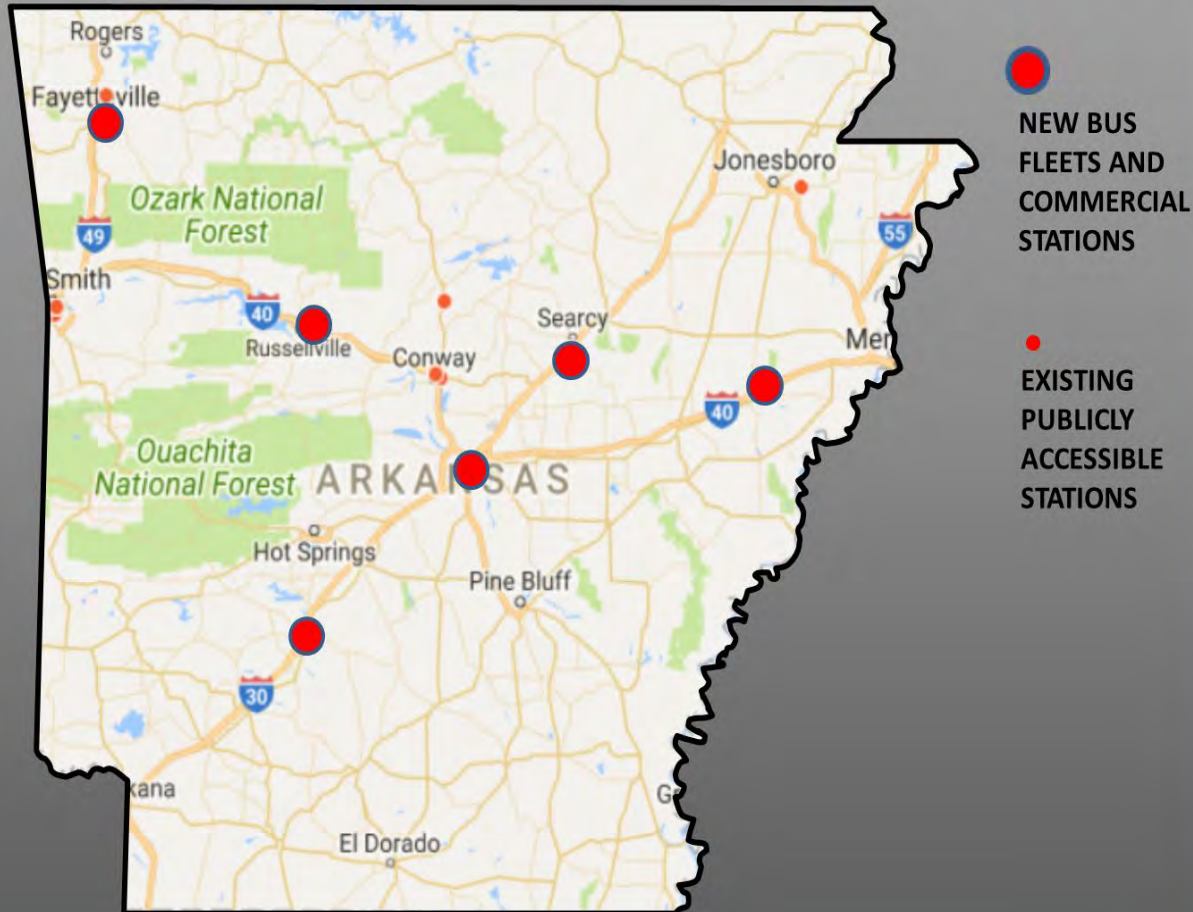
Arkansas doesn't have the same capabilities, budgets... so we need to First define what is best for us and then move in that direction. We will lead that integration effort, of installing bus or truck fleets being fueled by commercial stations

- We will build an AFLEET environmental improvement validation analysis that can then be utilized for not just this project's
- We will build a cross state metric based tracking file that will monthly collect data and plots from all of the state and city vehicle uses, and additionally overlay the estimated commercial use data as well

Simple Payback Calculator													
	Gasoline	Diesel	Gasoline: HEV	Gasoline: PHEV	Gasoline: EREV	EV	Gasol: HEV	Gasol: PHEV	BEV	BEV	BEV	BEV	BEV
Liquid-Duty Vehicle Inputs													
Vehicle Type	Passenger Car												
Number of LCVs	0	0	0	0	0	0	0	0	0	0	0	0	0
Annual Mileage	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400	12,400
Fuel Economy (MPG/E)	26.7	32.0	39.4	41.2	31.5	90.9	32.0	32.0	26.7	26.7	26.7	26.7	26.7
Fuel Consumption (GGE/100mi)	3.7	3.1	2.7	2.4	3.2	1.1	3.0	3.0	3.1	3.1	3.1	3.1	3.1
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PROPOSAL 'A' – NGI TO HELP INTEGRATE THE STATE'S PLAN TO REPLACE OR RETIRE THRU ATTRITION STATE / MUNICIPALITY BUSES OR TRUCKS AS ABLE

AUGMENT EXISTING INSTLNS BY ADDING 6 NEW SUBSIDISED \$1MM EACH LARGE STATIONS, SUPPORTING 6 NEW BUS FLEETS AT \$1.5MM EACH ≈ \$15MM + NGI PROJECT MANAGE / INTEGRATE/LEAD ALL TEAMS THROUGH A LOUISIANA-FIRST PLAN CREATION AND ENACTMENT



**BUILDS AR
CNG
COORIDORS**

**BUILDS
WORKING
RELATIONSHIP
BETWEEN
STATE AND NGI**

**INITIATES THE
ARKANSAS –
FIRST LONG
TERM PLAN**

NGI PROPOSAL 'B'

While replacement of your state vehicles and of several key Public School bus systems with CNG versions helps those specific locations and those specific school districts, a slightly augmented plan needs to be imparted for the greater good of the rest of the state. We would like to augment Proposal 'A' with installing diversified sizes of smaller NGI systems around the cities and rural areas as chosen per the team based plan locations. Installation of our smaller systems at strategic state and publicly accessible gasoline stations or other locations will give CNG access outside of the normally marketable range of the newly installed larger commercial stations. This gives the state and citizens the ability to replace their singular cars, pickup trucks, and/or fleets vehicles.

Enactment of this proposal additionally gives fueling assurances for when vehicles venture away from the primary installed commercial sized fueling stations. Through attrition other state and municipality vehicles can be slowly replaced with the CNG versions.

NGI will make available for installation 25 each of the pump island versions which will have approximately 150 GGE available per week for fast-fill dispensing. Additionally, four each of the larger, what we call Rural Systems at approximately 400 GGE per week, for installation in strategic locations as identified by the joint plan. Thus local gasoline stations, convenience stores will get the opportunity to install a paid for system, under contract to NGI for the benefit of lower state fuel costs and giving access to CNG for local private vehicles.

*****The challenge, the Business RISK that we NGI have is that we have not yet launched our business operations and unit certification process. While we are moving forward well towards that goal, we are carrying risk. Therefore we would like to call attention to the created proposal RISK charts. In order to be in full support of our Proposal 'B' we need to mitigate our business operations \$7MM financial risk by November this year, 2017. We are urgently working to those ends.***



** Proposal 'B' Anticipated Timing, Key Milestones*



PROPOSAL 'B' – INSTALL NGI TECHNOLOGY SYSTEMS IN THE AREAS THAT MAKE MOST SENCE PER THE PLAN

NGI UNITS
TO AUGMENT
COORIDORS
FAR MORE
INEXPENSIVELY

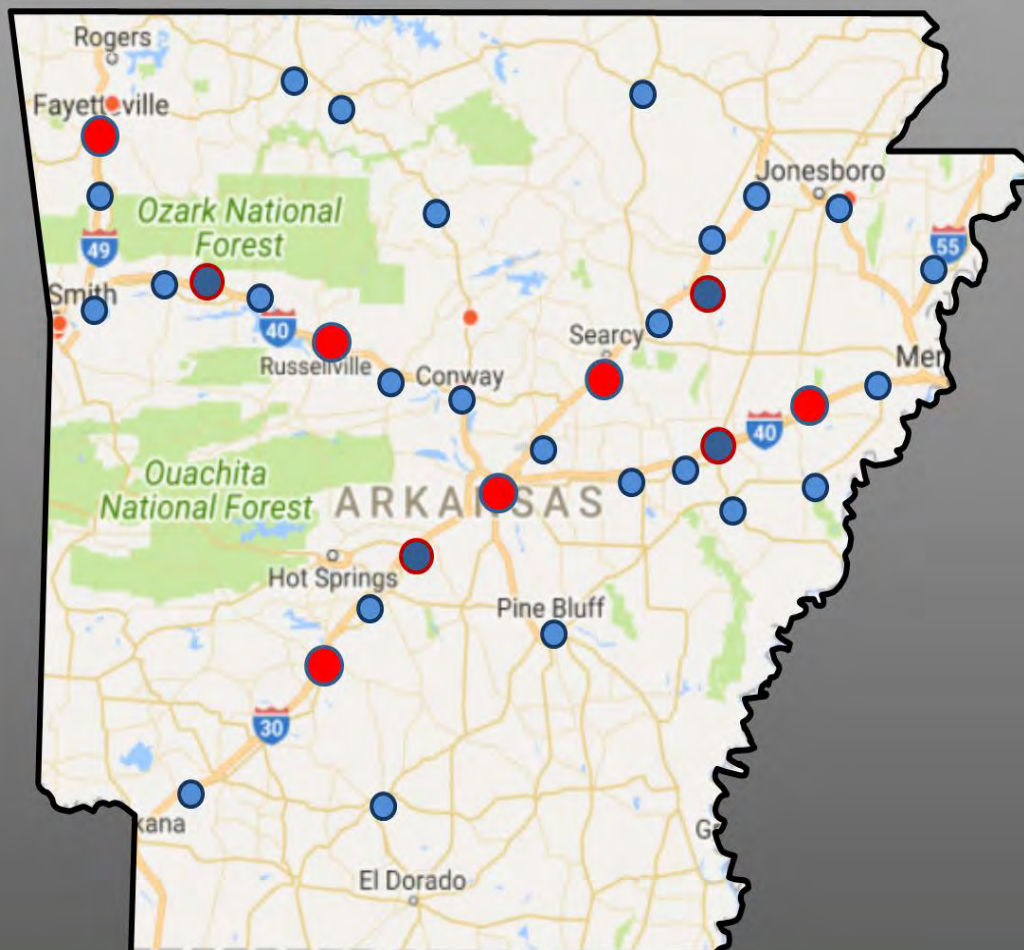
CAN BE SPREAD
ACROSS THE
EXPANSE
BETWEEN LG
SYSTEMS

CAN BE
CLUSTERED,
CENTERED
ABOUT THE
LARGER SYSTEM
LOCATIONS

REDUCED
FUELING
COSTS FOR
EVERYONE

AUGMENT WITH 25 NGI PUMP ISLAND SYSTEMS + 4 NGI RURAL STATIONS

• 25 AT \$ 35K EACH \approx \$875,000 + 4 AT \$110,000 = \$440,000 = \$1.32MM



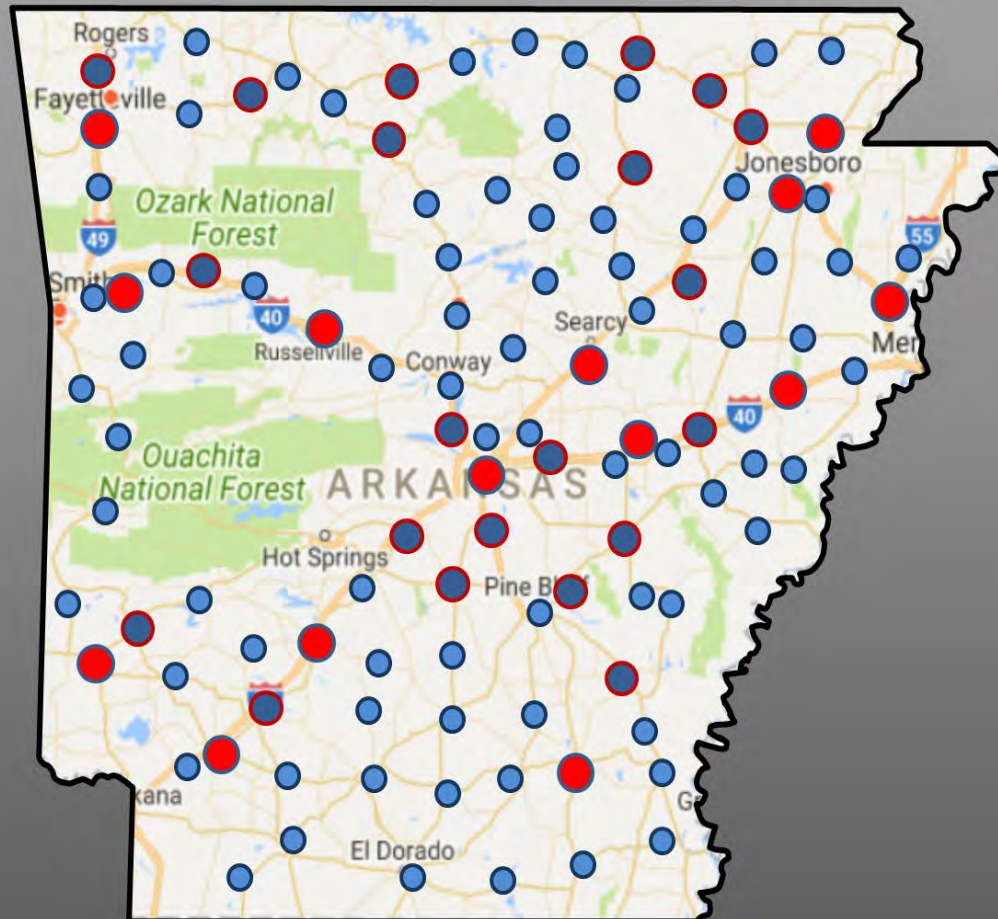
ORGANIC GROWTH, POST VW FUNDED PLAN INITIATION

NGI ARKANSAS, LLC WILL BE IN THE BUSINESS OF POPULATING THE STATE WITH ADDITIONAL UNITS (RESIDENTIAL, PRIVATE BUSINESS FLEET, GASOLINE STATION RETROFITS, RURAL COMMERCIAL UNITS)

ORGANIC GROWTH OR FUTURE INVESTMENT

ADDITIONAL 8 EA LARGE NON SUBSIDIZED ● \$2MM STATIONS = \$16MM

+ 75ea. NGI ● AT \$ 35K EACH ≈ \$2.63MM + 21ea. NGI ● AT \$110,000 = \$2.31MM = \$4.94MM



TOTAL =
\$21MM

PUBLIC
DEMAND /
DESIRE

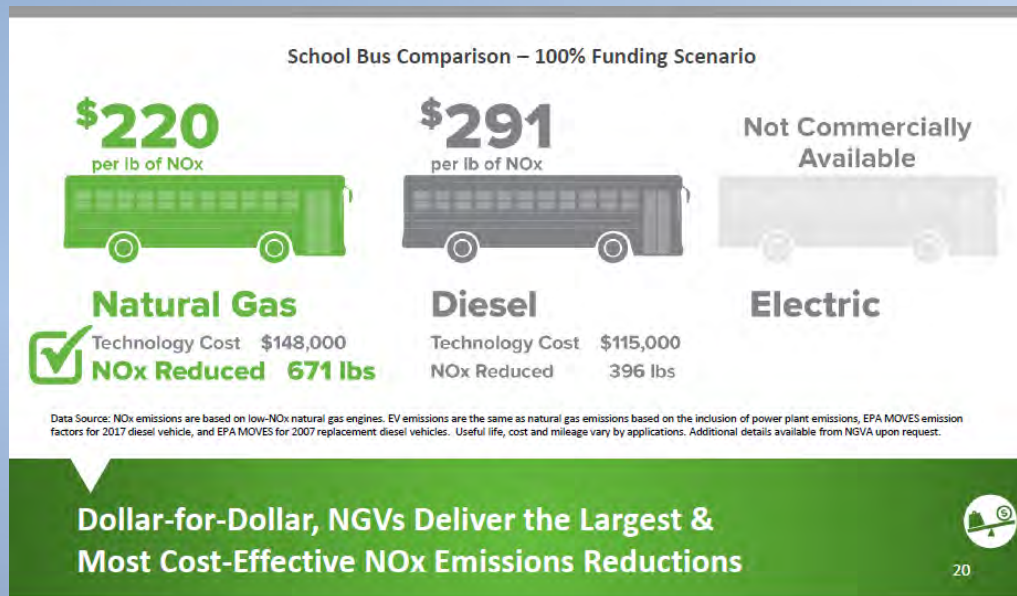
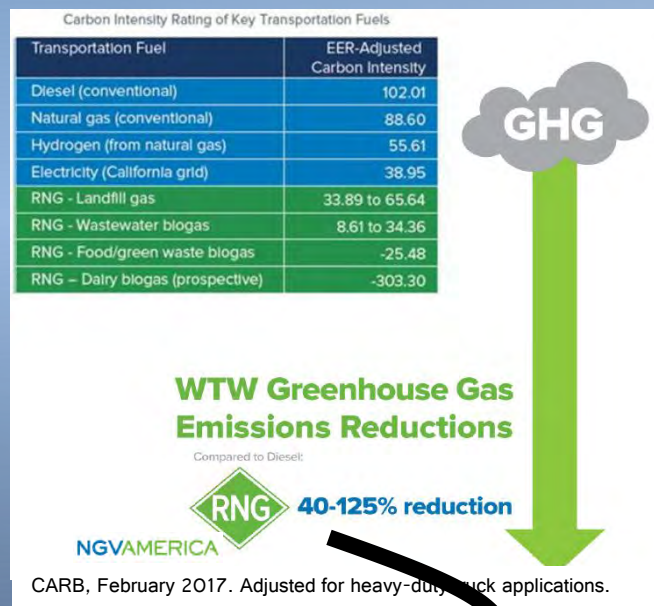
FED AND STATE
FURTHER FLEET
GROWTH

PRIVATE
FLEET
GROWTH

LICENSING
PRIVATE
INVESTMENT

GASOLINE
STATION
ADOPTION

***THE SCIENTIFIC COMMUNITY, FEDERAL AGENCIES (DOE, ARPA-E, ARGONE ...) AND STATE ANALYSEES, SHOUT THE BENEFITS OF CNG OVER DIESEL AND GASOLINE. PLEASE SEE THE ATTACHED REFERENCE MATERIALS. CURRENTLY THERE IS NO REQUEST FOR RNG SYSTEMS, HOWEVER SINCE YOUR STATE IS POISED FOR SUCH USE OF VIRTUALLY FREE ENERGY, WE WILL POINT OUT THAT OUR NGI TECH IS PERFECT FOR SUCH**



**ARKANSAS
PRIVATELY
PRODUCABLE
RENEWABLE
NATURAL
GAS (RNG)**

NEW GAS
industries
LOUISIANA, LLC

**ALLOWS FOR THE INEXPENSIVE,
LONG LIFE SYSTEM
COMPRESSION, STORAGE AND
USE OF RNG. WE ARE A GAME
CHANGER FOR THE SMALL FARM
AND RURAL USE OF RNG**



**** SEE THE ACCOMPANYING OAK RIDGE NATIONAL LAB WELL-TO-WHEEL ANALYSIS, PAGE 202, BUT CHANGE THE CNG COST TO LESS THAN \$.060/GGE**

PROPOSAL 'B' ANNUAL ENVIRO BENIFITS

DEPLOYMENT OF PROPOSAL 'B' NGI SYSTEMS WILL GIVE ACCESS TO NOT ONLY STATE FLEET CARS AND TRUCKS BUT COULD ALSO SPURN LOCAL INDIVIDUALS AND LOCAL BUSINESSES TO ADDITIONALLY PURCHASE VEHICLES, USE THE GAS AND THUS REDUCE EMMISIONS

25 EACH NGI PUMP
ISLAND UNITS = 3,750 GGE/WK
UTILIZED FOR APPX.
150 GGE PER WEEK

= 5,350 GGE/WK = 278,000 GGE/YR

= AT \$2.15/DGE vs. PAYING \$1.50/GGE
= SAVINGS OF \$181,000 /YR

= GHG
SAVINGS OF
735 METRIC
TONS

4 EACH NGI RURAL
SYSTEMS UTILIZED = 1,600 GGE/WK
FOR APPX. 400 GGE
PER WEEK

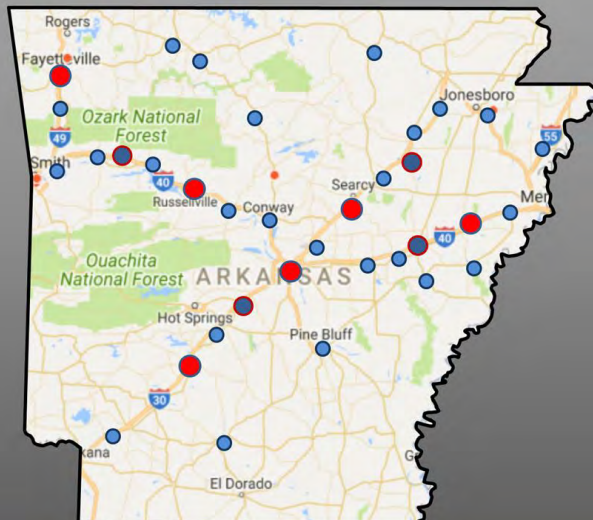
= STATE COST
SAVINGS
\$181,000

= 263 TONS
OF WASTE
RECYCLED

= PLANTING
18,800
TREES

AUGMENT WITH 25 NGI PUMP ISLAND SYSTEMS + 4 NGI RURAL STATIONS

• 25 AT \$ 35K EACH ≈ \$875,000 + 4 AT \$110,000 = \$440,000 = \$1.32MM



SMALL WISE DECISIONS TODAY
LEAD ARKANSAS TOWARDS



ORGANIC GROWTH ANNUAL ENVIRO BENIFITS

ORGANIC GROWTH BENEFIT ESTIMATES

ORGANIC GROWTH VIA FURTHER STATE OR PRIVATE INVESTMENT TO DEPLOY ADDITIONAL NGI UNITS

75 EACH NGI PUMP
ISLAND UNITS = 11,250 GGE/WK
UTILIZED FOR
APPX. 150 GGE PER
WEEK

21 EACH NGI
RURAL SYSTEMS = 8,400 GGE/WK
UTILIZED FOR
APPX. 400 GGE
PER WEEK

= 19,650 GGE/WK = 1,022,000 GGE/YR
= AT \$2.15/DGE vs. PAYING \$1.50/GGE
= SAVINGS OF \$181,000 /YR

= GHG
SAVINGS OF
2,700 METRIC
TONS

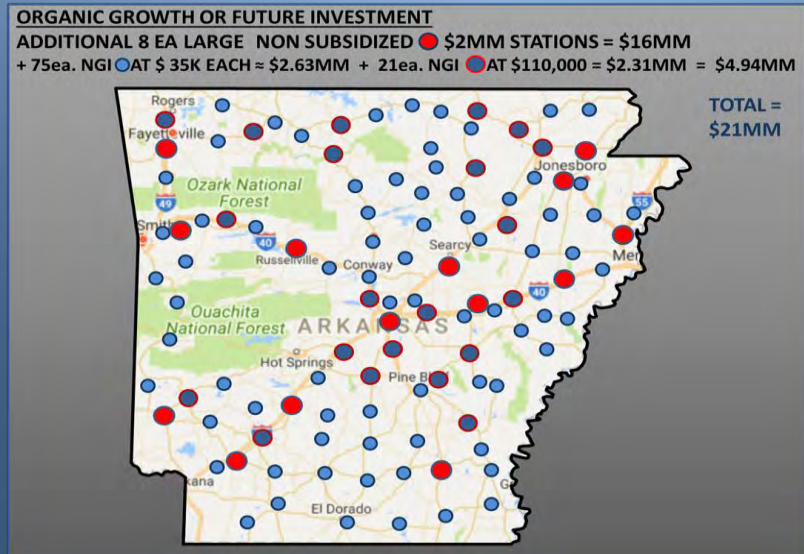
= STATE COST
SAVINGS
\$181,000

= 970 TONS
OF WASTE
RECYCLED

= PLANTING
70,000
TREES

DEPLOYMENT OF SMALLER SYSTEMS BRIDGES THE GAP, THE OUTREACH TO PROMOTE CHANGE

A BETTER PREPARED FUTURE



PROPOSAL FINANCE PLAN

- PLANNING & PURCHASING PHASES -

REMAINDER OF 2017		YR. 1 ≈2018			
		1 ST QTR	2 ND QTR	3 RD QTR	4 TH QTR
PROPOSAL 'A'	<ul style="list-style-type: none"> - STATE PROPOSAL REVIEWS - FEDERAL APPROVALS 	\$70,000	\$70,000	\$70,000	\$70,000
		KEIZEN EVENTS, INTEGRATION SCHEDULING, LA-PLAN CREATION, TRAVEL... LOOSELY 1 HEAD @ \$70/HR. + 2 HEADS @\$35/HR			
PROPOSAL 'B'	<ul style="list-style-type: none"> - STATE APPROVAL PROCESS 	\$110,000	\$110,000	\$110,000	\$110,000
		PURCHASING, SEEKING SPECIFIC INSTALLATION SITES, LICENSING AND CONTRACTS, SYSTEM AND SITE ENGINEERING, CERTIFICATION EFFORTS, OVERHEAD			

PROPOSAL FINANCE PLAN

- INSTALLATION PHASES -

YR. 2 ≈2019				YR. 3 ≈2020				
1 ST QTR	2 ND QTR	3 RD QTR	4 TH QTR	1 ST QTR	2 ND QTR	3 RD QTR	4 TH QTR	PROP. 'A'
\$52,500	\$52,500	\$52,500	\$52,500	\$35,000	\$35,000	\$35,000	\$35,000	\$630,000
INTEGRATED REPORTING TOOL, FINAL REPORTS, METRIC DATA 2 HEAD @ \$35/HR.				INTEGRATED REPORTING TOOL, FINAL REPORTS, METRIC DATA 2 HEAD @ \$35/HR.				
\$110,000	\$110,000	\$110,000	\$110,000	\$110,000	\$110,000	\$110,000	\$110,000	PROP. 'B'
ENGINEERING, FABRICATION, TESTING, CERTIFICATION				ENGINEERING, FABRICATION, CERTIFICATION, INSTALLATION, OPERATIONAL TESTING				\$1.32MM

BOTH PROP. 'A' & 'B' = \$1.95MM

A MOMENT TO ADDRESS BIAS

Let us take a moment to address the biases to replacing vehicles to operate on any of the other alternative fuels. There are statements regarding there is a place in the market for all alternative fuels, and this is true only because we love a free market society. However, in that free market economy there are products that fail and products that don't give the best return on the investment as the other choice. There is assuredly a chance for everyone to enter the market with a product. However, if you are the end user of a given product then you should be focused on what the best alternative is. You are looking to get the best long term value. Therefore you should be trying to choose the product that will outlast all of the others, will give the best benefit to your current budget and also to your future long term goals. Your choices today influence all of your future choices and expenditures. Therefore let's look at some of the alternatives:

PROPANE

- a. No cross country pipelines and thus needs to be delivered via a truck, thus added cost
 - i. This is the old gasoline paradigm of truck delivery cost, schedules and emission releases by those delivery trucks adding to the state's pollution
- b. Of all fuels, it is the least produced. Since it is the 'wet' part of the natural gas coming out of the ground along with butane and ethane, it is only 1/10th the quantity of natural gas or oil coming out of the ground. Thus eventually you could have shortages
- c. It's amount of energy (BTU's) per equivalent gallon is very low, and thus the MPG of the vehicle is affected by approximately 20% fewer miles per gallon used
- d. Electricity and natural gas are delivered to consumers doorsteps, to businesses, along freeways for the establishment of commercial stations

ELECTRIC VEHICLES – VERY EXPENSIVE, BATTERY RANGE LIMITED, STILL NEW TECH

- a. Its still very new technology, expensive for battery replacement if needed and range limited to less than 150 miles for most models
 - a. That's equivalent to the range of approximately only 4 gallons of CNG
- b. Fueling the vehicle (charging) has the vehicle 'tied' to the electrical plug, non-operable until the battery system is full. You can't drive the vehicle unless you wait for it to be completed.
 - i. 4 hour – 10 hours for charging of the battery, yet you can fast fill CNG car within less than 10 minutes, and now at your home
 - ii. Oak Ridge labs have shown (see attached report) that electric vehicle vs. CNG is nearly an equal proposition regarding efficiency, GHG emissions... once you look at the energy to create the vehicles, maintenance, charging stations, grid losses...
 - iii. EV's can find charging stations along the highways but again are tied to the plug
 - iv. Cost of the EV's are far outweighing the added cost of a CNG vehicle
 - v. If you own an electric vehicle you need to own, maintain and store an additional vehicle just for trips that go past your allowed range.

DIESEL – THE CAUSE OF THE FEDERAL SUIT

1. Not even the best engineering companies in the world are able to get diesel to burn cleanly, and they therefore instead had to cheat the system because it's unachievable. This was the cause of the whole lawsuit.
2. The complexity of the total system (engine and all the newly added components, DEF fluid ...) just became extremely costly, added direct and indirect cost to every gallon used.
3. It's one of the worst polluting fuel we as a planet ever devised, and thus we are now in a world that is switching entirely away from diesel, hence VW, Audi and possibly GM were cheating because they can't make it work.
4. Nuclear and clean coal electricity generation is cleaner
5. CNG use is 1/3rd the pollutants
6. Prices of diesel will never drop down to or below \$1.50 ever again



FLAMMABILITY – THE FUEL FOR ARKANSAS'S FUTURE SHOULD BE THE SAFEST

- a. Of all the fuels, natural gas is the least likely to be ignited, to just create a flame is difficult
- b. Of all the fuels, natural gas is least likely to cause an explosion
- c. Of all the fuels diesel, gasoline, and propane are the more likely

Fuel Gas	"Lower Explosive or Flammable Limit"	"Upper Explosive or Flammable Limit"
	(LEL/LFL)	(UEL/UFL)
	(% by volume of air)	(% by volume of air)
Diesel fuel	0.6	7.5
Gasoline	1.4	7.6
Propane	2.1	10.1
Hydrogen	4	75
Natural Gas	4.4	16.4

PROPOSAL POINTS OF CONTACT

We Global-E Design, LLC have received an RFP regarding the state's potential use-plan of federally acquired Volkswagen settlement funds. This proposal is based upon our estimated budgets for us to support that plan by A) assisting with project management of the plan, B) installing New Gas Industries compressed natural gas fueling systems and/or C) both A and B simultaneously over the funding implementation period, approximately October of 2017 through approximately January of 2021.

During the proposal fiscal years, no significant changes are anticipated, such as to the our business capabilities, the technology capabilities, our accounting system, or to the definition or to the accounting treatment of any expense category (e.g. a change in building/equipment costing methodology, capitalization level, or a change in charging an expense from direct to indirect or visa versa).

The individuals to contact in regard to this proposal are:

Mr. Carl Guichard
Project Manager
903 Winona Dr.
Mandeville, LA 70471
Tel (985) 960-7089
Email: CGuichard@Global-E.US
NewGasDownload@Gmail.com

Mr. Hamp William Stewart
Operations Manager
Tel (228) 861-9749
Email: NewGasDownload@Gmail.com

ASSURANCE

This is to clarify that we have reviewed the proposal submitted cost herewith and to the best of our knowledge and belief:

All costs included in this proposal 6-27-17 to establish billing schedules for project on-going cost reimbursement, for work completed to and approximated denoted bill period from project start (2017/2018) through approximately EOY 2021 are to the best of our abilities accurate

All costs included in this proposal are on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable internal requirements. Further, our indirect costs have been assumed as part of the denoted fixed price to accomplish the proposed. The State Government will be notified of any accounting changes that would affect the predetermined rate.

Carl T. Guichard Jr.
Signature

Carl T. Guichard Jr.

Print Name

LLC Manager

Title

6-27-17

Date

REFERENCES & CASE STUDIES

(PLEASE SEE ATTACHED SUPPLEMENT)

We helped our prior clients develop their plans for growth, budget restricted by their limited means, focused on slow growth building towards the future. We will bring the same talent and skill sets to help you achieve a very lofty goal, of making Arkansas-First with a transportation Energy Plan, and additionally help spurn that growth with the installation of our smaller far more cost effective systems.

The below case studies are indications of only a very few movements within other states, market, and supporting studies. You should be as bold as your sister states.

- 1 - WYOMING NGV SCHOOL BUSES
- 2 - KANASAS CITY REPLACED DIESEL
- 3 - MISSOURI SCHOOL BUSES
- 4 - CHESAPEAKE PRESENTATION TO LA
- 5 - ARGONNE LAB – RNG WHEELS-WELL
- 6 - FARM WASTE TO NAT GAS (RNG)
- 7 - FED CNG COST COMPARE 2017
- 8 - NGV AMERICA CHARTS
- 9 - LA WETLAND DNR REPORT
- 10 – DIESEL ALL-AROUND LOOSING COSTS

+ Environmental Mitigation Trust

- \$2.7 billion will be placed in an Environmental Mitigation Trust, and will be allocated to beneficiaries (states, tribes, and certain territories) based on the number of impacted VW vehicles in their jurisdictions
- The Trust will support projects that reduce NOx emissions where the VW vehicles were, are, or will be operated

This table reflects the amount of funds included in the 2.0 liter settlement. An additional \$225 million was added to the Environmental Mitigation Trust from the 3.0 liter settlement and allocated to states using the same formula as the 2.0 liter settlement.

Eligible Beneficiary	Initial Allocations	Eligible Beneficiary	Initial Allocations	Eligible Beneficiary	Initial Allocations
Puerto Rico	\$ 7,500,000	Louisiana	\$ 18,009,993	Colorado	\$ 61,307,576
North Dakota	\$ 7,500,000	Kentucky	\$ 19,048,080	Wisconsin	\$ 63,554,019
Hawaii	\$ 7,500,000	Oklahoma	\$ 19,086,528	New Jersey	\$ 65,328,105
South Dakota	\$ 7,500,000	Iowa	\$ 20,179,540	Oregon	\$ 68,239,143
Alaska	\$ 7,500,000	Maine	\$ 20,256,436	Massachusetts	\$ 69,074,007
Wyoming	\$ 7,500,000	Nevada	\$ 22,255,715	Maryland	\$ 71,045,824
District of Columbia	\$ 7,500,000	Alabama	\$ 24,084,726	Ohio	\$ 71,419,316
Delaware	\$ 9,051,682	New Hampshire	\$ 29,544,297	North Carolina	\$ 87,177,373
Mississippi	\$ 9,249,413	South Carolina	\$ 21,636,950	Virginia	\$ 87,589,313
West Virginia	\$ 11,508,842	Utah	\$ 32,356,471	Illinois	\$ 97,701,053
Nebraska	\$ 11,528,812	Indiana	\$ 38,920,039	Washington	\$ 103,957,041
Montana	\$ 11,600,215	Missouri	\$ 39,084,815	Pennsylvania	\$ 110,740,310
Rhode Island	\$ 13,495,136	Tennessee	\$ 42,407,793	New York	\$ 117,402,744
Arkansas	\$ 13,951,016	Minnesota	\$ 43,638,119	Florida	\$ 152,379,150
Kansas	\$ 14,791,372	Connecticut	\$ 51,635,237	Texas	\$ 191,941,816
Idaho	\$ 16,246,892	Arizona	\$ 53,013,861	California	\$ 381,280,175
New Mexico	\$ 16,900,502	Georgia	\$ 58,105,433	Tribal Subaccount	\$ 49,652,857
Vermont	\$ 17,801,277	Michigan	\$ 60,329,906	Trust Cost Subaccount	\$ 27,000,000
				Tribal Cost Subaccount	\$ 993,057
				Total	\$ 2,700,000,000

CONCLUSION

Your state has the ability to protect its own financial future and thus the future of your constituents, all of your children. That realization starts with recognizing that the world is rapidly changing, most of the U.S. states are initiating major changes, and that your hope is right below your feet. We focus on positioning your state such that your most valuable resource is made available as our very low emissions fuel of your future.

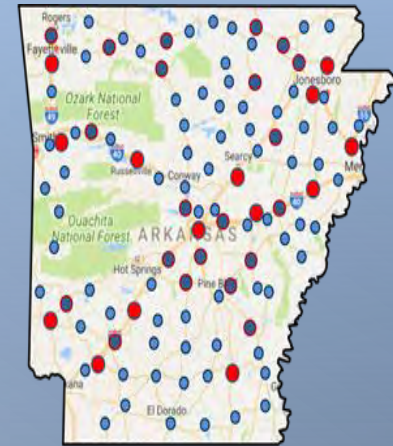
1. It solves the VW raised issue that diesel is so difficult to deploy as a low emissions fuel that it requires cheating.
2. It helps Arkansas circumnavigate the VW and EPA created weighted move to assist other states with moving to an electric and natural gas infrastructure based economy
 - a. We secure Arkansas-First
 - b. Gather the whole Gulf South together and plan for the future
 - c. Electric cars can come along via organic growth rather than trying to force it.
 - i. Protect or people and livelihoods of citizens first
 - ii. The future will be bright,
 - iii. do nothing and we fall backwards
 - iv. are too rural and lack funding otherwise to initiate
 - v. Environmental improvement will be huge and give the U.S. leverage at the table due to the Gulf South's foresight
 - d. Needs to start sometime and now is the time because the rest of the world are moving forward without us.
- a. Small changes are going to spark the needed macro changes and having NGI in Arkansas's back yard helps get our state converted first, faster...

Make Arkansas-First

TRANSFORM THE STATE



- LETS BE PREPARED FOR THE FUTURE; DON'T LET IT PASS US BY.
- ARKANSAS-FIRST PLAN WILL POSITION YOUR STATE AS LEAD IN THE MOVEMENT TO LOWER STATE COSTS, LOWER COSTS FOR YOUR CONSTITUANTS, 1/3RD VEHICLE EMMISIONS AND THUS COMPERABLE TO ELECTRIC VEHICLES.



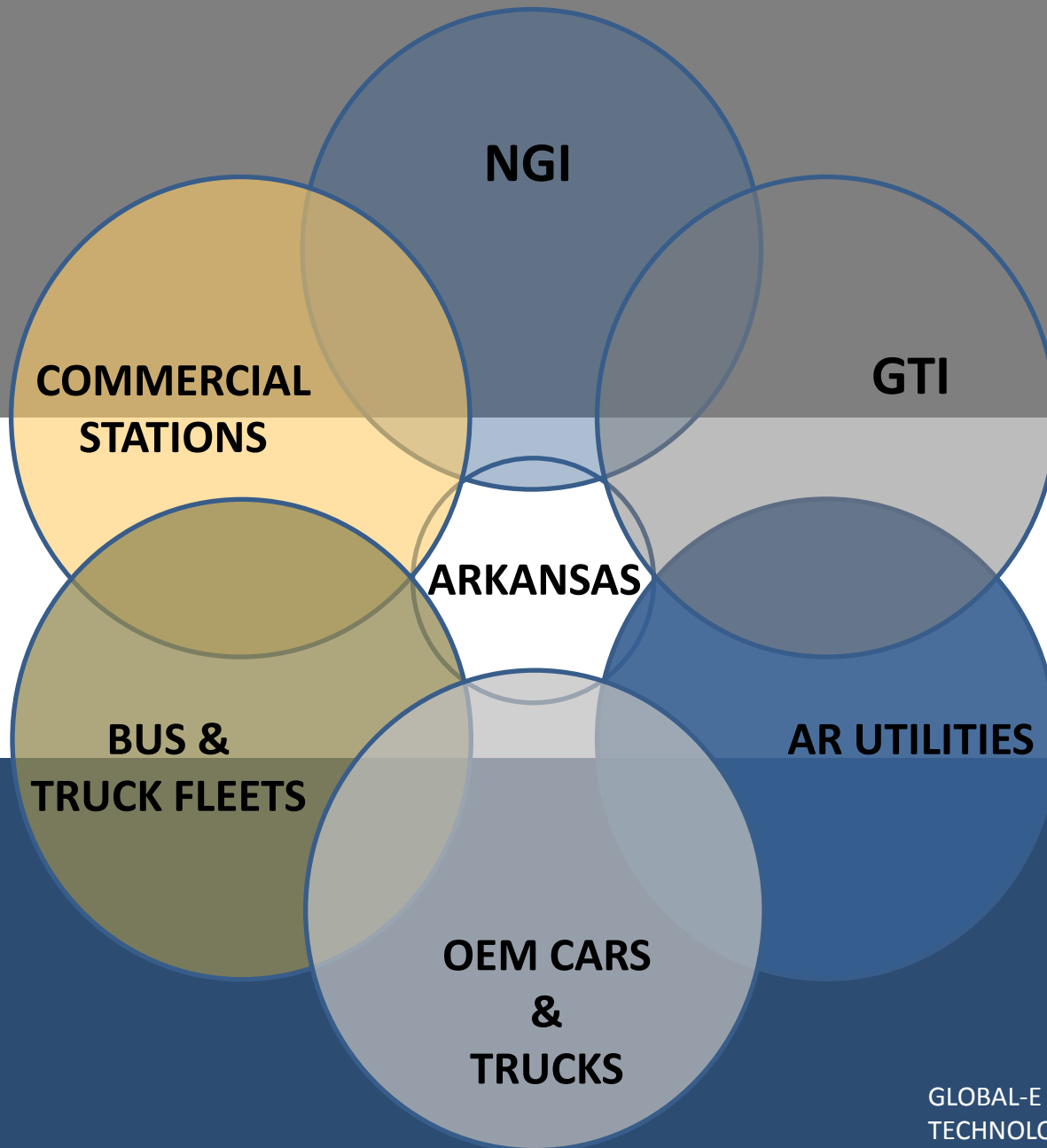
**EXISTING 12
EACH PUBLIC CNG
STATIONS**

**PROPOSAL 'A'
ARKANSAS-FIRST
PLAN INTEGRATION**

**PROPOSAL 'B'
NGI SYSTEM
DEPLOYMENT**

**ORGANIC GROWTH /
FUTURE PLAN
ADDITIONS**





From: [Sherman Murray](#)
To: [Treece, Tricia](#)
Cc: josh.miller@arkansashouse.org; Stephen.Meeks@arkansashouse.org; kim.hendren@arkansashouse.org; johnny.rye@arkansashouse.org; dan-douglas@sbcglobal.net; bruce.coleman@arkansashouse.org
Subject: Volkswagen Settlement
Date: Monday, October 02, 2017 11:19:53 AM

Tricia Jackson Treece,

It appears that CNG is the state chosen alternate fuel to replace the diesel engines in Arkansas. There is very little mention of PROPANE to be used. Propane has been in use as engine fuel for many years (since the late 40's) and has been proven to be a clean burning fuel. I personally used propane on trucks in the sixties and seventies before natural gas even had the technology to convert a vehicle. Farmers were using propane tractors to work their fields many years ago. Propane fuel operates on much less pressure than CNG and is a liquid under moderate pressure while CNG is a liquid under tremendous pressure; enabling propane fuel tanks to hold much more fuel with less pressure than the CNG tank.

The propane fuel tanks on a vehicle will enable that vehicle to travel many more miles between fill ups than CNG, eliminating the need for alternate fuel corridors. There are propane dealers in every county that can service the propane vehicles, and offer service 24/7 on call.

School districts and or trucking companies can put propane refilling stations on their property and refill their own vehicles with their own trained personnel and have enough fuel to make round trips to about anywhere in Arkansas on one fill up, eliminating the need for fill ups on the trip. I think the state of Arkansas is doing a great injustice to trucking and fork lift companies plus school districts in our state by not including propane as a chosen alternate fuel rather than an honorable mention.

The propane dealers do not have the funds nor the people to lobby for their interests, and it appears that the natural gas companies have unlimited funds to keep their names in front of all elected officials in order to get their companies in the spotlight.

Thank you for listening. I have copied some representatives that might be interested in leveling the playing field for the propane dealers in Arkansas.

Sherman Murray
Arkansas Propane Gas Association
PO Box 835
Greenbrier, AR 72058
479-841-8635
apga@windstream.net

GENERAL MOTORS

Britta K. Gross Director
Advanced Vehicle Commercialization Policy
Environment, Energy & Safety Policy

General Motors Global Headquarters
MC: 482-C30-C76
300 Renaissance Center
Detroit, MI 48265-3000

5 October, 2017

Tricia Treece
Arkansas Department of Environmental Quality
(501) 682-0055
treecep@adeq.state.ar.us

Subject: GM Comments relative to the Arkansas RFI to solicit input on the State's Beneficiary Mitigation Plan (BMP)

Attention: Tricia Treece

General Motors LLC (GM) appreciates the opportunity to provide input on the use of funding in the state's Beneficiary Mitigation Plan and would like to encourage Arkansas to use the maximum allowed 15% of the fund (equating to approximately \$2.2mil) to increase the availability of critically-needed electric vehicle (EV) charging stations. We appreciate that an investment in EV infrastructure is already a key element in Arkansas' draft Beneficiary Mitigation Plan. There are currently over 650 EVs registered in Arkansas, and in order to grow the EV market and attract even more advanced transportation technologies to the state, such as self-driving EVs, Arkansas needs to invest in a charging infrastructure network that addresses consumer and industry concerns.

Automakers have made enormous investments in the electrification of transportation – GM alone has invested billions of dollars to develop electrification technologies, including the state-of-the-art Chevrolet Volt and Chevrolet Bolt EV, which has swept the industry's most prestigious car awards, including North America Car of the Year, Motor Trend's® 2017 Car of the Year, MotorWeek's 2017 Drivers' Choice "Best of the Year" Award, and Green Car Journal's Green Car of the Year. The Bolt EV is the industry's first affordable, long-range EV with an EPA estimated range of 238 miles-per-charge, and is rolling out now to Chevrolet dealers across Arkansas. This advanced technology will require more widespread charging infrastructure to convince consumers that EVs can be driven anywhere they need to go. Thus the urgency to rapidly expand EV charging infrastructure in Arkansas.

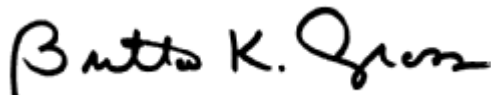
While the majority of all EV charging today is done at the home, there are still critical infrastructure needs not met by single-family home charging. And to maximize the impact of limited state funds, it is important to invest strategically. GM would prioritize today's key infrastructure needs as follows:

1. **Highway corridor DC fast-charging** most visibly inspires consumer confidence in the driving range, and practicality, of EVs. A 2016 survey of 2,500 consumers by Altman Vilandrie & Company found the top reason customers gave for not wanting to purchase a plug-in electric vehicle was a perceived lack of charging stations (85%). Highly visible corridor EV charging (SAE industry standard) can help address this consumer perception issue.
2. **Workplace EV charging** creates an EV “showroom” that very effectively grows EV awareness among corporations, and employees of these corporations. According to US DOE data, workplace charging results in employees 6X more likely to purchase an EV than employees at companies not offering workplace charging.
3. **Multi-unit dwelling EV charging** provides an important opportunity to expand EV adoption to consumers residing in townhomes, condominiums, and apartments, who may not have access to a “home” charger every evening. This is currently an untapped segment of potential EV buyers. This need can be met by Level 1 or Level 2 charging directly at the multi-unit dwellings, or by neighborhood DC fast-charge hubs that can serve these residents.
4. **Public EV charging at key destinations** is also important to increase the practicality of EVs and the number of places an EV can go, with a special focus on destinations typically outside a consumer’s normal daily driving patterns (e.g. airports, beaches, hotels, resorts, etc.).

EV charging infrastructure is vital to the growth of the EV market and will lead to long-lasting emissions reductions that increase over time as the market expands. And Arkansas’ low electricity prices mean that electric vehicles are an important economic driver for Arkansas. Finally, we encourage the state to directly engage all electric utilities in the strategic planning of EV infrastructure to ensure the most cost-effective and grid-responsible EV charging solutions.

The Environmental Mitigation Trust is an opportunity to invest in forward-looking infrastructure that lays a much-needed foundation for EV market growth and will help attract even more advanced transportation technologies to Arkansas. GM greatly appreciates Arkansas’ commitment to support the strategic transition to transportation electrification and all efforts to help drive this emerging market.

Sincerely,



Britta K. Gross, Director
Advanced Vehicle Commercialization Policy
britta.gross@gm.com
(586) 596-0382



2423 East Robinson Avenue, Springdale, Arkansas 72764

To: Tricia Treece
Arkansas Department of Environmental Quality
Date: October 5, 2017

Tricia,

This letter is in response to the Request for Information (RFI) in regards to the Volkswagen Consent Decree Environmental Mitigation Trust for the State of Arkansas and the State of Arkansas Volkswagen Environmental Trust Beneficiary Mitigation Plan.

Ozark Regional Transit (ORT) is one of several fixed route public transit providers in Arkansas. We are considered one of only two transit authorities in the State and are a political subdivision of Washington, Benton, Carrol and Madison Counties. Our fixed route service area is focused on Benton and Washington Counties in Northwest Arkansas.

In reviewing the Consent Decree, I observed that transit buses are considered eligible projects under section III of the RFI.

ORT has recently made submission for a Federal Transit Administration grant under the 5339: Bus and Bus Facilities competitive grant process. Our grant request includes an administration building, fifteen (15) Compressed Natural Gas (CNG) powered low floor transit buses, and a CNG fueling facility. The purpose of this grant application is to replace buses lost in a fire that ravaged our fleet on January 10, 2017.

ORT is located in an area of Arkansas that is lacking in its availability of alternative fueling options. Therefore, in the past, ORT has not considered CNG as a viable option for its fleet. The successful receipt of the 5339 grant would make CNG readily available as an alternative to conventional fossil fuels. With the on-site fueling facility, ORT would be able to grow its CNG fleet beyond the initial grant request of 15 vehicles.

ORT's 5339 grant application is for:

CNG Fueling Facility –	Total Cost = \$2,225,490
	Federal Match Request = \$2,002,941
	Local Match Required = \$222,490
15 CNG Buses -	Total Cost = \$4,950,000
	Federal Match Request = \$4,207,500
	Local Match Required = \$742,500

The total local match required by this Federal application will be \$964,990

Under Appendix A: Eligible Mitigation Projects, Section 1.f.2, it states that “Beneficiaries may draw funds from the Trust in the amount of: 2. Up to 100% of the cost of a new diesel or Alternate Fueled Vehicle.” However, it is implicated throughout the draft document that the funding is for replacement or repowering and that replaced vehicles must be scrapped (Appendix A: Section 2.b).

Also under Appendix A.10, the indication is that “Beneficiaries may use Trust Funds for their non- federal voluntary match..”.

My first question is: Would any of ORT's diesel powered vehicles lost in the fire on January 10, 2017, qualify for vehicle replacement? Or, must vehicles currently in service have to be destroyed?

Secondly: Would ORT be considered as one of the recipients for this funding stream for its CNG fueling facility?

And finally: Is there a maximum limit percentage that any one organization may qualify for consideration of funding disbursement?

According to Appendix B: ORT's service area has two of the top three counties in Arkansas where the Subject Vehicles are registered. Our service area also includes two of the top three counties in Arkansas that produce on-road Nitrogen Oxide emissions.

Thank you for taking the time to read and respond to these questions. ORT's hope it that we may be able to move our vehicle power units from traditional fuels to CNG. To do this, support from granting opportunities such as this would be greatly appreciated and necessary.

A handwritten signature in black ink, appearing to read 'JG', with a long horizontal line extending to the right.

Joel Gardner
Executive Director
Ozark Regional Transit

From: [Matthew Lyon](#)
To: [Treece, Tricia](#)
Subject: Volkswagen Consent Decree Environmental Mitigation Trust Public Feedback
Date: Monday, October 09, 2017 1:54:18 PM

Hello,

I am submitting feedback that B. Light-Duty Electric Vehicle Infrastructure Rebate Program should be included in this.

Suggest roughly 2,000 Level 2 and possible Level 3 charging stations installed at parking spots in town squares, parking decks, rest areas, gov't and university areas, prominent commerce destinations, as well at charging stations along high trafficked roads, including interstates and state highways.

This is one of the better signals to individual consumers that electric vehicles are feasible.

Thank you.

Matt Lyon



Submitted via email to treecep@adeq.state.ar.us

October 10, 2017

Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317
(501)682-0055 / treecep@adeq.state.ar.us

RE: ADOMANI Response to RFI Requesting Comments on Arkansas's Draft Beneficiary Mitigation Plan

Dear Ms. Treece,

The Environmental Mitigation Trust (EMT) and the \$14.6 million it will yield for Arkansas represents an unprecedented opportunity to support long-term investments toward a zero-emission transportation sector while simultaneously prioritizing children and clean air. As the President and CEO of ADOMANI, Inc. (ADOMANI), I have outlined a series of recommendations below that addresses how Arkansas can support innovative and transformative all-electric vehicle projects, which will reduce harmful nitrogen oxide (NOx) and greenhouse gas (GHG) emissions, deliver air quality benefits to disadvantaged communities and areas disproportionately affected by diesel pollution, and reduce our dependence on petroleum fuels.

ADOMANI designs and manufactures zero-emission electric and hybrid vehicle solutions. Our premier product line is medium- and heavy-duty all-electric school buses, one of which (the All American RE electric bus chassis) was developed in conjunction with Blue Bird and operates on an energy-efficient electric drivetrain supplied by Efficient Drivetrains Inc. Our All American RE school bus offers battery capacities between 100 kWh and 150 kWh, with an expected 80- to 100-mile range from a single charge.

ADOMANI has demonstrated experience in the new OEM and conversion markets, the latter of which helps our customers cost-effectively repower their existing fleet with all-electric or hybrid drivetrains. As a testament to our team's long-standing industry leadership, ADOMANI prides itself on our relationships with trusted service partners to address customers' specific needs.

While Arkansas has proposed to allocate 60% to CNG school bus projects, **we believe that all-electric school bus projects will provide the most comprehensive suite of benefits.** This includes zero emission vehicle operations in direct proximity to sensitive receptors and disadvantaged communities, reduced operating costs for budget-constrained school districts, no need for diesel fuel storage or procurement, and improvements to public health, particularly among children.

The market for advanced transportation technologies has grown steadily in recent years and we hope to support Arkansas continue this trend with the deployment of all-electric vehicles. Our recommendations below outline how your state can do just that and we look forward to working with your team to ensure a successful roll-out of funds.

Help Yellow Go Green!™



The EMT Provides Arkansas with the Opportunity to Fund Innovative and Transformative Transportation Projects

The medium- and heavy-duty diesel transportation sector is the leading source of mobile source NO_x emissions from in Arkansas, accounting for 61% of the total.¹ By directing funds towards projects that reduce these emissions sources, Arkansas can most effectively mitigate these emissions' harmful air quality and health impacts.

While aging diesel-fueled vehicles generate the most mobile source NO_x emissions, some medium- and heavy-duty fleets have turned to gaseous fuels, such as compressed natural gas (CNG) and propane autogas, to help mitigate NO_x emissions. These, however, are temporarily solutions – President Barack Obama, in his 2014 State of the Union address, referred to natural gas as a “bridge fuel.”² Fortunately, there are now commercially available all-electric and hybrid-electric medium- and heavy-duty vehicles on the other side of the bridge. Recent technology advancements in the electric vehicle technology market have allowed technology providers heretofore unprecedented access to these markets and fleets can now select from an increasing array of zero-emission and hybrid options.

States across the U.S. have taken strides to fund the advancement of clean transportation solutions. Incentive programs, such as California's Hybrid and Zero-Emission Truck and Bus Voucher Incentive Project (HVIP) and the New York Truck – Voucher Incentive Program (NYT-VIP), catalyze the growth of the electric vehicle market, while providing significant air quality and climate benefits. ADOMANI encourages Arkansas to recognize the merits of these programs and recommends that you support their proliferation by creating a similar program with your state's allocation of Volkswagen funds.

All-Electric School Buses Improve Air Quality and Public Health for Children and Adults via Unparalleled NO_x Reductions

By supporting the conversion of school bus fleets to all-electric operations, ADOMANI will support your state's efforts to dramatically reduce NO_x emissions. ADOMANI's school buses deliver immediate NO_x and GHG emissions reductions, thus improving air quality for child passengers and adult vehicle operators, which are otherwise exposed to respiratory irritants on a regular basis.

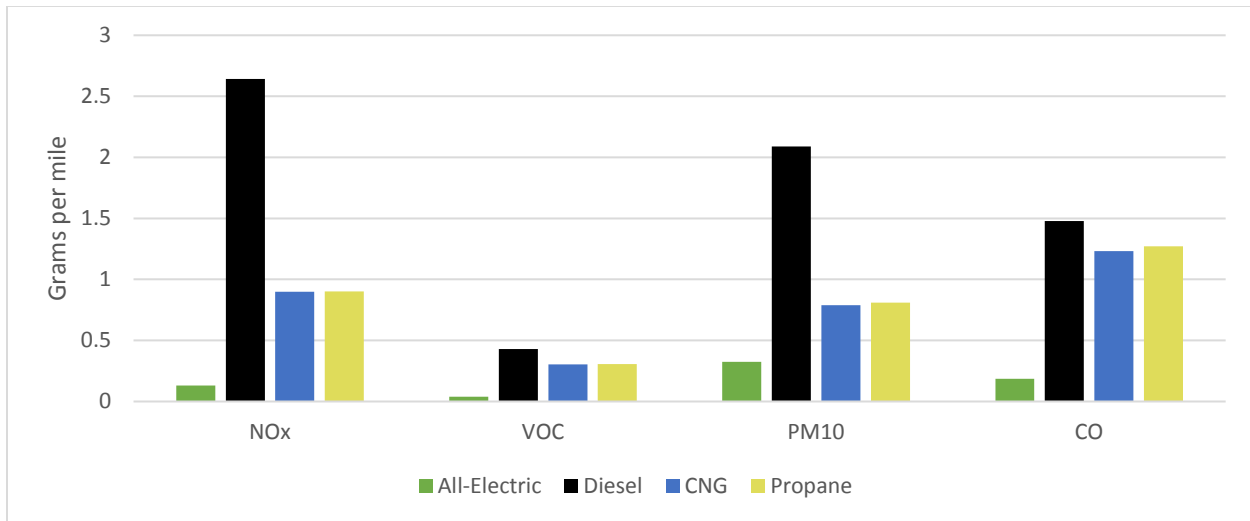
Most relevant to the Volkswagen funds, we find it important to first focus on the settlement's main objective: reduce NO_x emissions. Figure 1 below compares the performance of various fuel types in heavy-duty school buses, which makes clear that electric vehicle technologies should be a top priority.

¹ “2014 National Emissions Inventory (NEI) Data”. United States Environmental Protection Agency. <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>.

² “President Barack Obama's State of the Union Address”. The White House, Office of the Press Secretary, January 28, 2014. <https://obamawhitehouse.archives.gov/the-press-office/2014/01/28/president-barack-obamas-state-union-address>.



Figure 1: Emissions Benefits (grams per ton) of All-Electric Heavy-Duty School Bus vs. Other Fuel Types³



These emissions reductions correlate directly with air quality and public health benefits. According to the EPA's Diesel Emissions Quantifier, the replacement of just one diesel school bus with an all-electric model will generate \$20,000 in public health benefits each year.⁴ These benefits represent the dollar value of health benefits generated from reducing the population's exposure to PM2.5 emissions and include the reduction of premature mortality, chronic bronchitis, asthma attacks, non-fatal heart attacks, and other health problems. In school bus applications, these emissions reductions are particularly important, given that children's exposure to harmful air pollutants may be 5-15 times higher inside the bus.⁵

A recent study by the University of Delaware evaluated the costs and benefits associated with a V2G-capable electric school bus compared to a traditional diesel school bus.⁶ The study looked at a variety of data points and metrics to compare the fuel types in a school bus application and found that diesel school buses created public health costs of \$0.08 per mile. This is 800% more expensive than the public health costs of an all-electric bus, which is just \$0.0149 per mile.

Arkansas Should Prioritize Projects that Deliver Total Cost of Ownership Benefits to State School Districts

All-electric school buses deliver total cost of ownership benefits that far exceed any of its conventional and alternative fuel competitors. We have provided the infographic below to demonstrate these benefits.

³ Figure 1 contains the best available current data from seventeen different studies and air emission analyses, including emissions data reported by the U.S. Environmental Protection Agency, U.S. Department of Energy, and Argonne National Laboratory.

⁴ "Diesel Emissions Quantifier." U.S. Environmental Protection Agency, <https://www.epa.gov/cleandiesel/diesel-emissions-quantifier-deq>. Analysis assumes MY 2000 diesel school bus; annual diesel fuel consumption of 1,360 gallons, annual VMT of 14,084, and 107 idling hours per year (these are EPA DEQ default values).

⁵ "Electric School Buses Feasibility in Vermont". Vermont Energy Investment Corporation, May 2016. <https://www.veic.org/docs/resourcelibrary/veic-electric-school-bus-feasibility-study.pdf>, page 6.

⁶ Noel, L. and McCormack, R. "A Cost Benefit Analysis of a V2G-Capable Electric School Bus Compared to a Traditional Diesel School Bus". University of Delaware, 2014. <https://www1.udel.edu/V2G/resources/V2G-Cost-Benefit-Analysis-Noel-McCormack-Applied-Energy-As-Accepted.pdf>.

ADOMANI

ALL-ELECTRIC SCHOOL BUSES



PURCHASE

	ALL-ELECTRIC*	DIESEL**
o MSRP (including 8% tax)	\$347,750	\$139,100
o VW Settlement Incentive Amount (at Incremental Cost)	(\$208,650)	N/A
o Customer Cost	\$139,100	\$139,100

\$0

Additional Investment Required
(for Zero-Emission Buses)

OPERATIONS

	ALL-ELECTRIC*	DIESEL**
o Maintenance	\$1,770	\$9,075
o Diesel Fuel	N/A	\$5,930
o Battery Power	\$2,714	N/A
o Cost of Ownership (Annual)	\$4,484	\$15,005

\$10,521

Annual Zero-Emission Savings
(Versus Diesel)

SAVINGS

	ALL-ELECTRIC*	DIESEL**
o Cost of Ownership (Over 15 Years)	\$67,260	\$225,075
o New Battery (at Year 8)	\$45,600	N/A

\$112,215

Zero-Emission Savings
(Over 15-year Lifetime Versus Diesel)

Your state can provide the incentives required to deploy all-electric vehicles at no additional cost to consumers, which will generate substantial annual and full-life total cost of ownership benefits

* Blue Bird All American RE Electric Bus

** Conventional Diesel Bus



As shown above, Arkansas has the opportunity to provide incentive funding capable of generating tremendous annual cost savings for school districts throughout the state. In other words, for every dollar invested in all-electric school buses, Arkansas can mitigate public health concerns for the most susceptible of disadvantaged communities, generate cost savings for budget-constrained school districts, and support the advancement of innovative clean transportation technologies.

Arkansas Should Account for the “Beyond Transportation” Benefits of All-Electric and Hybrid-Electric Vehicles

All-electric vehicles provide benefits beyond emissions reductions and safe transportation. These vehicles’ battery systems serve as a valuable and reliable energy resource that can be exported from the vehicles. For hybrid vehicles, ADOMANI’s hybrid internal combustion engines produce power, which when reversed, would allow utility trucks to plug in to the grid as needed. In other words, ADOMANI’s all-electric and hybrid vehicles can provide utilities and homeowners with access to power during emergencies or peak demand.

Indeed, recent research has shown that vehicle-to-grid (V2G) systems can decarbonize transportation, support load balancing, and increase revenues for electricity companies and create new revenue streams.⁷ V2G and other strategies, including vehicle-to-load and off-grid storage, will play a key role in your state’s energy infrastructure future. We hope to support that future with ADOMANI’s all-electric and hybrid vehicle technologies.

Conclusion – Prioritize our Children and Clean Air

The market for all-electric and hybrid vehicles has grown steadily in recent years due to technology advancements and greater private sector involvement. Furthermore, production costs continue to decrease and battery capabilities have improved.⁸ We anticipate that the demand for these vehicles will continue to grow as further advancements continue to drive down prices.

ADOMANI works closely with industry experts to develop technologies that meet consumer needs and exceed their expectations. The team behind the design, development, and deployment of our vehicles has decades of experience in the school and transit bus and commercial vehicle industries.

Importantly, we have relationships with key school and electric utility officials, which will allow the ADOMANI team to work hand-in-glove with local school transportation officials to ensure their drivers and maintenance personnel are fully trained on the successful operation and ownership of these technologically advanced vehicles. We are also able to work with the local electric utility to advise on any

⁷ Sovacool, B. et al. “The Future Promise of Vehicle-to-Grid Integration: A Sociotechnical Review and Research Agenda”. Annual Review of Environment and Resources, Volume 42, 2017. <http://www.annualreviews.org/doi/abs/10.1146/annurev-environ-030117-020220>.

⁸ Schlosser, N. “Can Electric School Buses Go the Distance?” School Bus Fleet, May 23, 2016. <http://www.schoolbusfleet.com/article/713421/can-electric-school-buses-go-the-distance>.



needed vehicle charging infrastructure. Our goal is nothing less than 100% satisfaction for our customers and a seamless integration of these vehicles into local fleets.

Recognizing the need for Arkansas to reduce NOx emissions, generate economic benefits, and deliver environmental justice benefits while also providing fleets with total cost of ownership benefits, ADOMANI recommends that you create competitive funding opportunities for all-electric and hybrid-electric vehicles.

We offer our support in the rollout of the Environmental Mitigation Trust funds and, towards that end, we request the opportunity to meet with you to discuss our recommendations further. Should you have any follow-up questions please contact me at (949) 200-4613 or via email at jim.r@adomanielectric.com.

Sincerely,



Jim Reynolds
President & CEO
ADOMANI, Inc.
620 Newport Center Drive, Suite 1100
Newport Beach, CA 92660
(949) 200-4613 / jim.r@adomanielectric.com

From: [Sandy Martin](#)
To: [Treece, Tricia](#)
Cc: [Butch Berry](#)
Subject: RFI - Submissions Information
Date: Thursday, October 12, 2017 7:15:32 AM

Dear Tricia,

Eureka Springs would like to provide input on the State's Beneficiary Mitigation Plan (BMP), as referenced in the partial Consent Decree with the United States District Court for the Northern District of California in the lawsuit entitled In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB (JSC).

A priority vision for use of these funds for Eureka Springs, and most likely to other municipalities falls in the project eligibility category described as:

"Acquisition, installation, operation, and maintenance of new, light duty, zero emission vehicle supply equipment."

Specifically in Eureka Springs, a major tourist town, we are most interested in charging stations and encouraging electric vehicles. As you know, our entire downtown is on the National Registry of Historic Places with Significance. Our infrastructure is fragile and stressed by over 1 million visitors a year. Being able to offer alternative energy charging stations and encourage electric vehicles would help us greatly. A small investment from the settlement for Eureka Springs will make a huge impact to millions of visitors to the state of Arkansas.

I am copying the Mayor on this should you need further information from him.

Thank you.

Sandy Martin
Chair,
Mayor's Task Force on Economic Development
City of Eureka Springs, Arkansas

From: [Katherine Wurtz](#)
To: [Treece, Tricia](#)
Cc: [Allison Wurtz](#)
Subject: VW Mitigation Comment
Date: Monday, October 23, 2017 7:41:57 AM

Martin Marietta's Hatton Quarry in Cove, AR is interested in utilizing VW Mitigation funds to replace their current locomotive with an all-electric freight switcher.

The proposed project will replace one unregulated / uncontrolled EMD freight locomotive (MY 1971) to Nordco's all-electric Shuttlewagon (freight switcher). The locomotive operates over 1,000 hours annually in switching operations at Martin Marietta's Hatton Quarry in Cove, AR. The existing freight switcher is 3000 bhp and utilizes, on average, 19,408 gallons of fuel per year. Unregulated / uncontrolled baseline emissions levels are 17.4 g/bhp-hr NOx, .44 g/bhp-hr PM, and 2.84 g/bhp-hr ROG respectively. Unregulated emissions levels reflect the U.S. EPA Locomotive Emissions Standards, Regulatory Support Document, April 1998. Reduced emissions levels reflect zero-emissions.

In order to calculate the tons of emissions reduced per project the unregulated emissions levels in g/bhp-hr are first converted to grams per year by multiplying the pollutant rate in g/bhp-hr by the fuel consumption rate factor of 20.8 and taking the resulting figure and multiplying by the number of diesel fuel gallons used per year. The new tier pollutant levels in g/year are then subtracted from the baseline tier pollutant levels in g/year. This figure in grams is then converted to tons by dividing by 907,200. The life of the replacement all-electric freight switcher is 15 years. After converting to tons, the figure is then multiplied by 15 to reflect emission reductions over the entire project life. Compared to unregulated / uncontrolled locomotive emissions, Nordco's all-electric Shuttlewagon / freight switcher reduces NOx, PM, and ROG emissions by 100%.

By replacing one unregulated switch locomotives with Nordco's all-electric Shuttlewagon, this project reduces annually 7.7 tons of NOx, 1.3 tons of ROG, and .2 tons of PM. Over a 15-year project life, over 115.5 tons of NOx, 19.5 tons of ROG, and 3 tons of PM are eliminated from the atmosphere in Cove located in Polk county.

The cost of an all-electric Shuttlewagon/freight switcher is \$1,272,000 including the cost of charging infrastructure. Under funding guidelines, 75% of the costs of a replacement all-electric freight switcher is offered under VW.

On behalf of Martin Marietta, KEW Grant Services is asking that this freight switcher project be taken into consideration for ADEQ's Beneficiary Mitigation Plan.

Kind Regards,

--

Katherine Wurtz

Data Analyst | Partner

e: kwurtz@kewconsultants.com

c: 815.530.2097





SIMMONS ENERGY SOLUTIONS, INC.
P.O. BOX 430
DECATUR, AR, 72722
479-841-0430 cell
877-385-6033 office
479-752-5637 fax

October 23 , 2017

Tricia Treece
Arkansas Department of Environmental Quality

Dear Ms. Treece:

I wished to request consideration for Propane Autogas to be included in the projects funded by the Volkswagen Environmental Mitigation Trust.

If you are truly looking for ways to impact the greatest number of Arkansas residents with the highest amount of emissions reduction and the lowest cost for infrastructure, fuel systems and fuel then Propane Autogas is the solution.

Propane Autogas is also sustainable with a higher ROI and lower cost per unit where some of the other alternative fuel solutions will not be viable unless additional future funding is provided.

As a retail propane dealer in the state of Arkansas and as the President of the Arkansas Propane Gas Association, I know firsthand the benefits to the reduction of NOx emissions & greenhouses gases provided by clean, affordable, portable Propane Autogas.

We have provided Propane Autogas for our fleet of 26 company vehicles for several years and found them to be a clean, safe, economical fuel source which reduces our vehicle maintenance and extends the useful life of our fleet.

I am requesting your help in giving Propane Autogas your full consideration for projects funded by this Trust.

If you have questions, please call me at 479-841-0430 or a tom.blackwood@simfoods.com.

Sincerely,

Tom Blackwood
Manager
Simmons Energy Solutions, Inc.



October 24, 2017

Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Dear Ms. Treece,

Rock Region METRO is excited about the possibility of the Volkswagen Environmental Mitigation Trust Funds being used in Arkansas to further develop the use of alternative fuels in our state. As you know, the use of these fuels contributes to better air quality, something that all Arkansans should welcome.

Rock Region METRO recommends that transit buses be explicitly stated as a funding target in IV - C. Statewide Alternative Fuels Grant Program. Transit buses have 12 year, 500,000 mile lifetimes. This means that buses being replaced in 2017, would have an engine manufacture date of 2005 or older. This is well under the 2009 timeframe listed in the Eligible mitigation projects listed on page A-2 of the Request for Information.

By targeting transit buses, the Federal Transit Administration will match local funds for 85% of the total purchase cost, which means only 15% would come from the Volkswagen Environmental Mitigation Trust Funds. This is a great way to leverage Federal Funds with the Volkswagen Environmental Mitigation Trust Funds. Also, since a cost share is required, Transit buses would be a perfect fit for this program.

Thank you for the opportunity to respond to the Request for Information. Rock Region METRO looks forward to applying for these funds.

Sincerely,

Wanda Crawford
Interim Executive Director

From: djtsh@windstream.net
To: [Treece, Tricia](#)
Subject: Volkswagen consent Decree Environmental Mitigation Trust
Date: Wednesday, October 25, 2017 10:24:56 PM

Dear Ms. Treece,

In response to your request for information in the above mentioned subject I would like to suggest the following changes to your draft proposal regarding the use of funding available from the settlement.

Specifically under section IV topic A the draft speaks of a CNG School Bus Pilot Program, this particular portion of the proposal could be significantly improved and the funds will go further to serve more citizens and reduce NOx emissions much more by including Propane Autogas School Buses in the mix, as the emissions profile is almost the same for the two fuels.

There are several reasons why this is true, but perhaps the most important is the per unit cost of a Propane Autogas powered school bus as compared to CNG powered bus.

Not only is the initial cost of a Propane Autogas school bus significantly less, as much as \$48,000 less, but the refueling infrastructure is enormously less expensive. Propane refueling tanks and pumps can be installed at savings as much as 75 percent less than the cost of similar capacity CNG refill facilities, and the operating cost are significantly less because of the high pressures required by CNG (as much as 3500PSI) in order to refill the vehicle fuel tank. (Propane Autogas operates at a maximum of 312psi)

Additionally CNG fuel tanks require a very rigorous inspection schedule and have a very finite lifespan, which requires their replacement due to age. This factor could add significantly to the maintenance costs of a school bus which typically does not accumulate odometer miles like an over the road vehicle and tend to stay in the fleet for a longer amount of time. Propane Autogas tanks do not have a finite life span and can be used indefinitely with minimum maintenance.

Having said all of that I would suggest that under section D. Table 1 Proposed Budget Overview the amount allocated for CNG Pilot Programs be allocated to Propane Autogas Pilot Programs. The citizens of Arkansas would be much better served and ADEQ would be much better stewards of the resources provided to them by following this proposal.

I do understand that it may not be possible to exclude CNG from the pilot programs mentioned, and if that is so, perhaps you could amend the budget category to read as follows: CNG and Propane Autogas Pilot Programs for 60% of total funds. I am confident that doing so would allow the market to choose the best option for the citizens of our state.

Thank you for your consideration,

David B. Hendrix



Near Zero Emission Propane Autogas Engines



800.59.ROUSH

ROUSHcleantech.com

Roush at a Glance

Michigan-based

Privately held

Founded in 1976

Over 3,700 employees

Over 2.8 million sq. ft. office/development space

Primary activities:

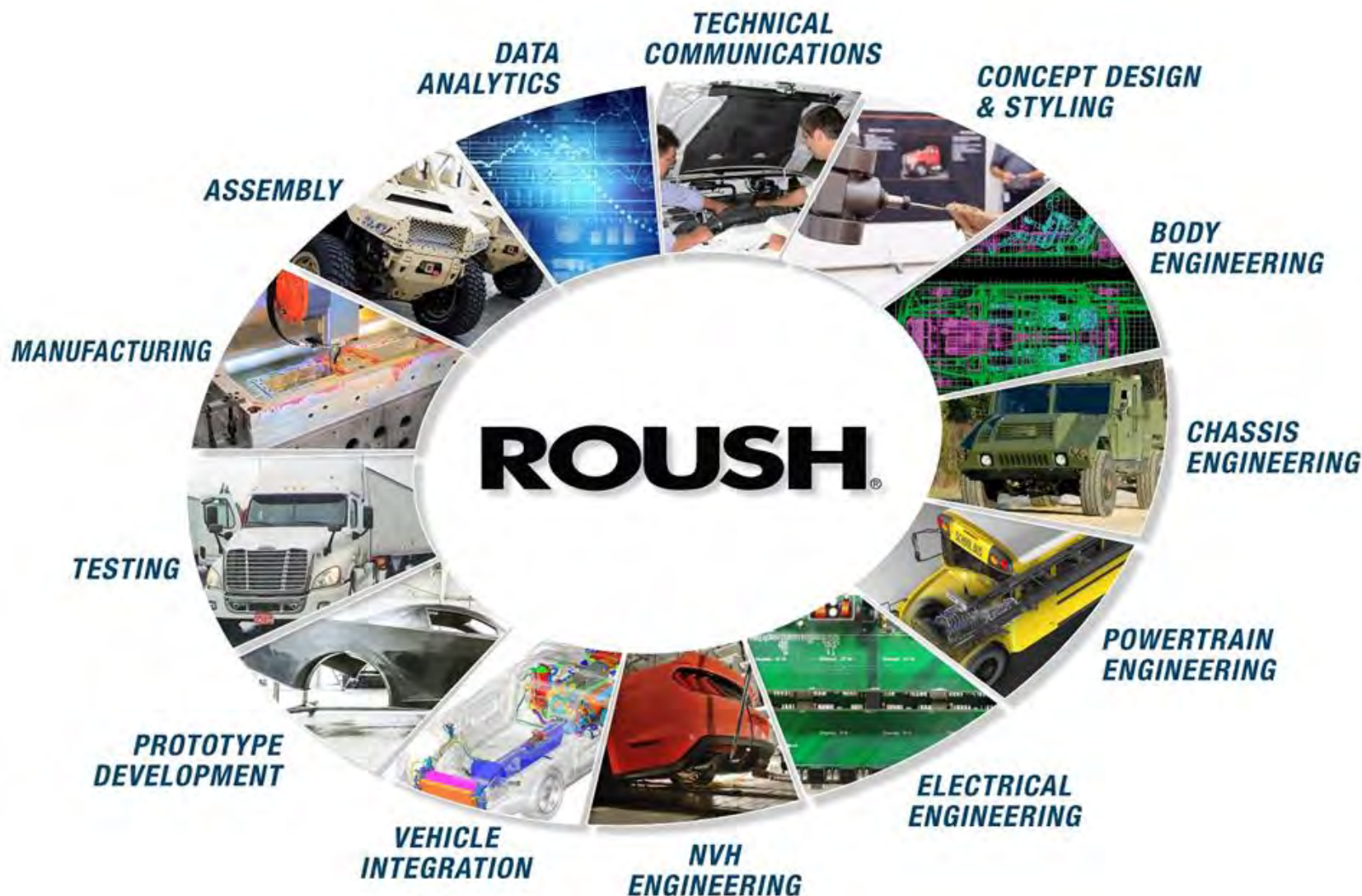
- Engineering
- Testing
- Prototype Development
- Manufacturing
- Motorsports Management

ROUSH

ROUSH FENWAY
RACING



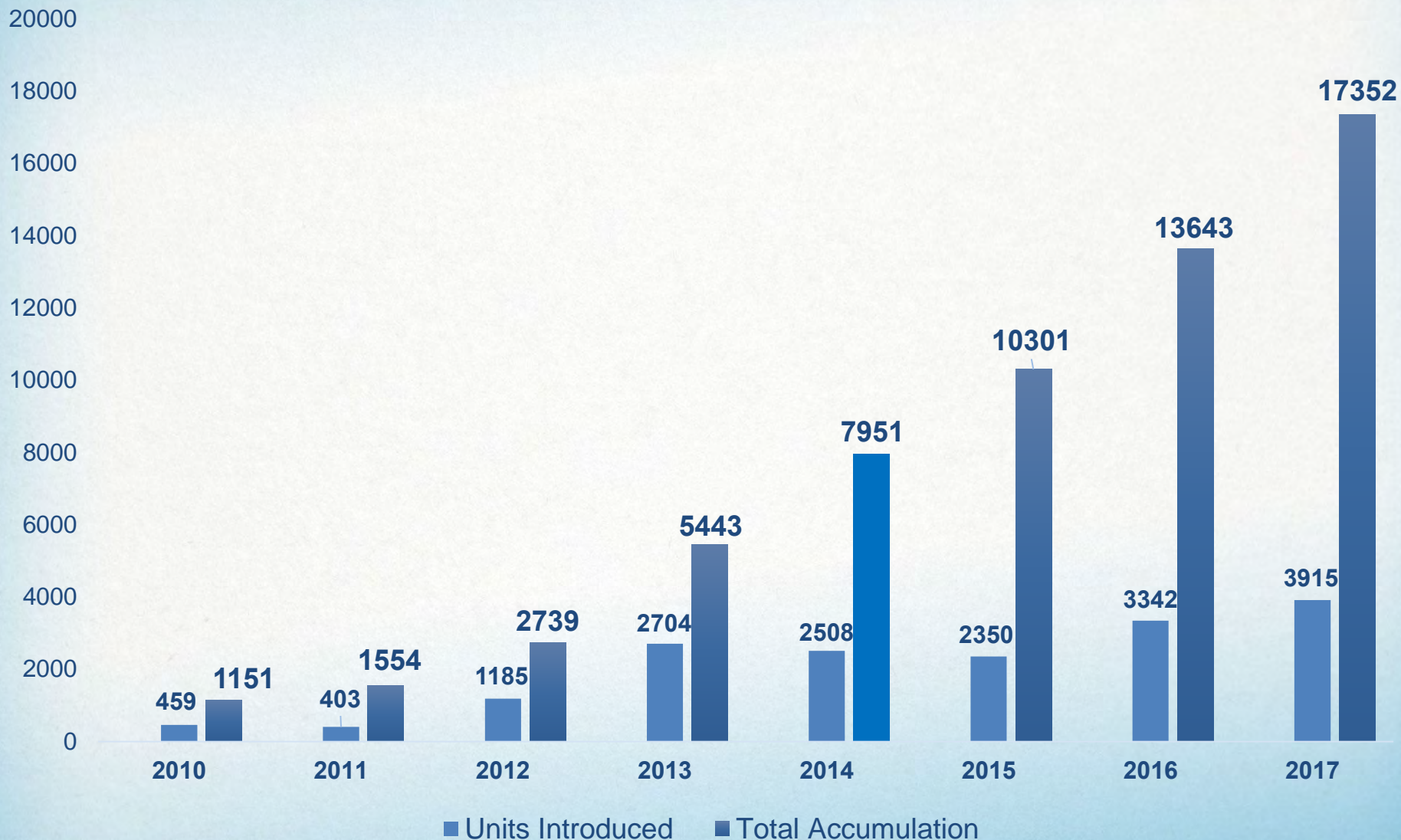
ROUSH
CLEANTECH





- Founded in 2010.
- Dedicated to developing quality alternative fuel solutions.
- Propane autogas focus.
- EPA and CARB certification.
- Platform customization to suit customer needs.
- Reduces operating costs, carbon footprint.
- OEM support through Ford and BPN dealers.
- Creating opportunities for partner companies.
- Using American fuel and American technology.

Units in Operation





OVER

18,000

VEHICLES ON
THE ROAD

ACCUMULATED
OVER

400

MILLION MILES

OVER

750

SCHOOL
DISTRICTS

OVER **600** MILLION GALLONS OF PROPANE

Propane Autogas Product Lineup

- Medium duty Ford trucks, chassis cabs, cutaways, and stripped chassis; and Blue Bird Type A and C school bus.
- Factory Ford warranty maintained.
- No loss of HP / torque / towing capacity.
- Serviceable with existing diagnostic equipment.
- EPA & CARB Certified.



Ford F-53 / F-59

Ford E-450

Ford F-450/550

Ford F-650/750

Blue Bird Vision

Micro Bird G5



ULTRA LOW NO_x EMISSIONS

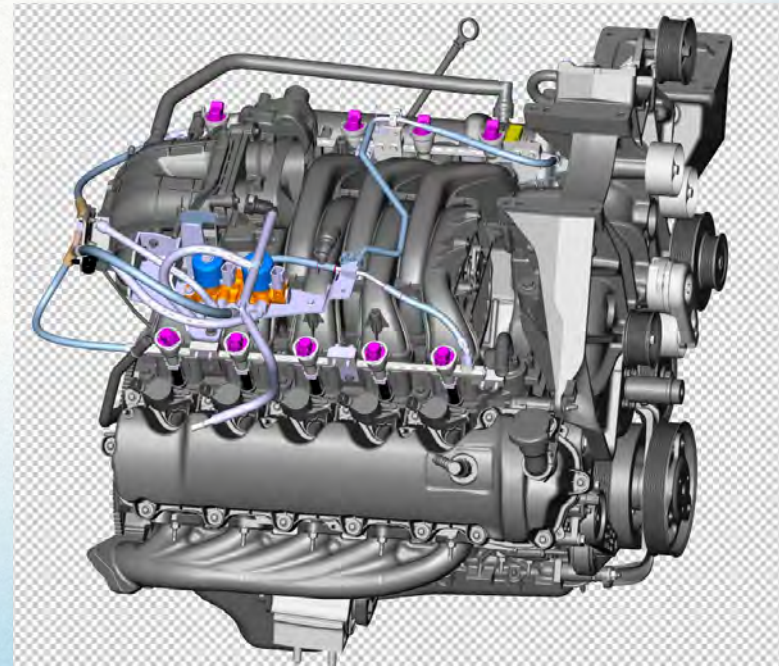
Drive for Reduced NOx

- ARB is encouraging all Manufacturers of Record (MORs) to overachieve on the NOx standard to support smog reduction.
- ARB has issued alternative standards at 0.1, 0.05 and 0.02g/bhp-hr for NOx.
- The recent VW settlement also includes funding that supports NOx reductions across all 50 states that off sets the increase in NOx caused by their diesel emissions.

Achievement of Ultra Low NOx starts with a high quality production engine

At ROUSH CleanTech, we start with:

- Ford 6.8L V10 3V Spark Ignition
- Used by Ford in all HD Vehicle applications
- F 450/550 Chassis Cab
- F 650/750 Chassis Cab
- F 53/59 Stripped Chassis
- 320 HP/460 Lbs. Ft
- Close to 2 Million in operation
- Started production in 1997
- For gasoline, meets or exceeds all emissions standards presently through 2017.







June 7th 2017 ROUSH CleanTech announces achievement of very low NOx with the 6.8L V10 Engine.

- For the 2017 MY RCT LPG Blue Bird Buses and applicable Ford Truck upfits are now certified to **0.05 g/bhp-hr NOx**.
- This is achieved with **no extra hardware or increased variable cost**.

	CO	CO2	NOx	NMHC
Full Useful Life STD	14.4	627	0.05	0.140
Actual Cert Level	2.7	614	0.03	0.04

- The low NOx levels were achieved through careful, significant calibration changes and a CSSR (cold start spark retard) approach.

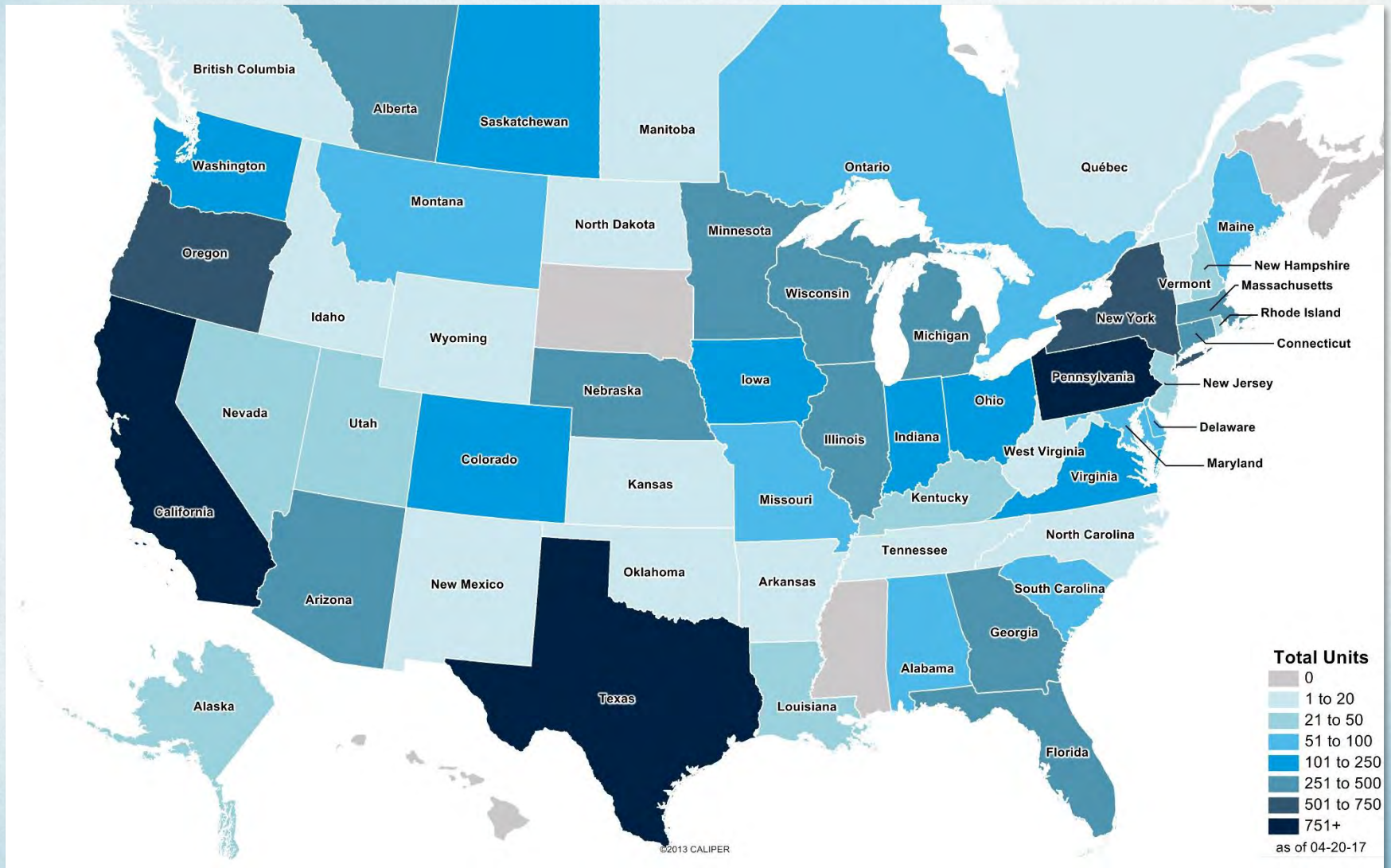
Standard Changes for NOx

Vehicle Model Year	NO _x Standard (in g/bhp-hr)	ROUSH CleanTech 6.8L V10 3V propane engine (certified to NO _x level of .05 g bhp-hr)
1998	4 	99% cleaner
2002	2.5 	98% cleaner
2007	1.2 	95% cleaner
2010 - current	0.2 	75% cleaner



STUDENT TRANSPORTATION

Propane School Bus Deployments



A Growing Trend

10,000

SCHOOL
BUSES



OVER
750

SCHOOL
DISTRICTS





FOOD & BEVERAGE



Ready Refresh

JUST CLICK AND QUENCH



ReadyRefresh.com

YOU choose WE deliver!

Powered by
CLEAN BURNING
PROPANE AUTOGAS

Stroehmann's

Little
Bites

Stroehmann Line Haul L.P.
255 Business Center Drive
Horsham Pa. 19044
U.S. DOT 665959
GVW 19,500





PUBLIC TRANSIT



Metropolitan Transit System

3102

MTS

MANUFACTURED BY
FIELD TRANSIT
CLARK COUNTY, NV
12-10-2007



WHERE ARE WE HEADED.....

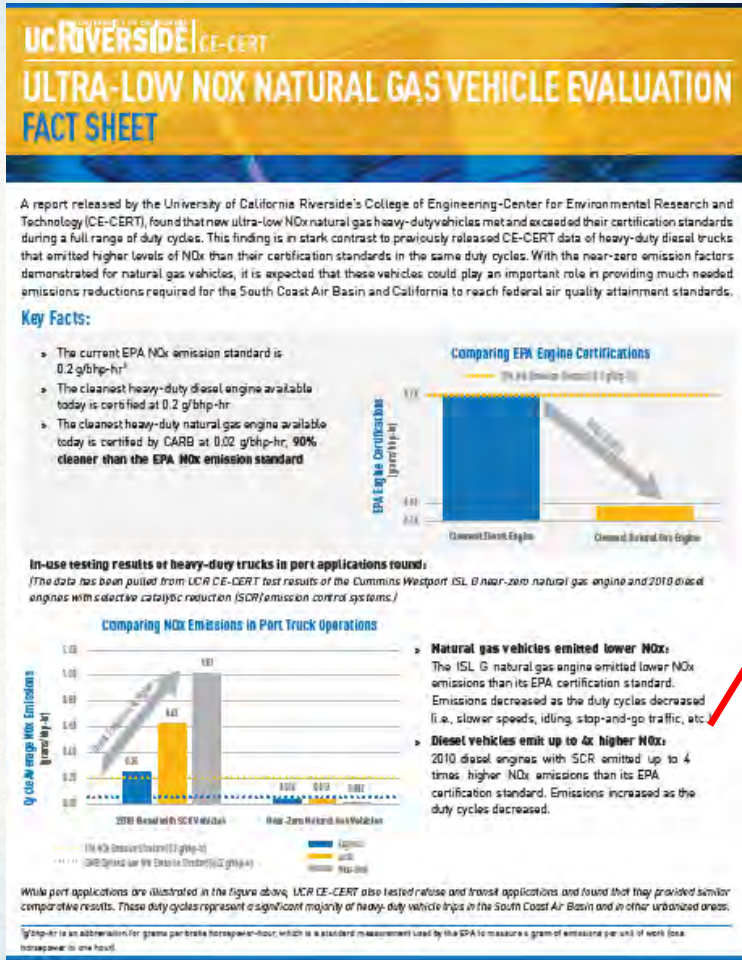
2016 AFLEET Emissions Tool

Standard Argonne AFLEET Emissions Outputs				
Fuel	Purchase Price	NOx Reduced	\$/lb	Cost Effectiveness vs. Propane
Propane	\$ 93,000	537.0	\$ 173	
Diesel	\$ 85,000	330.5	\$ 257	-33%
Electric	\$ 350,000	593.4	\$ 590	-71%
CNG	\$ 125,000	518.3	\$ 241	-28%

- Propane is 28% more cost effective at reducing NOx than CNG
- Propane is 33% more cost effective at reducing NOx than diesel
- Propane is 71% more cost effective at reducing NOx than electric

2016 version of AFLEET. School bus comparison using Arkansas average pricing. Assumptions include replacing a 2007 model year diesel school bus with a 2019 model year propane, diesel, electric or CNG school bus. Also assumes a 15 year average service life and 12,600 miles travelled annually.

Certification versus Reality?



Blue Bird Vision Propane

The Most Cost-Effective Solution to Reduce NOx Emissions from School Buses

School buses transport 25 million children across the U.S. to and from school each year. Because of the stop-and-go driving conditions, diesel buses emit increased exhaust emissions filled with tiny soot particles and toxic gases. Using the Volkswagen Environmental Mitigation Trust (EMT) to fund propane buses enables states to meaningfully reduce this harmful exposure, which benefits our nation's children.



PROPANE

Purchase price: \$85,000
NOx reduced: 894 lbs.
Cost per pound of NOx reduced: \$106



DIESEL

Purchase price: \$90,000
NOx reduced: 67 lbs.
Cost per pound of NOx reduced: \$1,330



ELECTRIC

Purchase price: \$300,000
NOx reduced: 1,119 lbs.
Cost per pound of NOx reduced: \$268



*Vehicle purchase price may vary by state. Calculations assume the full cost to deploy the cleanest commercially available Type C buses for each fuel type based on emission calculations from the 2017 AFLEET tool with diesel in-use adjustment.



750+

School transportation fleets in operation

10,000+

School buses in service across North America

2017 AFLEET Changes

Standard Argonne AFLEET Emissions Outputs

Fuel	Purchase Price	NOx Reduced	\$/lb	Cost Effectiveness vs. Propane
Propane	\$ 95,000	537.0	\$ 177	
Diesel	\$ 90,000	330.5	\$ 272	-35%
Electric	\$ 300,000	593.4	\$ 506	-65%

Argonne AFLEET 2017 w Diesel In-Use Multipliers

Fuel	Purchase Price	NOx Reduced	\$/lb	Cost Effectiveness vs. Propane
Propane	\$ 95,000	893.7	\$ 106	
Diesel	\$ 90,000	67.7	\$ 1,330	-92%
Electric	\$ 300,000	1,119.0	\$ 268	-60%

- Significant cost per mile reduction vs diesel based on lower fuel and maintenance costs
- Low cost of infrastructure
- Ample supply
- Cleaner
- Domestic
- Evidence manual grows
- Path to renewable propane

Best NO_x reduction per dollar spent in the class 4-7 market



THANK YOU

800.59.ROUSH
ROUSHcleantech.com

Chelsea Jenkins
Director of Government Affairs

734.812.1965
Chelsea.Jenkins@roush.com



Arkansas Environmental Support
425 West Capitol Avenue
A-TCBY-22D
Little Rock, AR 72203
Tel 501-377-4033
Fax 281-297-6128
G. Tracy Johnson, Manager

AR-17-075

October 27, 2017

Ms. Tricia Treece
Office of Air Quality
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: Entergy Comments to ADEQ Request for Information
Arkansas Beneficiary Mitigation Plan

Dear Ms. Treece:

Entergy Services, Inc. (ESI), on behalf of Entergy Arkansas, Inc. (EAI), appreciates the opportunity to comment on the Arkansas Department of Environmental Quality (ADEQ) Request for Information (RFI) requesting input on the State's Beneficiary Mitigation Plan (BMP), as referenced in the partial Consent Decree with the United States District Court of the Northern District of California in the lawsuit entitled *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation, Case No: MDL No. 2672 CRB (JSC)*.

EAI offers comments that center around Section IV (B) regarding the Light-Duty Electric Vehicle Infrastructure Rebate Program, which would provide funding for electric (EV) charging stations across the state. EAI is highly encouraged by ADEQ's decision to allocate the maximum amount (15%) of the Emissions Mitigation Funding toward EV charging, as this investment will drive EV adoption and help reduce emissions across the State.

As EVs become more mainstream, Entergy will continue to monitor industry developments closely, assess technological trends, educate stakeholders on electric transportation and related issues, and assess potential frameworks through which we can better serve our customers. We recently launched Power Drive by Entergy (www.entergypowerdrive.com), a program through which we are incorporating electric vehicles and related infrastructure into our own fleet operations in order better to understand the costs and benefits of using electric vehicles. As part of this program, we have installed workplace charging stations in multiple locations and begun leasing vehicles for employee use. This program builds on earlier efforts that funded the installation of EV charging stations at a number of universities and community colleges. These programs, coupled with our ongoing industry research, will give us a better

understanding of the benefits and challenges associated with EVs and help us more effectively engage our customers in order to meet their evolving needs in this space.

Understanding there are a number of ways in which the State could administer the Light-Duty Electric Vehicle Infrastructure Rebate Program, EAI would welcome the opportunity to leverage its experience and work with the ADEQ to clarify the following points:

- The types of charging that are applicable (residential, commercial, or both),
- The types of chargers that are eligible, such as Level 2, Fast Charging, etc.,
- The rebate levels that are being contemplated for the different types of chargers,
- The types of entities eligible for the rebate, such as private businesses, residential customers, government entities, utilities, etc.,
- Whether the chargers need to be open to the public for personal or private commercial use,
- The plan around promotion and awareness campaigns for the rebate program that includes how the State plans to target certain entities with this program (e.g. government fleets, commercial fleets, academic institutions, multi-family housing developments, new commercial or residential developments), and
- The status of unspent funds if there is no demand for this rebate program.

If you have any questions regarding these comments, please contact me at (501) 377-4033.

Sincerely,

A handwritten signature in cursive script that reads "G. Tracy Johnson".

G. Tracy Johnson
Arkansas Environmental Support



ChargePoint, Inc.
254 East Hacienda Avenue | Campbell, CA 95008 USA
+1.408.841.4500 or US toll-free +1.877.370.3802

October 30, 2017

Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: Comments on Proposed Mitigation Plan for the Volkswagen Environmental Mitigation Trust

Dear Ms. Treece,

Thank you for the opportunity to provide comments on the Environmental Mitigation Trust funding allocated to the State of Alabama under Appendix D of the VW Settlement. ChargePoint is the largest electric vehicle (EV) charging network in the world, with charging solutions for every charging need and all the places EV drivers go: at home, work, around town and on the road. With more than 41,000 independently-owned charging spots and more than 7,000 customers nationwide, ChargePoint drivers have completed more than 29 million charging sessions, saving upwards of 28 million gallons of gasoline and driving more than 687 million gas-free miles. In addition, there are currently more than 30 ChargePoint charging spots in the State of Arkansas.

Background on VW Settlement

In 2016, Volkswagen entered into a consent decree with the federal government and the State of California to resolve damages, penalties, and mitigation actions associated with 2.0- and 3.0-liter vehicles involved in "Dieselgate". Appendix D establishes a \$2.9 billion trust for environmental mitigation, the funds of which will be allocated to all 50 states in amounts proportionate to each state's number of VW diesel vehicles involved in the case. On October 2, 2017, parties to the Settlement filed trust agreements with the Court, establishing Environmental Mitigation Trust effective date. In Arkansas's case the State will receive over \$14.6 million.

Within 60 days of the trust effective date (by December 1, 2017), each state may designate and certify a beneficiary agency, an entity charged to oversee program implementation and funds. The State of Arkansas has indicated that the Department of Environmental Quality (ADEQ) will be the lead agency and act on behalf of the trust for the State.

Recommended Eligible Mitigation Projects in Arkansas

Appendix D-2 of the VW Settlement Consent Decree details how each beneficiary agency must invest trust allocations in eligible mitigation projects designed to reduce NOx emissions. Importantly, up to fifteen percent (15%) of a state's trust allocation may be put towards deploying new, light-duty electric vehicle supply equipment (EVSE).

ChargePoint recommends that Arkansas allocate the maximum 15% of its allocation towards light-duty electric vehicle charging infrastructure. We believe that this investment in EVSE will significantly

support increased electric vehicle adoption throughout the State. Additionally, we recommend that the following features be included in a light-duty EVSE program, which we suggest be dispersed through a simple rebate and/or grant program:

1. Incentives should be structured simply through rebates, vouchers, or a straightforward grant program;
2. Supports competition and allow multiple vendors and business models to participate in any program;
3. When possible, requires site hosts of charging stations to have “skin in the game” and provide private match, which will stretch the value of the investment and lead to more efficient siting of infrastructure;
4. Encourage data collection that could be shared with state agencies for planning purposes, enabled through the use of networked smart charging stations;
5. Coordinates with other state and utility programs;
6. Seeks to coordinate with neighboring states to establish EV fast charging corridors, including those identified by the FAST Act, as well as prepare for future federal corridor designations; and,
7. Focuses funding on areas of greatest need include workplaces, multifamily housing, and disadvantaged communities.

Importantly, ADEQ has already identified light-duty EVSE as a funding priority in its draft Beneficiary Mitigation Plan. ChargePoint supports ADEQ’s efforts to establish a new rebate program for the installation of alternative fuel infrastructure in coordination with the Energy Office. In addition, ChargePoint offered inputs on the rebate program structure to Energy Office leadership when authorizing legislation for the program was enacted. We look forward to continuing the dialogue as the State prepares to implement the rebate.

Additional Appendix D Funding Priorities

Beyond the 15% allocation to EV charging infrastructure, ChargePoint encourages the State to allot a significant portion of the remaining 85% to electrification categories over other fuel types, which will lead to long-term transportation emissions reductions and increased efficiency. For example, Electric buses get the equivalent of 21 miles per gallon (MPG), compared to 4 MPG in conventionally-fueled buses. Every mile driven in an electric bus will save taxpayers about 60-70% of what they would have paid with a diesel engine, per mile. Given currently available technology, ChargePoint suggests Arkansas prioritize electric buses and medium-duty transit vehicles.

Under the terms of the Environmental Mitigation Trust, funds used for electric buses and medium-duty transit vehicles may cover the cost of the vehicle and associated charging infrastructure. ChargePoint notes that some electric buses and trucks have the ability to charge on standard DC fast charging stations, which may also be used for light-duty vehicles. Investing in those models and associated infrastructure will allow public light-duty fast charging stations to be leveraged for bus charging and other fleet needs. Possible bus electrification programs could support regional, municipal, and school bus fleets.

Thank you for your consideration. If you have any questions, please contact me at david.schatz@chargepoint.com or (215) 858-4748.

Sincerely,

A handwritten signature in black ink, appearing to read 'David Schatz', with a stylized flourish at the end.

David Schatz
Director, Public Policy
ChargePoint



October 30, 2017

Arkansas Department of Environmental Quality
ATTN: Tricia Treece
c/o treecep@adeq.state.ar.us

RE: Proterra Comments on Arkansas' Draft Beneficiary Mitigation Plan

Dear Ms. Treece:

Proterra, the leading U.S. manufacturer of electric, zero-emission transit buses, appreciates the opportunity to respond to the Request for Information concerning Arkansas' proposed Beneficiary Mitigation Plan (BMP), which describes the State's overall intentions and plan for spending ~ \$14.6 million of Arkansas' VW allocation funding.

Proterra designs and manufactures the world's most fuel-efficient battery electric bus and features on-route, fast-charge technology that offers functionally unlimited range, as well as an extended range version that enables transit agencies to travel 350 miles on a single charge. Proterra's CATALYST™ bus achieves 22+ MPGe performance, 500%+ better than diesel and CNG buses, eliminating toxic diesel particulate matter and reducing carbon emissions by 70% or more compared to CNG or diesel buses. In addition, the cost of maintenance differential is substantial in comparison to fossil fueled buses. Using the APTA average of 36,000 miles per year and the FTA required 12-year life, a Proterra bus will save a transit agency over \$200,000.00 per bus on average compared to a fossil fuel transit bus.

Our mission is simple: to deliver clean, quiet transportation to all communities by replacing heavy-duty, fossil-fueled transit buses with zero-emission public transit buses. The harmful effects of vehicle exhaust from medium and heavy-duty trucks are on the rise and have been for years. The EPA reports that medium and heavy-duty vehicles account for 20% of GHG emissions and oil use in the United States' transportation sector, but represent only 5% of the vehicles on the road. Similarly, GHG emissions from heavy duty vehicles across the globe are growing rapidly and are expected to surpass emissions from passenger vehicles by 2030. There is thus a strong need not only to mitigate past criteria pollutant emissions, but to continue to reduce toxic air pollutants in the medium and heavy-duty sector.

The Volkswagen settlement provides a much-needed opportunity to address this growing environmental concern and further demonstrate that commercially available zero-emission technologies have the lowest cost of ownership, improved maintenance and performance, and better serve a diverse range of communities' public transit needs, including the reduction of NOx and the elimination of GHG and criteria emissions.

Consistent with these goals, Proterra strongly supports the proposed establishment of an electric vehicle rebate program. But it urges the DEQ to consider expanding the scope of the program beyond light-duty infrastructure. There are several statewide programs focused on rebates and vouchers for heavy-duty electric transit buses. The California Hybrid & Zero-Emission Truck and Bus Voucher Incentive Program (HVIP) is a pool of money that is used by transit agencies on a first come, first served basis to bridge the gap between purchasing a fossil fuel vehicle and a zero-emission vehicle. As part of this voucher program, the transit bus OEM can receive a voucher for up to \$160,000 per EV vehicle, which amount is then deducted from the cost of the bus. New York City (New York Truck Voucher Incentive Program) and Chicago (Drive Clean Truck Voucher Program) have implemented similar programs. These programs have proven valuable in allowing agencies (and commercial properties) to grow their fleets of zero-emission buses.



Additionally, Proterra strongly supports the proposed establishment of a statewide EV vehicle grant. But we request that the DEQ consider limiting eligibility to zero emission vehicles to help reduce GHG and NOx emissions, as well as provide other health and associated benefits in those areas that receive a disproportionate quantity of air pollution from diesel transit fleets. Additionally, we recommend that the funding allocation be increased to \$4.3 million. As guidance, the DEQ can look to two such existing programs that have significantly accelerated the adoption of heavy duty EVs and, as a direct result, helped reduce NOx and GHG emissions. The California Zero-Emission Truck and Bus Program is a competitive funding program that allows all manufacturers of zero-emission technology to partner with transit agencies and compete for project funding. It is very much modeled after the highly competitive Federal Transit Administration's Low or No Emission Program, which has helped fund the purchase of zero-emission transit buses across the US. These programs are important in that they allow newcomers to receive funding for not only buses, but also charging infrastructure. Proterra estimates that a 5-bus EV bus deployment, including 5 plug-in chargers, would cost ~ \$4.3 million (and less if the state would only cover the incremental cost of a new electric bus and associated charging infrastructure). See Exhibit A for a 5-bus project proposal.

The primary goal of the BMP is to "achieve significant and sustained reductions of NOx emissions." To achieve that primary goal, Proterra encourages the DEQ to promote the adoption of zero-emission technology, and not "near-zero" technology. Nationally, 7,461,458 tons of NOx, or 55% of the 13,489,110 tons of NOx emitted derive from mobile sources; 35% attributable to on-road sources.¹ In Arkansas, 114,037 tons of NOx, or 50% of the 230,141 tons of NOx emitted are from mobile sources.² On this basis alone, we urge DEQ to use at least 25% of its funds to advance the electrification of transit buses in those areas disproportionately impacted by the VW diesel vehicle emissions. By doing so, Arkansas will help achieve its program goals, including the acceleration of the future adoption of zero emission transit buses and the reduction of NOx, greenhouse gases and other pollutants.

Thank you for the opportunity to provide comments on the draft BMP. Please feel free to contact me directly at 864-214-2668 or emccarthy@proterra.com.

Sincerely,

Eric J. McCarthy
SVP, Government Relations, Public Policy and Legal Affairs
Proterra Inc.

¹ <https://www3.epa.gov/cgi-bin/broker?polchoice=NOX& debug=0& service=data& program=dataprog.national 1.sas>

² <https://www3.epa.gov/cgi-bin/broker? service=data& debug=0& program=dataprog.state 1.sas&pol=NOX&stfips=05>

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

Project Application Information

Proterra Inc.

Eric J. McCarthy

Private Corporation (Non-Government)

1 Whitlee Court, Greenville, SC 29607

864-214-2668

emccarthy@proterra.com

PROJECT SUMMARY

Zero-emission public transit buses are ripe for immediate scaling and investment from the Environmental Mitigation Trust to help carry out the goals of Arkansas' mitigation plan to reduce nitrogen oxide (NOx) emissions and expedite deployment and widespread adoption of zero-emission vehicles. *The Public Transit Electrification Project* will initially deploy 5 zero-emission, battery-electric transit buses and 5 multi-use depot charging stations at one or more Arkansas municipalities to provide electric mobility for all Arkansas residents and serve as a strong spark to accelerate the deployment of ZEVs, reduce diesel emissions and eliminate toxic air pollutants. The size of the project, however, can easily scale to accommodate other interested transit agencies and/or airports.

Proterra, the leading U.S. provider of zero-emission, all-electric transit solutions, designs and manufactures the world's most fuel-efficient battery electric bus and features on-route, fast-charge technology that offers functionally unlimited range, as well as an extended range version that enables transit agencies to travel 350 miles on a single charge. Proterra's CATALYST™ bus achieves 22+ MPGe performance, 500%+ better than diesel and CNG buses, eliminating toxic diesel particulate matter and reducing carbon emissions by 70% or more compared to CNG or diesel buses. To date, Proterra's buses have logged 3+ million miles of service in cities across the United States. With over 38 transit customers and over 400 buses on order, Proterra has become the zero-emission technology provider of choice for transit agencies nationwide.

Proterra will manufacture and deploy the commercial zero-emission buses and depot charging stations and will work closely with the participating Arkansas municipality or municipalities to successfully implement *the Project*. *The Public Transit Electrification Project* will demonstrate the economic and environmental benefits of accelerating the transition to commercially available ZEV technology, increase ZEV access and education, and eliminate toxic diesel exposures – achieving the goals of Arkansas' mitigation plan to improve and protect ambient air quality.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

The goals of this Project are to:

- Reduce NOx emissions to improve air quality and provide health benefits.
- Launch a zero-emission public transit bus pilot project to demonstrate concepts of sustainable mobility in one or more municipalities.
- Increase zero-emission vehicle awareness and access.
- Accelerate scaled zero-emission vehicle deployment.
- Demonstrate the economic and environmental benefits of accelerating the transition to commercially available zero-emission technology to a large cluster of transit routes.
- Provide zero-emission buses to benefit those areas and vulnerable communities that bear a disproportionate share of the State's air pollution burden, eliminating toxic emissions and providing zero-emission miles.
- Lead the transformation and technology transfer for a wide range of commercial fleets.
- Help drive down per-vehicle zero-emission bus costs with the Project's scale.

The objectives of this Project are to:

- Deploy 5 zero-emission, battery-electric transit buses and 5 multi-use depot charging stations to show that commercially available battery electric transit buses better serve communities' transit needs, substantially reduce greenhouse gas emissions, and provide substantial localized air quality benefits for areas of greater population density.
- Reduce greenhouse gas emissions by up to ~ 531 metric tons CO₂e/year.
- Eliminate ~ .23 tons/year of weighted criteria pollutants and PM emissions.
- Provide scalable lessons learned to drive additional deployments of zero-emission heavy-duty technologies throughout Arkansas.
- Deploy Proterra buses that charge using the J 1772 CCS standard.

PROJECT DETAIL

The *Public Transit Electrification Project* will deploy 5 zero-emission, battery-electric transit buses and 5 multi-use depot charging stations at the participating Arkansas municipality or municipalities.

The VW settlement provides a much-needed opportunity to further demonstrate that commercially available zero-emission technologies have the lowest cost of ownership, improved maintenance and performance, and better serve a diverse range of communities' public transit needs, including the reduction of diesel emissions and the elimination of criteria emissions.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

Proterra – Technology Manufacturer and Project Coordinator

Proterra's zero-emission, battery-electric technology is being deployed in revenue service throughout the nation. Transit agency early adopters, such as Foothill Transit and San Joaquin RTD in California, have demonstrated the technology readiness of Proterra's battery all-electric solutions on urban as well as mixed suburban routes – and now major metropolitan agencies such as SEPTA (Philadelphia) and King County Metro (Seattle) are placing larger orders - 25 and 73 buses respectively. Nevertheless, there is a need for more deployments to demonstrate the economic, performance and lasting environmental benefits of deploying commercially available, cost-saving, zero-emission battery electric buses. The *Public Transit Electrification Project* will accelerate the deployment and adoption of commercially viable, immediately scalable zero-emission public transit buses in similar fleets throughout Arkansas and beyond.



For the proposed project, Proterra will offer its extensive experience and expertise in manufacturing, deploying, operating, and maintaining commercial zero-emission buses and infrastructure – working closely with one or more participating transit agencies. To date, Proterra's buses have logged 3+ million miles of service in cities across the United States. Proterra has zero-emission buses operating in revenue-generating service in the following cities: San Joaquin RTD in Stockton, CA, Foothill Transit in Pomona, CA, VIA Metropolitan in San Antonio, TX, University of Montana in Missoula, MT, WRTA in Worcester, MA, TARC in Louisville, KY, LexTran in Lexington, KY, Nashville MTA in Nashville, TN, PVTA in Springfield, MA, Star Metro in Tallahassee, FL, King County Metro, WA, RTC in Reno, NV, Jones Lang LaSalle in Chicago, IL, CATBus in Seneca, SC and at Park City Transit, Park City, UT.

The battery-electric buses and charging infrastructure for this project will be manufactured at Proterra's manufacturing facility in Greenville, SC. The close proximity to the transit agency partner will ensure collaboration and ease of maintenance for any needed repairs to the vehicles and charging infrastructure during the 12-year vehicle lifespan.

Eligible Technologies to be Implemented

- **Battery-Electric Bus:** Proterra will replace Class 8, diesel heavy-duty transit buses at one or more transit agencies with 5 Proterra E2 battery-electric buses. Proterra is proposing its 40-foot Catalyst E2 battery-electric bus. The proposed Catalyst E2 bus has a total of 440kWh of on-board energy storage; more than 25% more capacity than other 40' battery electric buses

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

on the market. Importantly, the Catalyst was designed from the start exclusively as an electric vehicle. It delivers remarkable route flexibility and has a stellar track record in operational performance. The bus body is made with advanced carbon composites that are extremely light, durable, and resistant to corrosion. The bus body is then paired with an advanced, scalable energy storage system and the most efficient drivetrain on the market. With its durability and corrosion resistance, this platform is designed to safely and to quietly withstand nearly two decades of service. The curb weight of the vehicle is 29,849 lbs. and the Gross Vehicle Weight is 39,050 lbs. The maximum speed is 65 mph (6000 RPM).

- Plug-In Charging System: Proterra is proposing 5 62.5 kWh depot chargers that can be combined to charge a Catalyst E2 440kWh bus from 0% to 100% State of Charge (SOC) in ~ four (4) hours.

Management/Implementation Capacities

Proterra will work directly and collaboratively with a municipality to ensure the successful planning, manufacturing, deployment, operation, and maintenance of the zero-emission public transit buses and charging infrastructure throughout the Project. Proterra will provide significant executive staff resources and a maintenance employee to ensure a successful deployment of zero-emission vehicles and charging infrastructure and proper training for all existing service and maintenance employees.

The Proterra team members have extensive backgrounds in project management, manufacturing, vehicle deployment, vehicle maintenance and operations, vehicle and infrastructure training, and permitting and other on-site operational needs. The Proterra team will ensure this project is on time and within budget.

Project Objectives and Work Plan

The Project will demonstrate that zero-emission technologies can achieve significant and sustained reductions in diesel emissions in areas that receive a disproportionate quantity of air pollution from diesel fleets - perfectly capturing one of the primary goals of Arkansas' mitigation plan. The Project will also help accelerate the deployment and increase the awareness of electric vehicles, as well as provide the opportunity for all state residents to ride in an electric vehicle. It will serve as a major component of a citywide ecosystem that increases awareness of the many options for zero-emission mobility. In turn, this Project will significantly accelerate the adoption of zero-emission vehicles that will reduce greenhouse gas emissions, eliminate criteria pollutants, and provide the opportunity for all residents to go electric today and realize the many associated health benefits.

The Project tasks are divided into four major phases that are necessary to prepare for and conduct the proposed *Public Transit Electrification Project*: 1 – Project Kick-Off, 2 – Production and Delivery, 3 – Entry into Service, and 4 – Reporting and Feedback. Each phase is described below and in further detail, including identifying the entity is performing each task.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

Phase 1 – Project Kick-Off [9 months]

Phase 1 lays the foundation for the success of the *Public Transit Electrification Project*, which includes finalizing all necessary documents and agreements and attending the kick-off meeting and pre-production meetings with end-users.

Phase 2 – Production and Delivery [up to 12 months]

In Phase 2 the zero-emission buses are manufactured and delivered and the charging infrastructure are ordered, delivered, and installed. This includes the site design, permitting, production and installation of each charging station, as well as the status report of the vehicle production and delivery.

Phase 3 – Entry into Service [3 months]

In Phase 3, Proterra will initiate the customer launch process that ensures that the buses are effectively and efficiently received, inspected, accepted and deployed with confidence. About 6 weeks before the delivery of the first bus, Proterra initiates the launch process, which includes providing an overview of the vehicle, the end-user training, and coordination to ensure the end-user to ready for delivery and deployment of the vehicles into service.

Phase 4 – Reporting and Feedback [ongoing]

Throughout the Project, Proterra will provide quarterly status reports to the state and the transit agency. Each vehicle is equipped with an on-board data logger that provides data on bus performance and Proterra will ensure that all necessary data is compiled and reported to both entities.

Project Vehicles, Equipment and Service

Proterra will work directly with a transit agency to ensure a successful execution and completion of the project – including vehicle operation, charging, vehicle maintenance and repair, and data collection. Proterra has worked with multiple transit agencies across the United States. This vast experience will ensure successful implementation.

Proterra will install on-board data loggers in each vehicle to provide performance data on a quarterly basis. Data will include, but not be limited to: fuel/electricity consumption, fueling/charging times, state of charge, battery and odometer readings, relevant telematics, GPS data, hours of operation, temperatures, etc.

Proterra has developed extensive driver and maintenance technician training to ensure successful execution and completion of the proposed pilot project – including, but not limited to, training for vehicle operation, charging, vehicle maintenance and repair, and data collection. The training for both drivers and maintenance technicians includes classroom instruction and hands-on/in-the-seat training. The training will be performed at each end-user location with the appropriate materials available to the participants. The training includes tests that are administered after each classroom session and a certificate of completion after the participants have successfully finished the course. All drivers, maintenance technicians, and transit managers for this proposed project will receive

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

classroom instruction and hands-on training. In addition, Proterra has created a series of “YouTube” style videos that provide an easy reference tool and more background on procedures – such as docking the bus successfully, towing the bus safely, using the diagnostic tool, and high-voltage safety.

The Proterra battery-electric bus and charging infrastructure that will be used in the *Public Transit Electrification Project* is the Catalyst E2 extended-range, battery electric vehicle for use on all routes. The Catalyst E2 vehicle, which offers energy capacity of 440 kWh and a nominal range of ~ 250 miles per charge, uses a 62.5 kWh Plug-in Depot Charger that is commercially available with dual charging connectors. Proterra is the only EV bus manufacturer to invest in the standard SAE J1772 CCS for depot charging. This unique offering allows transit agencies to charge their fleet of light duty electric vehicles or offer public charging when the transit buses are not utilizing the chargers.

Using a sophisticated computer model, Proterra can analyze each transit route to ensure that the infrastructure and vehicles are designed and engineered to match the specific minimum charging needs of the 5-bus fleet. The inputs to the route simulation tool include: route distance, speed, stops, layovers, duration, and grade, as well as passenger loading, ambient temperature/HVAC loads, and other accessory devices that use power for the safe and efficient operation of the vehicles. This simulation provides information on charging station needs and location planning, route performance, gradeability and feasibility, fuel savings/cost of operation evaluation, route schedule, and harmful emission reduction calculations.

Proterra has extensive experience installing depot chargers, securing necessary permits with local entities, and addressing electrical needs and grid impacts throughout the country. Proterra will work directly with the end-user in the *Public Transit Electrification Project* and associated utility to ensure that the participating municipality obtains all permits and approvals necessary for the infrastructure, as well as address any grid impacts or electrical needs at the charging location.

Potential Emission Reduction Benefits/Expected Proposed Project Benefits

At Proterra, we're continually refining designs and looking for innovative ways to reduce impact on the environment. Proterra buses produce zero tailpipe emissions and decrease dependency on fossil fuels. Emissions are reduced by an astounding ~ 200,000 lbs. of CO₂ annually each time a dirty diesel vehicle is replaced by a zero-emission bus. Particulate matter from traditional transit buses contains numerous harmful gases and upwards of 40 cancer-causing substances.

A typical diesel bus emits ~ 200,000 lbs. of greenhouse gases annually, while a CNG bus emits ~ 175,000 lbs./year and a diesel hybrid emits ~140,000 lbs./year. A switch to zero-emission buses, which emit no tailpipe pollution, presents a critical opportunity to cut pollution, reduce oil dependence and make Earth a better place.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

Annual Tailpipe Emissions

Emission (lbs/bus/yr)	Proterra	CNG	Hybrid	Diesel
CO	0	1,822	20.59	41.18
CH4	0	792	4.11	4.03
CO ₂	0	169,488	140,976	198,000
GHG (CO₂e)	0	190,080	141,083	198,105
NO _x	0	46.73	92.66	92.66
VOC	0	3.82	3.82	3.82
PM (2.5+10)	0	3.52	3.52	3.52
BC	0	0.15	0.15	0.15

<https://greet.es.anl.gov/>

Assumes 36k miles driven per bus per year.

The well-to-wheel GHG emissions avoided for 5 zero-emission transit buses is approximately 531 metric tons CO₂e/year. Based on a conservative 12-year lifespan of the zero-emission, battery-electric buses – the project's lifetime well-to-wheel GHG emissions avoided is up to 6,373 metric tons CO₂e (for a 5-bus deployment).

All the vehicles in the proposed project are zero-emission battery-electric vehicles that do not have any tailpipe emissions; therefore, there are no additional NO_x, ROG or PM₁₀ emissions associated with the project. The total tailpipe emission reduction for 5 zero-emission transit buses is .21 tons NO_x/year, 0.0086 tons of ROG/year and .00080 of PM₁₀/year. Combined tailpipe weight emission reductions for criteria pollutants is 0.23 tons/year and 2.72 tons over the lifetime of the project. That reduction more than doubles when well-to-wheel criteria pollutants are considered, reducing ~ 0.48 tons/ year and 5.79 tons over the lifetime of the project.

The estimated cost-effectiveness of the total project dollars per ton of combined criteria pollutant and weighted PM emissions reduced, and dollars per ton of GHG emissions reduced during a 12-year operation for all 5 vehicles are the following:

- Total Cost Effectiveness of GHG Emission Reductions
 - (Capital Recovery Factor x Project Cost)/Annual GHG Emission reductions
 - (.095 x \$4,370,000)/531 metric tons of CO₂e = \$781.83/metric tons of CO₂e

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

- Total Cost Effectiveness of Criteria Pollutants¹
 - $(\text{Capital Recovery Factor} \times \text{Project Cost}) / \text{Annual criteria pollutant emissions reductions}$
 - $(.095 \times \$4,370,000) / .23 \text{ metric tons weighted criteria pollutants} = \$1,805,000 / \text{metric tons of weighted criteria pollutants}$

Proterra used the Carl Moyer Program Guidelines for the cost calculations.

<https://www.arb.ca.gov/msprog/moyer/guidelines/current.htm>.

Economic and Environmental Benefits

The *Public Transit Electrification Project* is both located within and provides direct economic and environmental benefits to one or more municipalities. The proposed project addresses common economic needs of communities, including increasing job readiness and career opportunities, improving transit service, and creating further quality jobs. Proterra will provide on-the-job training and certifications for driver and maintenance technicians to operate, maintain and repair zero-emission heavy-duty vehicles. This will increase job readiness and career opportunities in the growing electric vehicle market and further career opportunities. In addition, Proterra's state-of-the-art zero-emission public transit vehicles will eliminate toxic diesel and other criteria pollutant exposures to passengers – improving transit service within communities. The *Project* will increase quality jobs – including a Proterra employee to oversee the project, construction jobs to deploy the electric charging stations and other indirect jobs from vehicle component suppliers.

By combining performance, efficiency and design, Proterra's zero-emission, battery-electric transit buses offer the lowest total cost of ownership as compared to conventional diesel transit buses. Proterra's zero-emission transit buses operate with fewer moving parts – reducing maintenance costs associated with oils, filters, fluids, particulate filters, and brakes. In addition, electricity is much less expensive and less volatile than traditional diesel or other petroleum fuel – helping to reduce costs and provide more certainty for operating costs. Proterra's buses have significantly higher fuel efficiency, an average of 1.7 kWh/mile or 23.4 mpg equivalency, which also helps provide significant economic benefits for the participating municipality.

These operational advantages yield at least \$135,000 savings in maintenance costs and \$290,000 in fuel savings as compared to diesel fuel. Therefore, the economic benefits are over \$400,000/bus in savings during the 12-year Federal Transit Agency (FTA) mandated lifetime of the vehicle for the transit agency or agencies participating in the *Public Transit Electrification Project*.

Lastly, we estimate that, over 12 years of operation, the 5 Proterra buses will reduce ~ 500k gallons of diesel fuel. On a per bus basis this equates to 100,000 gallons of diesel saved each year in typical transit operation (e.g., ~36,000 miles per year).

¹ NOx is included in the criteria pollutants and comprises the majority of those pollutants.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

Estimated Project Cost

The estimated total project cost for 5 zero-emission, battery-electric transit buses and 5 multi-use depot charging stations is **\$4,370,000.**² Funding is needed now to further demonstrate that commercially available zero-emission technologies have the lowest cost of ownership, improved maintenance and performance, and better serve a diverse range of communities' public transit needs, including the reduction of GHG and the elimination of criteria emissions.

<u>Item</u>	<u>Cost</u>	<u>Quantity</u>	<u>Subtotal</u>	<u>Taxes</u> <u>0%</u>	<u>Total</u>
Proterra Bus	\$798,000.00	5	\$3,990,000.00	\$0.00	\$3,990,000.00
Depot Charger	\$50,000.00	5	\$250,000.00	\$0.00	\$250,000.00
Regional Service Representative and fringe benefits	\$130,000.00	1	\$130,000.00		\$130,000.00

The recipient of the VW funds would largely be the municipalities. Therefore, Proterra anticipates that 100% of the cost of the vehicles and chargers would be covered by the state, subject to whatever local match funds the municipalities could contribute.

Increase ZEV Awareness and Education

To increase the exposure of the vehicles in the *Public Transit Electrification Project*, Proterra will develop project-specific webpages that will provide information on emission savings, vehicles deployed and funding sources to showcase the environmental and air quality benefits of the *Project* as a model deployment for other regions throughout Arkansas and across the nation. Additionally, Proterra will work with the transit agency or agencies to customize bus wraps to include messages that highlight the zero-emission technology and acknowledging the funding sources for the successful deployment.

In addition, Proterra will work directly with any participating municipality and its transit agency to implement an outreach strategy to the community to help raise awareness and education about the health, air quality and other benefits of zero-emission technology. In conjunction with the end-users, Proterra will launch a direct mail and email marketing campaign to generate awareness about the zero-emission transit bus technology in their communities. In addition, Proterra will provide a demonstration bus to circulate prior to the project deployment to help raise awareness and provide education about the vehicle technology. At the launch of service, Proterra will work with the local

² This cost may vary slightly depending on the applicable tax rate, if any, and how the buses are configured and optioned by the participating transit agency. Finally, installation costs for the depot chargers are not included as they vary widely.

Exhibit A

The Public Transit Electrification Project: Sustainable Mobility for Arkansas

transit partner to execute a local public relations strategy – including press releases, media outreach and a launch event. Proterra will also offer an option to publicly display emissions savings and environmental benefits information on the transit agency's website.

Other

In addition to the above, Proterra strongly recommends that Arkansas direct 30% of the VW settlement funds to incentivize the deployment of zero emission, battery electric transit buses and medium duty vehicles to help reduce NOx and GHG emissions and vehicle miles traveled, as well as provide other health and associated benefits throughout Arkansas. We also recommend that Arkansas dedicate 15% towards EV charging infrastructure.

Beyond this specific project, we propose that Arkansas adopt two specific funding programs that have significantly accelerated the adoption of heavy duty EVs and, as a direct result, helped reduce NOx and GHG emissions. First, we urge Arkansas to adopt the competitive funding programs in place in CA and at the federal level. The CA Zero-Emission Truck and Bus Program – administered through the Air Resources Board - is a competitive funding program that allows all manufacturers of zero-emission technology to partner with transit agencies and compete for project funding. It is very much modeled after the highly competitive Federal Transit Administration's Low or No Emission Program, which has helped fund the purchase of zero-emission transit buses across the US. The CA program is important in that it allows newcomers to receive funding for not only buses, but also chargers. Second, California's Hybrid & Zero-Emission Truck and Bus Voucher Incentive Program (HVIP) is a pool of money that is used by transit agencies on a first come, first served basis to bridge the gap between purchasing a fossil fuel vehicle and a zero-emission vehicle. For example, the transit bus OEM can receive a voucher for up to \$160,000 per EV vehicle, which amount is then deducted from the cost of the bus. New York City (New York Truck Voucher Incentive Program) and Chicago (Drive Clean Truck Voucher Program) have implemented similar programs. These programs have proven valuable in allowing agencies (and commercial properties) to grow their fleets of zero-emission buses.

Conclusion

The *Public Transit Electrification Project* will deploy 5 zero-emission, battery-electric transit buses and 5 multi-use depot charging stations at one or more municipalities to provide electric mobility and serve as a successful pilot project to accelerate the deployment of electric vehicles, reduce NOx emissions, improve air quality and provide health benefits. Proterra is excited to increase zero-emission vehicle awareness and eliminate toxic diesel exposures to both transit riders and non-transit riders throughout Arkansas and beyond.

Ms. Treece,

The following is in response to the Request for Information regarding the State of Arkansas Volkswagen Environmental Trust Beneficiary Mitigation Plan. These comments are presented on behalf of CenterPoint Energy, Black Hills Energy Arkansas, and Arkansas Oklahoma Gas Corporation.

A. CNG School Bus Pilot Program

- Can we collaborate with the AR state purchasing program to include CNG school buses?
- The pilot school districts should be able to incorporate CNG bus replacements over multiple years to meet budget constraints.
- What defines a pilot school district?
- We propose an 80/20 cost share (80% mitigation funds/20% school district funds).
- Change references of “cost-match” to “cost-share”.

C. Statewide Alternative Fuels Grant Program

- Does this include privately owned waste haulers with government and/or private contracts?
- Consideration should be given to include projects that encompass a multi-year replacement program. Budget constraints can hinder adoption of multiple vehicles in one year. By allowing a multi-year program, private CNG station developers could be enticed by an assurance that a private CNG fleet would continue to expand because of the grant program.
- Include proximity to alternative fuel corridors in the project proposal scoring system.

D. Funding Allocation

- We propose an 80/20 cost share for eligible class 4-8 government owned vehicles.
- Proposed reallocation of budget to account for demand for replacement of government owned vehicles (e.g. refuse trucks):

Budget Category	% of Total Funds	Estimated Funding Allocation
CNG Pilot Programs	50%	\$7,323,854
EV Infrastructure	15%	\$2,197,156
Statewide CNG/EV Grant	35%	\$5,126,698

Appendix C – Alternative Fuel Corridors

- Approximately 7 years ago, multiple meetings were held at the Energy Office to identify CNG Corridors. One of the corridors considered was Highway 412. With the current CNG station in Springdale and the one in Jonesboro the corridor could be complete with a CNG station in Mountain Home or vicinity.
- Similarly, a CNG station located in Van Buren or vicinity would establish I-40 as a designated CNG alternative fuel corridor, as it would be within 150 miles of both Conway and Webbers Falls, OK.

REQUEST FOR INFORMATION

Volkswagen Consent Decree Environmental Mitigation Trust

Submission Deadline: November 1, 2017



To

Tricia Treece
Arkansas Department of Environmental Quality
(501) 682-0055
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From

Elizabeth Tuck-Rowan, CPPO, CPPB, C.P.M., A.P.P., CPSD
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Purchasing Office
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REQUEST FOR INFORMATION

Volkswagen Consent Decree Environmental Mitigation Trust

Background and General Information

Central Arkansas Water, (CAW) is a metropolitan public water system that serves a population of approximately 450,000. We have 137,000 residential, commercial, industrial and master-metered customers in Pulaski, Saline and Grant Counties.

Eligible Projects

Reference to: ***Appendix A Eligible Mitigation Projects and Administrative Expenditures and Definitions, 6. Class 4-7 Local Freight Trucks (Medium Trucks)***

CAW's fleet composition is 90% trucks ranging from small, light duty, to class 4-7 service and dump trucks. Of the class 4-7 trucks 18 of the 38 fall in the eligible category; CAW's eligible vehicles are listed in attachment C.

CAW has one CNG light duty truck in its fleet but due to the current infrastructure in place, CNG has not been an option the utility has pursue further. Conversion costs as well as current cost of diesel and gasoline has also influenced our decision as it relates to switching to this alternative fuel.

CAW is always looking for ways to improve the environment working toward carbon neutrality and the fact that CNG offers such a benefit is a plus. As manufacturers direct more of their research and development dollars to electric vehicles, especially the truck market, CAW hopes that this is another viable avenue for the utility in the future. With the unknown CNG infrastructure today, CAW would like to see a portion of the trust funds be designated to the following:

1. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g. CNG, propane, electric, Hybrid) vehicle.
2. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g. CNG, propane, Hybrid) engine, including the cost of installation of such engine.

CAW staff analyzed replacement of eligible vehicles to support the utility's proposed option for funds distribution as a viable and beneficial choice. Replacing CAW's 18 eligible vehicles with current model diesel replacements represents approximately 90% reduction in emissions as well as a direct health benefit. This data was developed from the US EPA's *Diesel Emissions Quantifier* online tool and is summarized below:

Emission Results and Health Benefits for Project: VW Mitigation Calc

Emission Results

Here are the combined results for all groups and upgrades entered for your project.¹

<u>Annual Results (short tons)²</u>	NO_x	PM2.5	HC	CO	CO₂	Fuel³
Baseline for Upgraded Vehicles	2.975	0.117	0.257	0.871	296.3	26,334
Amount Reduced After Upgrades	2.636	0.112	0.234	0.774	28.9	2,570
Percent Reduced After Upgrades	88.6%	96.5%	91.1%	88.9%	9.8%	9.8%

<u>Lifetime Results (short tons)²</u>	NO_x	PM2.5	HC	CO	CO₂	Fuel³
Baseline for Upgraded Vehicles	6.259	0.214	0.498	1.747	839.4	74,613
Amount Reduced After Upgrades	5.233	0.202	0.431	1.464	74.7	6,640
Percent Reduced After Upgrades	83.6%	94.2%	86.7%	83.8%	8.9%	8.9%

Health Benefits Results

The table below shows the estimated PM2.5 reductions and health benefits by county and as a total for your project. Results are based on the inputs you have entered.

Annual Benefits represent the dollar value of health benefits resulting from reduced exposure to PM2.5. These benefits include the reduction of premature mortality, chronic bronchitis, asthma attacks, non-fatal heart attacks, and other health problems. The dollar values are based on studies used by EPA when estimating the health benefits of environmental rules.

Annualized Costs are based on the unit and labor costs you have entered. They have been annualized over the remaining life of the upgraded fleet.

Health Benefits Results

County and State	Annual Diesel PM2.5 Reduction (short tons)	Annual Benefits	Annualized Unit & Labor Costs
Pulaski, Arkansas	0.112	\$62,000	-
Total	0.113	\$62,000	\$810,000

* (Attachments A and B include calculations from the EPA's tool)

CAW appreciates the opportunity to submit our response and look forward to any upcoming correspondence regarding the State of Arkansas' VW Environmental Trust Beneficiary Mitigation Plan.

Regards,



Attachment A

Fleet Information

Vehicle Class Number	Model Year	Sector	Vehicle/Equipment Code	Technology	Number of Vehicles Retrofitted
1	2001	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	4
2	2000	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	1
3	2003	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	6
4	2007	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	5
5	1992	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	1
6	2012	Short Haul - Single Unit	Class 6-7	Vehicle Replacement - Diesel	1

Health Impacts Allocation

County and State	Percent Reduction
Pulaski, Arkansas	100%

Health Impacts Estimation Tool Results

County and State	Annual Diesel PM2.5 Reduction (short tons)	Annual Cost	Annual Benefits
Pulaski, Arkansas	0.1125	-	\$62,000
Total	0.1125	\$810,000	\$62,000

Attachment B

Blake Weindorf		10/30/2017	Detailed Report from the Diesel Emissions Quantifier			
Central Arkansas Water						
Blake		Weindorf				
blake.weindorf@carlw.com						
000-000-0000						
Type	Target Fleet	Class/Equipment	Number of Vehicles	Model Year	Retrofit Year	Technology Description
Onroad	Short Haul - Single Unit	Class 6-7	4	2001	2018	Vehicle Replacement - Diesel
Onroad	Short Haul - Single Unit	Class 6-7	1	2000	2020	Vehicle Replacement - Diesel
Onroad	Short Haul - Single Unit	Class 6-7	6	2002, 2003, & 2004	2021	Vehicle Replacement - Diesel
Onroad	Short Haul - Single Unit	Class 6-7	5	2006 & 2007	2022	Vehicle Replacement - Diesel
Onroad	Short Haul - Single Unit	Class 6-7	1	1992	2022	Vehicle Replacement - Diesel
Onroad	Short Haul - Single Unit	Class 6-7	1	2012	2022	Vehicle Replacement - Diesel

Fuel Type	Fuel Volume	Calculated Fuel Volume	Vehicle Miles Traveled/Year (VMT)	Idling Hours/Year	Horsepower	Usage Rate/Year	Number of Vehicles Retrofitted	New Model Year	Diesel Fuel Reduced (gallons)
ULSD	5852	5852	14962	30			4	2018	150
ULSD	1463	1463	14962	30			1	2018	80
ULSD	8778	8778	14962	30			6	2018	150
ULSD	7315	7315	14962	30			5	2018	150
ULSD	1463	1463	14962	30			1	2018	200
ULSD	1463	1463	14962	30			1	2018	40

Reduced Idling (hours)	Installation Cost	Unit Cost	Annual Baseline of Vehicles (NOx, short tons)	Lifetime Baseline of Vehicles (NOx, short tons)	Percent Reduced (NOx, %)	Baseline of Vehicles Retrofitted per year (NOx, short tons/year)	Amount Reduced per Year(NOx, short tons)
0	\$0	\$90,000	0.91427436	1.828548721	92.90%	0.9143	0.8494
0	\$0	\$100,000	0.228568616	0.228568616	92.90%	0.2286	0.2123
0	\$0	\$90,000	0.95372743	1.907454861	89.80%	0.9537	0.8564
0	\$0	\$90,000	0.396987923	1.587951692	71.20%	0.397	0.2827
0	\$0	\$100,000	0.452855687	0.452855687	95.00%	0.4529	0.4302
0	\$0	\$90,000	0.028190231	0.253712075	18.90%	0.0282	0.0053

Lifetime Baseline of Vehicles Retrofitted (NOx, short tons)	Lifetime Amount Reduced (NOx, short tons)	Lifetime Amount Emitted After Retrofit, Retrofitted Vehicles (NOx, short tons)	Capital Cost Effectiveness (\$/short ton), Retrofitted Vehicles (NOx)	Annual Baseline of Vehicles (PM2.5, short tons)	Lifetime Baseline of Vehicles (PM2.5, short tons)	Percent Reduced (PM2.5, %)
1.8285	1.6987	0.1298	211,924.05	0.038051551	0.076103103	98.00%
0.2286	0.2123	0.0162	470,942.29	0.00951293	0.00951293	98.00%
1.9075	1.7129	0.1946	315,255.85	0.051461477	0.102922953	97.80%
1.588	1.1306	0.4573	398,011.15	0.001853885	0.00741554	23.00%
0.4529	0.4302	0.0226	232,443.05	0.015348472	0.015348472	98.10%
0.2537	0.048	0.2058	1,876,893.23	0.000350384	0.003153457	18.60%

Baseline of Vehicles Retrofitted per year (PM2.5, short tons/year)	Amount Reduced per Year (PM2.5, short tons)	Lifetime Baseline of Vehicles Retrofitted (PM2.5, short tons)	Lifetime Amount Reduced (PM2.5, short tons)	Lifetime Amount Emitted After Retrofit, Retrofitted Vehicles (PM2.5, short tons)
0.0381	0.0373	0.0761	0.0746	0.0015
0.0095	0.0093	0.0095	0.0093	0.0002
0.0515	0.0503	0.1029	0.1007	0.0023
0.0019	0.0004	0.0074	0.0017	0.0057
0.0153	0.0151	0.0153	0.0151	0.0003
0.0004	0.0001	0.0032	0.0006	0.0026

Capital Cost Effectiveness (\$/short ton), Retrofitted Vehicles (PM2.5)	Annual Baseline of Vehicles (HC, short tons)	Lifetime Baseline of Vehicles (HC, short tons)	Percent Reduced (HC, %)	Baseline of Vehicles Retrofitted per year (HC, short tons/year)
4,826,964.04	0.106217079	0.212434158	95.50%	0.1062
10,726,539.04	0.026554386	0.026554386	95.50%	0.0266
5,364,665.73	0.082741705	0.165483409	91.40%	0.0827
263,840,761.21	0.013298187	0.05319275	48.10%	0.0133
6,641,494.91	0.02655428	0.02655428	94.80%	0.0266
153,441,457.18	0.00150728	0.013565523	8.40%	0.0015

Amount Reduced per Year(HC, short tons)	Lifetime Baseline of Vehicles Retrofitted (HC, short tons)	Lifetime Amount Reduced (HC, short tons)	Lifetime Amount Emitted After Retrofit, Retrofitted Vehicles (HC, short tons)	Capital Cost Effectiveness (\$/short ton), Retrofitted Vehicles (HC)
0.1014	0.2124	0.2029	0.0096	1,774,495.00
0.0254	0.0266	0.0254	0.0012	3,943,304.89
0.0756	0.1655	0.1513	0.0142	3,570,204.59
0.0064	0.0532	0.0256	0.0276	17,587,940.90
0.0252	0.0266	0.0252	0.0014	3,972,438.05
0.0001	0.0136	0.0011	0.0124	78,981,738.40

Annual Baseline of Vehicles (CO, short tons)	Lifetime Baseline of Vehicles (CO, short tons)	Percent Reduced (CO, %)	Baseline of Vehicles Retrofitted per year (CO, short tons/year)	Amount Reduced per Year (CO, short tons)	Lifetime Baseline of Vehicles Retrofitted (CO, short tons)
0.307155542	0.614311084	93.40%	0.3072	0.2869	0.6143
0.076789271	0.076789271	93.40%	0.0768	0.0717	0.0768
0.346442635	0.692885269	91.20%	0.3464	0.316	0.6929
0.056999457	0.227997829	48.40%	0.057	0.0276	0.228
0.076789162	0.076789162	92.30%	0.0768	0.0709	0.0768
0.006460574	0.058145164	8.90%	0.0065	0.0006	0.0581

Lifetime Amount Reduced (CO, short tons)	Lifetime Amount Emitted After Retrofit, Retrofitted Vehicles (CO, short tons)	Capital Cost Effectiveness (\$/short ton), Retrofitted Vehicles (CO)	Annual Baseline of Vehicles (CO ₂ , short tons)	Lifetime Baseline of Vehicles (CO ₂ , short tons)	Percent Reduced (CO ₂ , %)	Baseline of Vehicles Retrofitted per year (CO ₂ , short tons/year)	Amount Reduced per Year (CO ₂ , short tons)
0.5738	0.0405	627,432.88	65.835	131.67	10.30%	65.835	6.75
0.0717	0.0051	1,394,288.28	16.45875	16.45875	5.50%	16.4588	0.9
0.6319	0.061	854,550.23	98.7525	197.505	10.30%	98.7525	10.125
0.1104	0.1176	4,077,898.77	82.29375	329.175	10.30%	82.2938	8.4375
0.0709	0.0059	1,410,906.94	16.45875	16.45875	13.70%	16.4588	2.25
0.0052	0.053	17,391,574.45	16.45875	148.12875	2.70%	16.4588	0.45

Lifetime Baseline of Vehicles Retrofitted (CO2, short tons)	Lifetime Amount Reduced (CO2, short tons)	Lifetime Amount Emitted After Retrofit, Retrofitted Vehicles (CO2, short tons)	Capital Cost Effectiveness (\$/short ton), Retrofitted Vehicles (CO2)
131.67	13.5	118.17	26,666.67
16.4588	0.9	15.5587	111,111.11
197.505	20.25	177.255	26,666.67
329.175	33.75	295.425	13,333.33
16.4588	2.25	14.2087	44,444.44
148.1288	4.05	144.0787	22,222.22

Attachment C

Vehicle Number	License Number	VIN Number	Vehicle Description
202	X11390	3FDXF75B01MA64923	2001 FORD F-750 CHASSIS 2T CREW TRUCK
203	X11391	3FDXF75B21MA64924	2001 FORD F-750 CHASSIS 2T CREW TRUCK
204	X11389	3FDXF75B41MA64925	2001 FORD F-750 CHASSIS 2T CREW TRUCK
205	X11388	3FDXF75B61MA64926	2001 FORD F-750 CHASSIS 2T CREW TRUCK
210	X10011	1GBT7H4C9YJ510224	2000 CHEVROLET DUMP TRUCK
218	X11610	3FDXF75B22MA17913	2002 FORD F-750 CHASSIS 2T CREW TRUCK
231	X12336	3FDXF75B73MB06376	2003 FORD F750 PICKUP 2 T CREW TRUCK
232	X12338	3FDXF75B03MB06378	2003 FORD F750 PICKUP 2 T CREW TRUCK
233	X12337	3FDXF75B53MB07249	2003 FORD F750 PICKUP 2 T CREW TRUCK
234	X12339	3FDXF75B13MB07250	2003 FORD F750 PICKUP 2 T CREW TRUCK
255	X12618	3FRXF75S74V654199	2004 FORD F750 TRUCK 2 T CREW TRUCK
294	X 13999	3FRXF75GX6V298281	2006 FORD F750 CHASSIS DUMP TRUCK
295	X 14010	3FRXF75G16V298282	2006 FORD F750 CHASSIS DUMP TRUCK
412	X14625	1HTMPAFN27H508023	2007 INTERNATIONAL 4200 DUMP TRUCK
413	X14624	1HTMPAFN47H508024	2007 INTERNATIONAL 4200 DUMP TRUCK
415	X14851	1FVHCYDJC7D797344	2007 FREIGHTLINER DUMP TRUCK
468	X18632	3HAJTSKN8CL649032	2012 INTERNATIONAL CREW TRUCK
531	X22999	1FDYU90L5PVA04026	1992 FORD L9000 DUMP TRUCK

Electric Vehicle Charging Association

455 Capitol Mall, Suite 600
Sacramento, CA 95814

October 31, 2017

Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Dr.
North Little Rock, AR 72118

RE: Comments on VW Settlement Appendix D Environmental Mitigation Trust

Thank you for the opportunity to provide comments on the Environmental Mitigation Trust funding allocated to Arkansas under Appendix D of the VW Settlement. The Electric Vehicle Charging Association (EVCA) sees this as unique opportunity for Arkansas to make a major investment in clean transportation, attracting private investment and improving air quality and public health.

EVCA is a not-for-profit trade organization of eight leading electric vehicle (EV) charging industry member-companies. EVCA's mission is to advance the goal of a clean transportation system in which the market forces of innovation, competition, and consumer choice drive the expeditious and efficient adoption of EVs and deployment of EV charging infrastructure.

A revolution is at hand. In the United States, more than 699,700 new EVs hit the road since 2010—and this is just the beginning. Every major automaker has announced substantial investments in electrification of light duty vehicles. Transit and medium duty vehicle products are now competitive with combustion counterparts and major fleets across the country have announced plans for full electrification. Anticipated benefits to taxpayers and utility ratepayers are substantial, as are the economic benefits of domesticating consumer spending that is now going to overseas petroleum interests.

Transportation electrification necessitates a robust charging infrastructure to unlock its benefits for Arkansas.

Light Duty EV Supply Equipment (EVSE)

Appendix D of the VW Settlement allows Arkansas to invest up to 15% of its \$14.6 million allocation of Trust Funds on costs for the acquisition, installation, operation and maintenance of new light duty EV charging infrastructure. Arkansas now has 17 EVs on the road per level 2 public charging station installed, and only 1 DC public charging

station in the state. **EVCA supports Arkansas's proposal to commit its full 15% allowance of \$2.2 million toward EVSE.**

Experience shows that from the time funding is available to having actual charging stations operational runs 12-24 months. Thus, it is critical that this infrastructure investment be committed as soon as possible.

EVCA members report the following best practices in structuring an EV charging infrastructure deployment program:

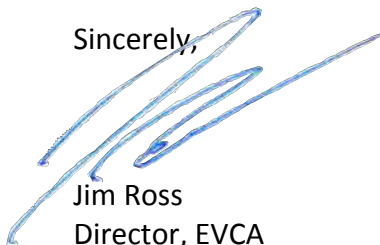
- Incentives should be structured through rebates, grants, and/or competitive programs;
- Promote public-private partnerships that support industry competition and allow a variety of business models to participate in the program;
- And seek a balanced approach between the various dwell-time use cases for EV charging, such as highway or urban DC-Fast Charging, and residential and public Level 2 charging infrastructure.

Non-EVSE Appendix D Funding

For the remaining 85% of Environmental Mitigation Trust funding available, **EVCA encourages Arkansas to prioritize electrification over other alternative fuel sources**, as it will provide the greatest relief for transportation greenhouse gas (GHG) emissions. Focusing on transitioning public transit (i.e. buses, medium duty transit vehicles) into an electric fleet will yield major reductions in GHG emissions. Possible projects include regional, municipal and school bus fleets. Markets have spoken and electrification has been the choice. As battery costs decline, there will be continued benefits from choosing the path of electrification for state residents and businesses.

Thank you for considering our recommendations. As you work toward finalizing the Beneficiary Mitigation Plan, please consider EVCA as a resource for insight into both the EV charging industry and the broader EV industry. We offer a continuing partnership to usher in an era of transportation innovation in Arkansas.

Sincerely,



Jim Ross
Director, EVCA

jim@telegraphpr.com

P: (415) 824-0582

**Board Officers:****Chairman**

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Vice Chairman

Sara Lilygren

Secretary

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Director of Finance

Terry L. Franklin

Legal Counsel

John R. Elrod

October 31, 2017

Ms. Tricia Treece

Arkansas Department of Environmental Quality

5301 Northshore Drive

Little Rock, AR 72118

Dear Ms. Treece,

As the primary commercial service airport for the local region, we realize the importance of our role in preservation of the environment, as reflected on our mission statement which dictates, "Environmentally conscious travel and development will be used to protect the natural splendor of the region while providing reliable, cost-effective and convenient transportation for the public we serve." Some of the measures we have taken as an organization to reduce our carbon footprint and promote the environment include:

- Installation of electronic hand dryers as an alternative to paper towels
- Replacement of Incandescent lightbulbs to LED for our roadways and parking lot and terminal lighting
- Replacement of gas powered golf cart shuttle with electric powered vehicles
- Replacement of aging airport fleet vehicles with more fuel-efficient vehicles

More importantly, we also realize the importance of leading the community through example, by replacing existing wasteful practices with more sustainable and environmentally conscious alternatives. As we continue to develop in our role as an environmentally-conscious leader in the community, we understand that there is always room for improvement, which is why we are very enthusiastic about the opportunities that this program can provide. On behalf of the Northwest Arkansas Regional Airport Authority, I write this letter to demonstrate our support for the current draft of the state's proposed Beneficiary Mitigation Plan (BMP) with the following suggestion:

- Consideration for the ADEQ to specifically address disbursement of funds among other state airports. Although airport ground support equipment is eligible under the current BMP, eligible mitigation actions such as class 8 trucks, class 4-8 eligible buses, class 4-7 local freight trucks and light duty zero emission vehicle supply equipment are all potentially relevant to aviation and airport operations. It is our opinion that a portion of those funds must be reserved for fair disbursement among airports, as they are an integral part of our state's infrastructure.

Thank you for your consideration of this important matter.

Respectfully,

Kelly L. Johnson, A.A.E.

Airport Director

Northwest Arkansas Regional Airport

From: ndandrea@ups.com
To: [Treece, Tricia](#)
Cc: danielsmith@ups.com
Subject: Response to Draft Mitigation Plan
Date: Tuesday, October 31, 2017 10:12:23 AM

October 31, 2017

Arkansas Department of Environmental Quality
Attn: Ms. Tricia Treece

Thank you for the opportunity to provide comments on Arkansas' VW Settlement Mitigation Plan.

UPS was founded almost 110 years ago as messenger service and has turned into one of the largest package delivery companies in the world. We currently operate in 220 countries and deliver over 4.7 billion packages each year. With a fleet of over 110,000 vehicles, efficiency is key to our operational success. At the same time, UPS is committed to reducing greenhouse gas emissions. UPS began with electric vehicles in New York City in the 1930s. We have now grown to over 8,000 alternative fuel vehicles that run on compressed natural gas, liquefied natural gas, propane, electric and even e-bicycles. To date our alternative fueled vehicles have driven over 1 billion miles. These vehicles don't just reduce greenhouse gas emissions but ensure UPS is being more efficient; thus, more sustainable.

The VW Settlement provides an opportunity for UPS and other carriers to make an investment in alternative fuel technologies because the funds will help drive down the cost differential for the equipment. While equipment prices have come down some, natural gas and electric vehicles are sometimes two or three times the cost of a gasoline or diesel vehicle. This is why the VW Settlement funds will provide much needed incentives to those wishing to switch to a cleaner burning vehicle.

UPS recommendations on Arkansas' VW Settlement Mitigation Plan:

Recommendation #1: Funding for government entities should be the same as those for non-government entities.

UPS believes that states can have a bigger impact, dollar for dollar, by deploying as many low emitting vehicles on the road as possible. If government entities use all of the funds, the impact will be muted as opposed to allowing more cost-share and maximizing vehicles deployed.

Recommendation #2: While the VW Settlement states electric vehicles can receive up to 75% reimbursement and 25% for natural gas, that doesn't mean it can't be negotiated.

UPS and other carriers who can make a large impact on air quality and have the capital to deploy large quantities of vehicles should have the ability to negotiate with the state of Arkansas on an arrangement that benefits the state and the private companies wishing to make the investment. For example, a company that wants to deploy both natural gas vehicles and electric vehicles could negotiate with the state for 50% reimbursement on electric vehicles and a 20% reimbursement for natural gas or some other variation. This would allow for the Commonwealth to fund large scale

projects while preserving money for other smaller projects. This would also be more manageable than providing a generic number and being held to it for all projects. Projects that have the biggest impact and reduce the most of amount of NOx, per dollar spent, should get the largest amount of incentives.

Recommendation #3: Entities who have experience with alternative fuel vehicles should be given first priority for funding.

Entities who already have deployed alternative fuel vehicles such as natural gas and electric vehicles understand how to maximize their efficiency. Many have also worked out the issues with bringing online a new fleet of vehicles. In addition, many of these entities already have the infrastructure in place making those “shovel ready” projects which can be executed more quickly over those entities who are non-experienced.

Thanks again for the opportunity to provide comments and we look forward to working with the state of Arkansas to use these funds in a manner that will reduce the most amount of NOx while maximizing Arkansas’ settlement funds.

Sincerely,
Nick D’Andrea

Nick D’Andrea
UPS
Vice President, Public Affairs
1400 N. Hurstbourne Pkwy
Louisville, KY 40243
(502)329-6760 office
(502)873-8204 cell



October 31, 2017

Tricia Treece
Arkansas Department of Environmental Quality
Epidemiology Supervisor
5301 Northshore Drive
North Little Rock, AR 72118-5317

VIA Email: treecep@adeq.state.ar.us

REF: BENEFICIARY MITIGATION PLAN (BMP) – VOLKSWAGEN MITIGATION TRUST

Dear Ms. Treece:

I am writing to submit Waste Management's comments regarding the portion of these above-mentioned funds to be used for private Class 8 fleets. We have a great story to tell about how much farther our trucks go towards reducing NOx, plus private fleets have to spend 75% of the costs, and that makes Arkansas' monies in this BMP go much further.

Should Waste Management be considered, our company will purchase natural gas powered vehicles (NGVs) with engines offering a 90% NOx reduction over the EPA's strictest emission standards, making them the cleanest commercially available technology.

NGVs are far more cost-effective in delivering emission reductions than other alternative fuel options, such as hybrid and electric vehicles.

Waste Management currently has **6,141** NGVs in our operations, and we are continually adding more.

NGVs are:

1. **Sustainable:** NGVs maximize long-term emission reductions.
2. **Responsible:** NGVs extend the funding and foster economic development.
3. **Available:** NGVs meet the diverse operating requirements of every fleet application.

Related Recommendations for Environmental Mitigation Trust (EMT) Funding

❖ **Ensure that funding incentivizes adoption by both public and private fleets**

- While it might be tempting to fund public vehicles at the 100% level, this will limit the total number of deployed vehicles and therefore lessen the overall emission reductions.
- Funding levels should be large enough to offset the incremental cost of new, cleaner vehicles, as well as to address the fact that replaced vehicles must be scrapped.

If I can be of any assistance to the Department regarding this or any other matter, please do not hesitate to call upon me.

Sincerely,

A handwritten signature in blue ink that reads "George Wheatley". The signature is fluid and cursive, with the first name being more prominent.

George Wheatley
Waste Management
gwheatley@wm.com
(501) 804-9515

Cc: Governor Asa Hutchinson, State of Arkansas,
Becky Keogh, Director ADEQ, keogh@adeq.state.ar.us
Stuart Spencer, ADEQ Deputy Director, spencer@adeq.state.ar.us
Mitchell Simpson, AEDC Arkansas Energy Office Director, simpson@adeq.state.ar.us
William Montgomery, Attorney Specialist, montgomery@adeq.state.ar.us

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www.ARDOT.gov • www.IDriveArkansas.com

SCOTT E. BENNETT, P.E.
DIRECTOR

November 1, 2017

Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: Request for Information (RFI), Volkswagen Consent Decree Environmental Mitigation Trust

Dear Ms. Treece:

Reference is made to the Request for Information (RFI) for the Volkswagen Consent Decree Environmental Mitigation Trust, distributed by the Arkansas Department of Environmental Quality (ADEQ), requesting submission of proposals for the use of funds appropriated in the Volkswagen Environmental Mitigation Trust.

After reviewing the "Eligible Mitigation Projects" identified in the settlement, the Arkansas Department of Transportation (ARDOT) requests that consideration be given to appropriating a portion of these funds to purchase new diesel fueled vehicles to replace older qualifying vehicles currently in ARDOT's fleet. This would result in reductions of NOx emissions, along with achieving reductions in emissions of other pollutants, including diesel particulate matter and greenhouse gases.


ARDOT currently has eligible vehicles in the categories listed below, and a complete list of replacement-eligible trucks in ARDOT's fleet is attached:

Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)
Government Owned: 100% for new diesel fueled vehicle

Class 4-7 Local Freight Trucks (Medium Trucks)
Government Owned: 100% for new diesel fueled vehicle

Please advise of the next actions needed for ARDOT to apply for these funds.

Sincerely,


Scott E. Bennett, P.E.
Director

Attachment

c: Deputy Director and Chief Operating Officer
Assistant Chief – Administration
Equipment and Procurement

**Arkansas Department of Transportation
Volkswagen Settlement 2017**

Equipment Greater than 14,000 LBS. GVWR

(Year Model 1992-2009 Which Meets Age Replacement Criteria, By Year)

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
32	8582	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN9NH436970
32	8583	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN2NH436972
32	8584	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN6NH436974
32	8585	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN8NH436975
32	8586	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPENXNH436976
32	8588	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN1NH436980
32	8589	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN4NH436973
32	8590	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN1NH436977
32	8592	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN3NH436978
32	8593	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN5NH436982
32	8594	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN2NH436986
32	8595	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN0NH436985
32	8597	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN3NH436981
32	8598	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN2NH436969
32	8601	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN7NH436983
32	8603	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN0NH436968
32	8604	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN3NH436995
32	8605	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN7NH436997
32	8606	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN5NH436996
32	8607	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN8NH436989
32	8608	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN1NH436994
32	8609	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN8NH436992
32	8610	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN3NH437001
32	8611	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN6NH436991
32	8612	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN9NH437004
32	8613	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN0NH436999

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
32	8614	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN6NH437011
32	8615	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN6NH437008
32	8616	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN4NH436990
32	8617	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPENXNH437013
32	8618	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN0NH437005
32	8619	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPENXNH436993
32	8620	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN5NH437002
32	8621	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN1NH437000
32	8622	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN4NH437007
32	8623	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN4NH437010
32	8624	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN9NH436998
32	8625	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN8NH437012
32	8627	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN8NH437009
32	8628	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN2NH437006
32	8629	INTERNATIONAL	4700	1992	8	2000	\$116,900	1HTSCPEN7NH437003
34	8027	FORD	F700	1992	8	2000	\$120,850	1FDXK74C4NVA31540
34	8630	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN0NH437016
34	8631	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN7NH437014
34	8632	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN6NH437019
34	8634	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN4NH437018
34	8635	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN4NH437021
34	8636	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN8NH437023
34	8637	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN6NH437022
34	8639	INTERNATIONAL	4700	1992	8	2000	\$120,850	1HTSCPHN2NH437020
36	9101	FORD	FT900	1992	8	2000	\$142,950	1FDYL90A2NVA13152
36	9102	FORD	FT900	1992	8	2000	\$142,950	1FDYL90A9NVA13472
36	9104	FORD	FT900	1992	8	2000	\$142,950	1FDYL90AXNVA13156
36	9111	FORD	FT900	1992	8	2000	\$142,950	1FDYL90A1NVA13255
36	9112	FORD	FT900	1992	8	2000	\$142,950	1FDYL90A4NVA13153
36	9115	FORD	FT900	1992	8	2000	\$142,950	1FDYL90A1NVA13157
38	8080	FREIGHTLINER	M915A2	1992	8	2000	\$153,283	1FUVMZYB3PP536954

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	8240	FORD	FT900	1992	8	2000	\$153,283	1FDYL90A4NYA37386
38	8432	FREIGHTLINER	M915A2	1992	8	2000	\$153,283	1FUVMZYB1NP357115
38	9904	STERLING	LT9500	1992	8	2000	\$153,283	1FUVMZYB3PP537067
38	9905	STERLING	LT9500	1992	8	2000	\$153,283	1FUVMZYB1NP520846
39	8640	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPENXNH437027
39	8642	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN4NH437024
39	8644	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPENXNH437030
39	8646	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN3NH437029
39	8648	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN7NH437034
39	8649	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN8NH437026
39	8650	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN9NH437035
39	8651	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN5NH437033
39	8653	INTERNATIONAL	4700	1992	8	2000	\$99,625	1HTSCPEN3NH437032
42	8654	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN0NH437036
42	8655	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN2NH437037
42	8656	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN4NH437038
44	8645	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN1NH437028
44	8659	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN9NH437052
44	8660	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN6NH437042
44	8661	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN7NH437048
44	8662	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN9NH437049
44	8663	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN7NH437051
44	8664	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN3NH437046
44	8665	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN8NH437043
44	8666	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPENXNH437044
44	8667	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN1NH437045
44	8668	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN4NH437041
44	8670	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN0NH437053
44	8671	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN5NH437047
44	8672	INTERNATIONAL	4700	1992	8	2000	\$103,050	1HTSCPEN5NH437050
54	9015	FREIGHTLINER	M915A2	1992	8	2000	\$141,167	1FUVMZYB4NP357187

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
54	9386	FORD	LNT9000	1992	8	2000	\$141,167	1FTYW90X2NVA13149
54	9435	FORD	LNT9000	1992	8	2000	\$141,167	1FTYW90X9NVA13150
57	8673	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPEN1NH437059
57	8674	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPENXNH437058
57	8675	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPEN8NH437057
57	8676	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPEN8NH437060
57	8677	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPENXNH437061
57	8678	INTERNATIONAL	4700	1992	8	2000	\$137,588	1HTSCPEN4NH437055
59	9121	FORD FT900 DIE	TRK MTD TANK	1992	8	2000	\$137,588	1FDYL90A1NVA13482
59	9122	FORD FT900 DIE	TRK MTD TANK	1992	8	2000	\$137,588	1FDYL90AXNV113481
59	9211	FREIGHTLINER	M915A2	1992	8	2000	\$137,588	1FUYMZYB5NP357036
60	8680	IHC 4700 DIE	ROSCO DSTR 6 L	1992	10	2002	\$250,275	1HTSCPEN5NH437064
60	8681	IHC 4700 DIE	ROS DSTR 366 CI	1992	10	2002	\$250,275	1HTSCPEN1NH437062
60	8682	IHC 4700 DIE	ROS DSTR 366 CI	1992	10	2002	\$250,275	1HTSCPEN3NH437063
60	8684	IHC 4700 DIE	ROS DSTR 366 CI	1992	10	2002	\$250,275	1HTSCPEN7NH437065

103 Pieces

Total for Year

\$12,816,033

32	8703	FORD	F700	1993	8	2001	\$116,900	1FDXK74C2PVA26453
32	8729	FORD	F700	1993	8	2001	\$116,900	1FDXK74C4PVA26454
32	8733	FORD	F700	1993	8	2001	\$116,900	1FDXK74C6PVA26455
32	8734	FORD	F700	1993	8	2001	\$116,900	1FDXK74C8PVA26456
32	8736	FORD	F700	1993	8	2001	\$116,900	1FDXK74C9PVA26448
32	8746	FORD	F700	1993	8	2001	\$116,900	1FDXK74C7PVA26903
32	8747	FORD	F700	1993	8	2001	\$116,900	1FDXK74C2PVA26906
32	8751	FORD	F700	1993	8	2001	\$116,900	1FDXK74C9PVA26904
32	8752	FORD	F700	1993	8	2001	\$116,900	1FDXK74C5PVA26902
32	8753	FORD	F700	1993	8	2001	\$116,900	1FDXK74C0PVA26905
36	9012	INTERNATIONAL	4900	1993	8	2001	\$142,950	1HTSHPPR3PH523400
36	9013	INTERNATIONAL	4900	1993	8	2001	\$142,950	1HTSHPPR0PH523399

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
36	9016	INTERNATIONAL	4900	1993	8	2001	\$142,950	1HTSHPPR9PH523403
36	9017	INTERNATIONAL	4900	1993	8	2001	\$142,950	1HTSHPPR9PH523398
36	9019	INTERNATIONAL	4900	1993	8	2001	\$142,950	1HTSHPPR0PH523404
38	9021	FORD	FT900	1993	8	2001	\$153,283	1FDYL90E7PVA22919
38	9023	FORD	FT900	1993	8	2001	\$153,283	1FDYL90E5PVA22921
39	8757	FORD	F700	1993	8	2001	\$99,625	1FDXK74C8PVA26523
44	8755	INTERNATIONAL	4700	1993	8	2001	\$103,050	1HTSCPEN7PH523396
44	8756	INTERNATIONAL	4700	1993	8	2001	\$103,050	1HTSCPEN9PH523397
54	9123	FORD	LNT9000	1993	8	2001	\$141,167	1FDYW90X7PVA29409
54	9124	FORD	LNT9000	1993	8	2001	\$141,167	1FDYW90X3PVA29200
54	9126	FORD	LNT9000	1993	8	2001	\$141,167	1FDYW90X5PVA29201
59	9018	IHC 4900 DIE	TRK MTD TANK	1993	8	2001	\$137,588	1HTSHPPR2PH523405
60	8758	FORD F700 DIE	ETN DSTR 360 CI	1993	10	2003	\$250,275	1FDXK74C7PVA22849
67	8760	FORD F700	FB W/SC MD CRNE	1993	8	2001	\$250,275	1FDXK74C1PVA26525
26	Pieces	Total for Year						\$3,557,680

32	8726	INTERNATIONAL	4700	1994	8	2002	\$116,900	1HTSCABN4SH631727
32	8730	INTERNATIONAL	4700	1994	8	2002	\$116,900	1HTSCABN4SH631730
32	8742	INTERNATIONAL	4700	1994	8	2002	\$116,900	1HTSCABN2SH631726
32	8743	INTERNATIONAL	4700	1994	8	2002	\$116,900	1HTSCABN8SH631729
34	8745	FORD	F800	1994	8	2002	\$120,850	1FDXF80CX5VA05312
34	8748	FORD	F800	1994	8	2002	\$120,850	1FDXF80C1SVA05313
34	8762	FORD	F800	1994	8	2002	\$120,850	1FDXF80CX5VA05309
34	8763	FORD	F800	1994	8	2002	\$120,850	1FDXF80C3SVA05314
34	8765	FORD	F800	1994	8	2002	\$120,850	1FDXF80C0SVA05397
34	8766	FORD	F800	1994	8	2002	\$120,850	1FDXF80C8SVA05311
34	8767	FORD	F800	1994	8	2002	\$120,850	1FDXF80C9SVA05303
34	8768	FORD	F800	1994	8	2002	\$120,850	1FDXF80C8SVA05308
34	8769	FORD	F800	1994	8	2002	\$120,850	1FDXF80C0SVA05304

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8770	FORD	F800	1994	8	2002	\$120,850	1FDXF80C2SVA05398
34	8771	FORD	F800	1994	8	2002	\$120,850	1FDXF80C6XVA05310
36	9127	INTERNATIONAL	4900	1994	8	2002	\$142,950	1HTSHAAR0SH631746
36	9129	INTERNATIONAL	4900	1994	8	2002	\$142,950	1HTSHAAR5SH631743
36	9130	INTERNATIONAL	4900	1994	8	2002	\$142,950	1HTSHAAR7SH631744
38	9132	FORD	F1900	1994	8	2002	\$153,283	1FDYL90E8SVA06544
39	8774	INTERNATIONAL	4700	1994	8	2002	\$99,625	1HTSCABN6SH631731
44	8776	INTERNATIONAL	4700	1994	8	2002	\$103,050	1HTSCABNXSH631733
44	8777	INTERNATIONAL	4700	1994	8	2002	\$103,050	1HTSCABN1SH631734
51	9162	GMC	TC6	1994	8	2002	\$141,167	1GDG6H1J2RJ508332
54	9859	GMC	WG65T	1994	8	2002	\$141,167	4V1JDBJF8SR833861
60	8741	FORD F800	ETN DSTR 359CID	1994	10	2004	\$250,275	1FDXF80C7SVA05056
194	4154	IHC 4700	W/AAPLEX AIR SW	1994	8	2002	\$218,613	1HTSCACN5SH628477

26 Pieces

Total for Year

\$3,436,030

32	8778	FORD	F800	1995	8	2003	\$116,900	1FDXF80C3SVA65044
32	8779	FORD	F800	1995	8	2003	\$116,900	1FDXF80C8SVA65041
32	8780	FORD	F800	1995	8	2003	\$116,900	1FDXF80C6SVA65040
32	8781	FORD	F800	1995	8	2003	\$116,900	1FDXF80CXSA65039
32	8782	FORD	F800	1995	8	2003	\$116,900	1FDXF80CXSA65042
32	8783	FORD	F800	1995	8	2003	\$116,900	1FDXF80C8SVA65038
32	8784	FORD	F800	1995	8	2003	\$116,900	1FDXF80C1SVA65043
32	8785	FORD	F800	1995	8	2003	\$116,900	1FDXF80C5SVA65045
32	8786	FORD	F800	1995	8	2003	\$116,900	1FDXF80C7SVA65046
34	8787	FORD	F800	1995	8	2003	\$120,850	1GDXF80C9SVA65050
34	8788	FORD	F800	1995	8	2003	\$120,850	1FDXF80C0SVA65048
34	8789	FORD	F800	1995	8	2003	\$120,850	1FDXF80C0SVA65051
34	8790	FORD	F800	1995	8	2003	\$120,850	1FDXF80C4SVA65053
34	8791	FORD	F800	1995	8	2003	\$120,850	1FDXF80C8SVA65055

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8792	FORD	F800	1995	8	2003	\$120,850	1FDXF80C9SVA65047
34	8794	FORD	F800	1995	8	2003	\$120,850	1FDXF80C2SVA65049
34	8795	FORD	F800	1995	8	2003	\$120,850	1FDXF80C2SVA65052
36	9702	FORD	FT900	1995	8	2003	\$142,950	1FDYL90EXSVA58970
36	9703	FORD	FT900	1995	8	2003	\$142,950	1FDYL90E8SVA58742
36	9730	FORD	FT900	1995	8	2003	\$142,950	1FDYL90EXSVA58337
38	9732	FORD	FT900	1995	8	2003	\$153,283	1FDYL90E2SVA59238
39	8796	FORD	F800	1995	8	2003	\$99,625	1FDXF80C9SVA65243
39	8797	FORD	F800	1995	8	2003	\$99,625	1FDXF80C7SVA65242
39	8798	FORD	F800	1995	8	2003	\$99,625	1FDXF80C0SVA65244
39	8799	FORD	F800	1995	8	2003	\$99,625	1FDXF80C1SVA65057
39	8800	FORD	F800	1995	8	2003	\$99,625	1FDXF80CXSA65056
39	8801	FORD	F800	1995	8	2003	\$99,625	1FDXF80C5SVA65241
39	8399	FORD	F800	1995	8	2003	\$99,625	1FDYL90E0SVA38002
54	9742	FORD	LT9000	1995	8	2003	\$141,167	1FTZU90U3SVA78605
60	9608	FORD F800	ETN DSTR 5.9 L	1995	10	2005	\$250,275	1FDXF80C4SVA64226
194	4437	IHC 4700	W/TYMCO SWEEPER	1995	8	2003	\$218,613	1HTSCABM65H659391
194	4976	IHC 4700	W/TYMCO AIR SWP	1995	8	2003	\$218,613	1HTSCAAN9SH220213

32 Pieces

Total for Year

\$4,127,076

32	8803	FORD	F800	1996	8	2004	\$116,900	1FDXF80C8VVA00095
32	8804	FORD	F800	1996	8	2004	\$116,900	1FDXF80C6VVA00094
32	8806	FORD	F800	1996	8	2004	\$116,900	1FDXF80C1VVA00097
32	8807	FORD	F800	1996	8	2004	\$116,900	1FDXF80CXVVA00096
34	8809	FORD	F800	1996	8	2004	\$120,850	1FDXF80C5VVA00104
34	8810	FORD	F800	1996	8	2004	\$120,850	1FDXF80C2VVA00108
34	8811	FORD	F800	1996	8	2004	\$120,850	1FDXF80C1VAA0102
34	8812	FORD	F800	1996	8	2004	\$120,850	1FDXF80C0VVA00107
34	8813	FORD	F800	1996	8	2004	\$120,850	1FDXF80C5VVA00099

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8814	FORD	F800	1996	8	2004	\$120,850	1FDXF80C3VVA00103
34	8816	FORD	F800	1996	8	2004	\$120,850	1FDXF80CXVVA00101
34	8817	FORD	F800	1996	8	2004	\$120,850	1FDXF80C9VVA00106
36	8820	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E1TVA31397
36	8821	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E7TVA30433
36	8822	FORD	FT900	1996	8	2004	\$142,950	1FD7L9034TVA30437
36	8823	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E3TVA30431
36	8824	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E9TVA30434
36	8825	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E5TVA30432
36	8826	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E0TVA30435
36	8827	FORD	FT900	1996	8	2004	\$142,950	1FDY190E5TVA31399
36	8829	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E8TVA31400
36	8830	FORD	FT900	1996	8	2004	\$142,950	1FDYL90EXTVA31401
36	8831	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E2TVA30436
36	8832	FORD	FT900	1996	8	2004	\$142,950	1FDYL90E3TVA31398
38	8833	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E9VVA01325
38	8835	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E2VVA00176
38	8836	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E9VVA01325
38	8837	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E7VVA00755
38	8838	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E3VVA00137
38	8839	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E4VVA01328
38	8840	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E2VVA01327
38	8843	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E0VVA00175
38	8845	FORD	FT900	1996	8	2004	\$153,283	1FDYL90E5VVA00754
54	9738	FORD	LT9000	1996	8	2004	\$141,167	1FTYU90D4TVA30771
60	8626	FORD F800	ETN DSTR 5.9L	1996	10	2006	\$250,275	1FDYF80C3VVA00199
60	8647	FORD F800	ETN DSTR 5.9L	1996	10	2006	\$250,275	1FDYF80C7VVA00156
194	4902	FORD F800	W/TYMC0 AIR SWP	1996	8	2004	\$218,613	1FOX80C8TVA30307

37 Pieces

Total for Year

\$5,389,677

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
32	8846	FORD	F800	1997	8	2005	\$116,900	1FDXF80C9WVA20095
32	8847	FORD	F800	1997	8	2005	\$116,900	1FDXF80C7WVA20095
32	8848	FORD	F800	1997	8	2005	\$116,900	1FDXF80C0WVA20097
32	8849	FORD	F800	1997	8	2005	\$116,900	1FDXF80C4WVA20099
32	8850	FORD	F800	1997	8	2005	\$116,900	1FDXF80C7WVA20100
32	8851	FORD	F800	1997	8	2005	\$116,900	1FDXF80C2WVA20098
32	8852	FORD	F800	1997	8	2005	\$116,900	1FDXF80C3WVA20093
32	8853	FORD	F800	1997	8	2005	\$116,900	1FDXF80C5WVA20094
34	8854	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN4WH521332
34	8855	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN6WH521333
34	8856	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABNXWH521321
34	8857	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN8WH521320
34	8858	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN9WH521326
34	8859	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN1WH521319
34	8860	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN5WH521324
34	8861	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN7WH521325
34	8862	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN0WH521330
34	8863	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN4WH521329
34	8864	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN2WH521331
34	8865	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN3WH521323
34	8866	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN0WH521327
34	8867	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN8WH521334
34	8868	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN2WH521328
34	8869	INTERNATIONAL	4700	1997	8	2005	\$120,850	1HTSCABN1WH521322
36	8878	INTERNATIONAL	4900	1997	8	2005	\$142,950	1HTSHAAR9WH521347
36	8879	INTERNATIONAL	4900	1997	8	2005	\$142,950	1HTSHAAR9WH521350
36	8880	INTERNATIONAL	4900	1997	8	2005	\$142,950	1HTSHAAR0WH521348
38	8881	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR5WH521345
38	8882	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR6WH521337
38	8883	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR8WH521338

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	8884	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAARXWH521339
38	8885	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR7WH521346
38	8886	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR8WH521341
38	8889	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR6WH521340
38	8893	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR4WH521336
38	8894	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR3WH521344
38	8896	INTERNATIONAL	4900	1997	8	2005	\$153,283	1HTSHAAR1WH521343
38	8124	FREIGHTLINER	M916A2	1997	8	2005	\$153,283	1FUCMZYBXVP597032
39	8870	INTERNATIONAL	4700	1997	8	2005	\$99,625	1HTSCABN2WH521314
44	8876	FORD	F800	1997	8	2005	\$103,050	1FDXF80C7WVA18718
56	8873	INTERNATIONAL	4700	1997	8	2005	\$137,588	1HTSCABN4WH521315
59	9134	INTERNATIONAL	4900	1997	8	2005	\$137,588	1HTSHAAR2WH521335
59	9232	HEMTT	M978	1997	8	2005	\$137,588	10TGJ9Y10VS063619
60	8871	IH 4700 DIE	DISTRIBUTOR	1997	10	2007	\$250,275	1HTSCABN8WH521317
60	9196	FORD F800	ETN DISTR 5.9 L	1997	10	2007	\$250,275	1FDYF80C3WVA19837
67	8872	IH 4700 A/T D	FB W/NATL CRANE	1997	8	2005	\$250,275	1HTSCABN6WH521316
67	8875	IH 4700	FB W/NATL CRANE	1997	8	2005	\$250,275	1HTSCABN0WH521313
67	9217	FREIGHTLINER	M916A2	1997	8	2005	\$250,275	1FUCMZYBXVP597029
67	9231	U.S. ARMY	M936A2	1997	8	2005	\$250,275	2011AA029

49 Pieces

Total for Year

\$7,100,852

32	8901	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN6XH648052
32	8902	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN1XH648055
32	8903	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABNXXH648054
32	8904	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN3XH648056
32	8907	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN5XH648057
32	8908	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN7XH648058
32	8909	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN4XH648048
32	8910	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABNXH648059

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
32	8911	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN2XH648050
32	8912	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN6XH648049
32	8913	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN8XH648053
32	8914	INTERNATIONAL	4700	1998	8	2006	\$116,900	1HTSCABN4XH648051
34	8915	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C5XJ100091
34	8916	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C7XJ100027
34	8917	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C8XJ100196
34	8919	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C3XJ100137
34	8920	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1CXXJ100121
34	8921	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C9XJ100112
34	8922	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C5XJ100169
34	8923	CHEVROLET	CC7H042	1998	8	2006	\$120,850	1GBM7H1C2XJ100131
36	8877	INTERNATIONAL	4900	1998	8	2006	\$142,950	1HTSHAAR2WH521349
36	8927	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C3XJ100081
36	8928	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C6XJ100172
36	8929	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C4XJ100591
36	8930	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C1XJ100208
36	8931	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C8XJ100030
36	8932	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C3XJ100064
36	8933	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C6XJ100155
36	8934	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C9XJ100098
36	8935	CHEVROLET	CC7H064	1998	8	2006	\$142,950	1GB7H4C1XJ100046
38	8936	CHEVROLET	CC7H064	1998	8	2006	\$153,283	1GB7H4C1XJ100631
38	8937	CHEVROLET	CC7H064	1998	8	2006	\$153,283	1GB7H4C8XJ100500
38	8938	CHEVROLET	CC7H064	1998	8	2006	\$153,283	1GB7H4C4XJ100476
38	8939	CHEVROLET	CC7H064	1998	8	2006	\$153,283	1GB7H4C9XJ100344
60	8925	CHEV C7500	ETN DSTR 7.2 L	1998	10	2008	\$250,275	1GBM7H1C4XJ100163
67	8924	CHEV CC7H042	FB W/NATL CRANE	1998	8	2006	\$250,275	1GBM7H1C2XJ100095
67	8926	IH 4700 DIE	FB W/NATL CRANE	1998	8	2006	\$250,275	1HTSCABN5XH648060
194	4334	IH 4700	W/SCHWARZE SWPR	1998	8	2006	\$218,613	1HTSCAAN1XH653208

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	Pieces				Total for Year		\$5,381,670	

60	8957	CHEV C7H042	ETN DISTR 7.2 L	1999	10	2009	\$250,275	1GBM7H1C9XJ107187
64	1659	SIMCO 2400TE	TM DRILL	1999	8	2007	\$250,275	XDZX6027018

2	Pieces				Total for Year		\$500,550	
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20	7390	CHEVROLET	CC31003	2000	5	2005	\$52,297	1GBKC34F7YF503814
32	8943	INTERNATIONAL	4700	2000	8	2008	\$116,900	1HTSCABN5YH250865
32	8944	INTERNATIONAL	4700	2000	8	2008	\$116,900	1HTSCABN7YH250866
32	8945	INTERNATIONAL	4700	2000	8	2008	\$116,900	1HTSCABN5YH250867
32	8946	INTERNATIONAL	4700	2000	8	2008	\$116,900	1HTSCABN1YH250863
32	8947	INTERNATIONAL	4700	2000	8	2008	\$116,900	1HTSCABN3YH250864
32	9212	FREIGHTLINER	M915A4	2000	8	2008	\$116,900	1FV7M0Y94VPF82703
34	8948	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN0YH250868
34	8949	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN8YH250875
34	8950	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABNXYH250876
34	8951	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN2YH250872
34	8952	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN2YH250869
34	8953	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN9YH250870
34	8954	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN6YH250874
34	8955	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN4YH250873
34	8956	INTERNATIONAL	4700	2000	8	2008	\$120,850	1HTSCABN0YH250871
36	9135	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB86YAG01961
36	9136	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB80YAG01969
36	9138	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB8XYAG01963
36	9140	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB80YAG01955
36	9141	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB84YAG01960
36	9142	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJB86YAG01958

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
36	9143	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB1YAG01964
36	9144	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB2YAG01956
36	9145	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB9YAG01968
36	9146	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB5YAG01966
36	9147	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB7YAG01967
36	9148	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB7YAG01970
36	9149	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB3YAG01965
36	9150	STERLING	LT7500	2000	8	2008	\$142,950	2FZNAJBB8YAG01962
38	9155	STERLING	LT7500	2000	8	2008	\$153,283	2FZNAJBB1YAF93350
38	8077	FREIGHTLINER	M915A3	2000	8	2008	\$153,283	1FUJATCG51PH76785
38	9151	STERLING	LT7500	2000	8	2008	\$153,283	2FZNAJBB3YAF93348
38	9152	STERLING	LT7500	2000	8	2008	\$153,283	2FZNAJBB1YAF93347
38	9154	STERLING	LT7500	2000	8	2008	\$153,283	2FZNAJBB5YAF93349
39	8387	FRIEHTLINER	FL70	2000	8	2008	\$99,625	1FVABTAK11HH77572
54	9159	STERLING	LT9500	2000	8	2008	\$141,167	2FWPESYB7YAF87799
54	9160	STERLING	LT9500	2000	8	2008	\$141,167	2FWPESYB5YAF87798
54	9161	STERLING	LT9500	2000	8	2008	\$141,167	2FWPESYBXYAF87800
54	8079	FREIGHTLINER	M915A4	2000	8	2008	\$141,167	1FV7M0Y94YPH43180
57	8958	INTERNATIONAL	4700	2000	8	2008	\$137,588	1HTSCABN1YH250877
57	8392	CHEVROLET	C8500	2000	8	2008	\$137,588	1GBS7H4COYJ508759
67	8959	IH 4700	FB W/NATL CRANE	2000	8	2008	\$250,275	1HTSCABN3YH250878

43 Pieces

Total for Year

\$5,798,806

23	5997	FORD	F550	2001	5	2006	\$52,297	1FDAF56F11EC60077
34	8963	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN51H350048
34	8964	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN71H350052
34	8965	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN31H350047
34	8966	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN71H350049
34	8967	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN91H350053

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8968	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN51H350051
34	8969	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABNX1H350045
34	8970	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN31H350050
34	8974	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN81H350044
34	8975	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN11H350046
34	8976	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN01H350054
34	8982	INTERNATIONAL	4700	2001	8	2009	\$120,850	1HTSCABN71H366137
36	9704	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB51AH55647
36	9705	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB51AH55650
36	9706	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB01AH55653
36	9707	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB91AH55649
36	9709	STERLING	LT7500	2001	8	2009	\$142,950	2FAZNAJBB1AH55654
36	9713	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB71AH55651
36	9714	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB91AH55652
36	9715	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB71AH55648
36	9717	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB31AH55646
36	9718	STERLING	LT7500	2001	8	2009	\$142,950	2FZNAJBB41AH55655
36	9163	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAK01AJ46330
36	9165	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAK61AJ46333
36	9166	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAK81AJ46334
36	9167	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAKX1AJ46335
36	9168	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAK11AJ46336
36	9169	STERLING	LT7500	2001	8	2009	\$142,950	2FZHATAK41AJ46332
38	9720	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB91AH55635
38	9721	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB21AH55640
38	9729	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB21AH55637
38	9731	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB71AH55634
38	9735	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB41AH55641
38	9736	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB01AH55636
38	9737	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB41AH55638
38	9739	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJBB61AH55639

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	9745	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJB861AH55656
38	9746	STERLING	LT7500	2001	8	2009	\$153,283	2FZNAJB881AH55657
38	9170	STERLING	LT7500	2001	8	2009	\$153,283	2FZHATAK81AJ46530
38	9171	STERLING	LT7500	2001	8	2009	\$153,283	2FZHATAK11AJ46529
38	9172	STERLING	LT7500	2001	8	2009	\$153,283	2FZHATAKX1AJ46528
38	9173	STERLING	LT7500	2001	8	2009	\$153,283	2FZHATAK81AJ46527
39	8977	INTERNATIONAL	4700	2001	8	2009	\$99,625	1HTSCABN31H349710
44	9024	INTERNATIONAL	4700	2001	8	2009	\$103,050	1HTSCABN12H408920
54	8078	FREIGHTLINER	M915A4	2001	8	2009	\$141,167	1FVXAU0021PJ98063
54	9748	STERLING	LT9500	2001	8	2009	\$141,167	2FWPESEB51AH55658
54	9439	STERLING	LT9500	2001	8	2009	\$141,167	2FWJAZCG11AJ46329
56	8981	INTERNATIONAL	4700	2001	8	2009	\$137,588	1HTSCABN51H349711
57	8978	INTERNATIONAL	4700	2001	8	2009	\$137,588	1HTSCABN71H349712
57	8979	INTERNATIONAL	4700	2001	8	2009	\$137,588	1HTSCABN01H349714
60	8984	IH 4700	ETN DSTR 7.3L	2001	10	2011	\$250,275	1HTSCABN31H366135
67	8980	IH 4700 A/T DIE	FB W/NATL CRANE	2001	8	2009	\$250,275	1HTSCABN91H349713

53 Pieces

Total for Year

\$7,475,149

32	8987	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN32H408918
32	8988	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN42H408913
32	8989	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABNX2H408916
32	8991	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN62H408914
32	8992	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN82H408915
32	9030	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN02H554855
32	9031	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN22H554856
32	9032	INTERNATIONAL	4700	2002	8	2010	\$116,900	1HTSCABN92H554854
34	8993	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN32H408904
34	8994	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN52H408905
34	8995	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN22H408909

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8996	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN92H408907
34	8998	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN72H408906
34	8999	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN92H408910
34	9033	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN42H554857
34	9034	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN62H554858
34	9035	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN82H554859
34	9036	INTERNATIONAL	4700	2002	8	2010	\$120,850	1HTSCABN42H554860
36	9174	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK83AK36599
36	9175	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK63AK36598
36	9176	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK03AK36600
36	9177	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK23AK36596
36	9178	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK03AK36595
36	9179	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK23AK36601
36	9180	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK43AK36602
36	9181	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK63AK36603
36	9182	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK83AK36604
36	9183	STERLING	LT7500	2002	8	2010	\$142,950	2FZHATAK43AK36597
38	8035	CHEVROLET	C-7500	2002	8	2010	\$153,283	1G8M7H1C32J505147
38	8071	FREIGHTLINER	M915A3	2002	8	2010	\$153,283	1FUJATCG03PK34722
38	8072	FREIGHTLINER	M915A3	2002	8	2010	\$153,283	1FUJATCG73PK34717
38	8073	FREIGHTLINER	M915A3	2002	8	2010	\$153,283	1FUJATCG93PK34721
38	8074	FREIGHTLINER	M915A3	2002	8	2010	\$153,283	1FUJATCG61PH76813
38	8076	FREIGHTLINER	M915A3	2002	8	2010	\$153,283	1FUJATCG53PH34652
38	8219	FREIGHTLINER	M915A4	2002	8	2010	\$153,283	1FUJCPBA42PJ98496
39	9002	INTERNATIONAL	4700	2002	8	2010	\$99,625	1HTSCABN22H408912
42	9006	INTERNATIONAL	4700	2002	8	2010	\$103,050	1HTSCABNO2H408911
44	9041	INTERNATIONAL	4700	2002	8	2010	\$103,050	1HTSCABN32H554865
54	9210	FREIGHTLINER	M915A3	2002	8	2010	\$141,167	1FUJATCG21PH76825
54	8075	FREIGHTLINER	M915A3	2002	8	2010	\$141,167	1FUJATCG81PH76800
54	9708	STERLING	LT9500	2002	8	2010	\$141,167	3FWJAZCG23AK36611
54	9710	STERLING	LT9500	2002	8	2010	\$141,167	2FWJAZCG43AK36612

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
55	9039	IH	4700	2002	8	2010	\$141,167	1HTSCABNX2H554863
57	9037	INTERNATIONAL	4700	2002	8	2010	\$137,588	1HTSCABN62H554861
57	9038	INTERNATIONAL	4700	2002	8	2010	\$137,588	1HTSCABN82H554862
62	7800	INTERNATIONAL	4700	2002	10	2012	\$250,275	1HTSCABL72H508437
66	9994	MACK	MR6885	2002	8	2010	\$250,275	1M2K189C32M020476
67	9040	IH 4700 DIE	FB W/NATL CRANE	2002	8	2010	\$250,275	40TSCABN12H554864
69	9027	IH F2574	W/PAX MITCH LFT	2002	10	2012	\$342,825	1HTGGAHT12H538230
69	9028	IH F2574	W/PAX MITCH LFT	2002	10	2012	\$342,825	1HTGGAHT32H538231
69	9029	IH F2574	W/PAX MITCH LFT	2002	10	2012	\$342,825	1HTGGAHT52H538229
69	9026	INTERNATIONAL	2574	2002	10	2012	\$342,825	1HTGGAHT32H538228
69	9025	INTERNATIONAL	2574	2002	10	2012	\$342,825	1HTGGAHT52H538229

53 Pieces

Total for Year

\$8,397,867

20	7981	FORD	F450	2003	5	2008	\$52,297	1FDXF46P33ED09148
32	8301	CHEVROLET	C7C042	2003	8	2011	\$116,900	1GBM7E1383F518270
32	8302	CHEVROLET	C7C042	2003	8	2011	\$116,900	1GBM7E1363F518218
32	8304	CHEVROLET	C7C042	2003	8	2011	\$116,900	1GBM731343F522025
36	8313	CHEVROLET	C8C064	2003	8	2011	\$142,950	1GTB8E4323F522254
36	8314	CHEVROLET	C8C064	2003	8	2011	\$142,950	1GTB8E4323F522271
38	8691	CHEVROLET	C8C064	2003	8	2011	\$153,283	1GBT8C4384F500152
38	9184	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAK13AK36606
38	9185	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAK33AK36607
38	9186	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAK53AK36608
38	9187	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAK73AK36609
38	9188	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAK33AK36610
38	9189	STERLING	LT7500	2003	8	2011	\$153,283	2FZHATAKX3AK36605
39	8308	CHEVROLET	C7C042	2003	8	2011	\$99,625	1GBM7E1303F519428
39	8309	CHEVROLET	C7C042	2003	8	2011	\$99,625	1GBM7E1373F519491
44	8126	FREIGHTLINER	FL80	2003	8	2011	\$103,050	1FVKBXAK33HL90842

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
54	9617	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCK64AM34632
54	9716	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCK14AM34635
54	9722	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCK84AM34633
54	9723	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCKX4AM34634
54	9724	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCK44AM34631
54	9726	STERLING	LT9513	2003	8	2011	\$141,167	2FWJAZCK34AM34636
58	8299	CHEV C7500	W/SER BDY & LFT	2003	8	2011	\$137,588	1GBM7E1363F522091
60	8641	IH 7300 SFA	RCO DSTR	2003	10	2013	\$250,275	1HTWAAAR04J085712
60	8685	IH 7300 SFA	RCO DSTR	2003	10	2013	\$250,275	1HTWAAAR74J085710
60	8686	IH 7300 SFA	RCO DSTR	2003	10	2013	\$250,275	1HTWAAARR04J085709
60	8687	IH 7300 SFA	RCO DSTR	2003	10	2013	\$250,275	1HTWAAAR94J085711
67	8310	FRGHTLNR FL70	FB W/NATL CRANE	2003	8	2011	\$250,275	1FVABTAK34DM56206
194	4829	IH 4300	W/SCHWARZE SWPR	2003	8	2011	\$218,613	1HTMMAAN34H610345
194	4830	IH 4300	W/SCHWARZE SWPR	2003	8	2011	\$218,613	1HTMMAAN54H610346
194	4769	IHC	4200	2003	8	2011	\$218,613	1HTMPAFN04H663956

31 Pieces

Total for Year

\$4,955,982

20	5228	FORD	F450	2004	5	2009	\$52,297	1FDXX46P24EC48387
32	9044	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1CX4F519894
32	9045	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C94F519644
32	9046	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C74F519951
32	9047	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C94F519711
32	9048	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C14F519783
32	9049	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C94F519790
32	9050	CHEVROLET	C7C042	2004	8	2012	\$116,900	1GBM7C1C74F520145
34	8306	FREIGHTLINER	F700	2004	8	2012	\$120,850	1FVABTAK84DM56203
34	8307	FREIGHTLINER	F700	2004	8	2012	\$120,850	1FVABTAK14DM56205
38	8127	FREIGHTLINER	M915A3	2004	8	2012	\$153,283	1FUJATCG34PL93266
38	8223	FREIGHTLINER	M915A3	2004	8	2012	\$153,283	1FUJATCG84PL93246

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	8255	FREIGHTLINER	M915A3	2004	8	2012	\$153,283	1FUJATCG94PL93241
39	9042	CHEVROLET	C7C042	2004	8	2012	\$99,625	1GBM7C1C64F519386
39	9043	CHEVROLET	C7C042	2004	8	2012	\$99,625	1GBM7C1C64F519133
56	8311	FREIGHTLINER	F70	2004	8	2012	\$137,588	1FVABTAK54DM56207
56	8312	FREIGHTLINER	F70	2004	8	2012	\$137,588	1FVABTAL74DM56208
56	9053	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C84F520154
56	9054	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C24F520070
57	9055	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C54F519799
57	9056	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C64F519830
57	9057	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C34F520062
57	9058	CHEVROLET	C7C042	2004	8	2012	\$137,588	1GBM7C1C04F521844
60	9052	CHEV C7C042	ETN DSTR 7 L	2004	10	2014	\$250,275	1GBM7C1C34F519963
66	9747	AUTOCAR	WX64	2004	8	2012	\$250,275	5VCDC6UG84H200623
67	9051	CHEV C7C042	FB W/TEREX CRAN	2004	8	2012	\$250,275	1GBM7C1CX4F519927
26	Pieces							Total for Year \$3,622,925

23	8350	FORD	F550	2005	5	2010	\$52,297	1FDAF56P56EA60500
32	8320	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C35F527532
32	8321	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C55F528178
32	8322	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C65F528478
32	8323	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1CX5F528063
32	8324	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C75F527792
32	8325	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C95F527745
32	8326	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C05F527956
32	8327	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C75F527825
32	8328	CHEVROLET	C7	2005	8	2013	\$116,900	1GBM7C1C25F527845
34	8329	CHEVROLET	C7500	2005	8	2013	\$120,850	1GBM7C1C95F527003
34	8330	CHEVROLET	C7500	2005	8	2013	\$120,850	1GBM7C1C25F527019
34	8331	CHEVROLET	C7500	2005	8	2013	\$120,850	1GBM7C1C85F526666

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
34	8332	CHEVROLET	C7500	2005	8	2013	\$120,850	1G8M7C1C95F526790
36	9059	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHRO5J039464
36	9060	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHHR25J039465
36	9061	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHHR85J039468
36	9062	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHHRX5J039469
36	9063	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHHR45J039466
36	9064	INTERNATIONAL	7600	2005	8	2013	\$142,950	1HTWXAHHR95J039463
38	8343	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL16HV63631
38	8344	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL56HV63633
38	8345	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL15HV63627
38	8346	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL15HV63630
38	8347	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DLX5HV63626
38	8348	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL55HV63629
38	8349	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7DL35HV63628
38	8352	FREIGHTLINER	M2	2005	8	2013	\$153,283	1FVHC7CL36HV63632
38	9066	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL55AN98495
38	9067	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL85AN98488
38	9068	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDLK5AN98492
38	9069	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDLN5AN98489
38	9070	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL65AN98487
38	9071	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL15AN98493
38	9072	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL85AN98491
38	9073	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL35AN98494
38	9074	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL05AN98484
38	9075	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAXDL45AN98486
38	9076	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL75AN98496
38	9077	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL65AN98490
38	9078	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL95AN98497
38	9079	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL95AN98483
38	9080	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL25AN98499
38	9081	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL05AN98498

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
38	9082	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL55AN98500
38	9083	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL25AN98501
38	9084	STERLING	LT9511	2005	8	2013	\$153,283	2FZHAZDL25AN98485
39	8333	CHEVROLET	C7	2005	8	2013	\$99,625	1BGM7C1C85F528532
44	8336	CHEVROLET	C7	2005	8	2013	\$103,050	1G8M7E1C95F527918
44	8337	CHEVROLET	C7	2005	8	2013	\$103,050	1G8M7E1C15F527783
54	9711	STERLING	LT9513	2005	8	2013	\$141,167	2FWJAZCK65AN98481
54	9728	STERLING	LT9500	2005	8	2013	\$141,167	2FWJAZCK76AV67290
54	9719	STERLING	LT9513	2005	8	2013	\$141,167	2FWJAZAV15AN98482
56	8334	CHEVROLET	C7	2005	8	2013	\$137,588	1G8M7C1C85F528322
56	8335	CHEVROLET	C7	2005	8	2013	\$137,588	1G8M7C1C75F528425
57	7516	OSHKOSH HEMTT	M977	2005	8	2013	\$137,588	10T2K1J28E1023175
67	8354	STERLING L7500	W/TELELECT LIFT	2005	8	2013	\$250,275	2FZAATDC86AV91282
69	9085	STERLING LT9500	W/TEREX LIFT	2005	10	2015	\$342,825	2FZHAZDL75AU14691
194	4885	IH 4400	W/TYMCO SWPR	2005	8	2013	\$218,613	1HTMKAAN56H242081
194	4904	IH 4400	W/TYMCO SWPR	2005	8	2013	\$218,613	1HTMKAAN36H242080

60 Pieces

Total for Year

\$8,756,454

20	5487	CHEVROLET	3500	2006	5	2011	\$52,297	1GBJC34D86E243873
20	5488	CHEVROLET	3500	2006	5	2011	\$52,297	1GBJC34D16E244671
20	5494	FORD	F350	2006	5	2011	\$52,297	1FTWW33P16ED06431
34	8355	CHEVROLET	C7	2006	8	2014	\$120,850	1G8M7C1C36F430168
34	8356	CHEVROLET	C7	2006	8	2014	\$120,850	1G8M7C1C66F429855
34	8357	CHEVROLET	C7	2006	8	2014	\$120,850	3GBM7C1C26F430937
34	8358	CHEVROLET	C7	2006	8	2014	\$120,850	2GBM7C1C06F430712
36	8338	STERLING	LT9500	2006	8	2014	\$142,950	2FZHAZDL66AV71596
36	8339	STERLING	LT9500	2006	8	2014	\$142,950	2FZHAZDL86AV71597
36	8340	STERLING	LT9500	2006	8	2014	\$142,950	2FZHAZDLX6AV71598
36	8341	STERLING	LT9500	2006	8	2014	\$142,950	2FZHAZDL46AV71595

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
36	8342	STERLING	LT9500	2006	8	2014	\$142,950	2FZHAZDL16AV71599
39	8359	CHEVROLET	C7	2006	8	2014	\$99,625	1GBM7C1C06F429947
39	8360	CHEVROLET	C7	2006	8	2014	\$99,625	1GBM7C1C06F429821
39	8361	CHEVROLET	C7	2006	8	2014	\$99,625	1GBM7C1C56F429457
39	8362	CHEVROLET	C7	2006	8	2014	\$99,625	1GBM7C1C86F430084
39	8363	CHEVROLET	C7	2006	8	2014	\$99,625	1GBM7C1C46F429725
56	8364	CHEVROLET	C7	2006	8	2014	\$137,588	1GBM7C1C56F430902
57	8366	CHEVROLET	C7	2006	8	2014	\$137,588	1GBM7C1C76F430660
60	7999	ETNYRE DISTR	STERLING L7500	2006	10	2016	\$250,275	2FZAATDCX7AX80632
60	8351	STERLING L7501	ENT DISTR	2006	10	2016	\$250,275	2FZAATDCG66AW08760
62	5200	CHEVROLET C7042	WRECKER TRUCK	2006	10	2016	\$250,275	1GBM7C1C26F402006
67	8365	CHEVROLET C7	FB W/NATL CRANE	2006	8	2014	\$250,275	1GBM7C1CX6F430619
194	4516	STERLING SC8000	W/SCHWARZE SWPR	2006	8	2014	\$218,613	49HAADB8VX6DW19285

24 Pieces

Total for Year

\$3,348,055

36	8376	STERLING	LT9511	2007	8	2015	\$142,950	2FZHAZDL27AX69383
36	8377	STERLING	LT9511	2007	8	2015	\$142,950	2FZHAZDL47AX69384
38	8104	FREIGHTLINER	M915A4R2	2007	8	2015	\$153,283	1FVXAU0027PY40175
38	8220	FREIGHTLINER	M2 106	2007	8	2015	\$153,283	1FVHCYDC27HY97562
38	8367	STERLING	LT7500	2007	8	2015	\$153,283	2FZHAZDL97AX69342
38	8368	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL97AX69302
38	8369	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL77AX69296
38	8370	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL57AX69300
38	8371	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL07AX69298
38	8372	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL27AX69299
38	8373	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL77AX69301
38	8374	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL97AX69297
38	8375	STERLING	LT9511	2007	8	2015	\$153,283	2FZHAZDL07AX69303
38	8472	FREIGHTLINER	M916A3	2007	8	2015	\$153,283	1FULATCG86PW14047

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
54	9153	STERLING	LT9513	2007	8	2015	\$141,167	2FWJAZCKX7AX70014
54	9157	STERLING	LT9500	2007	8	2015	\$141,167	2FWJAZCK77AX68348
54	9158	STERLING	LT9500	2007	8	2015	\$141,167	2FWJAZCK97AX68349
54	9190	STERLING	LT9513	2007	8	2015	\$141,167	2FWJAZCKX7AN69395
194	4134	IH 4400	W/TYMCO SWEEPER	2007	8	2015	\$218,613	1HTMKAAN97H410046
194	4625	IH 4400	W/TYMCO SWEEPER	2007	8	2015	\$218,613	1HTMKAAN77H410045
194	4659	IH 4400	W/SCHWARZE SWPR	2007	8	2015	\$218,613	1HTMKAAN18H646708
21 Pieces							\$3,345,803	

20	5811	FORD	F450	2008	5	2013	\$52,297	1FDXF46R48EA54700
20	6612	FORD	F450	2008	5	2013	\$52,297	1FDXF46R48ED69285
20	6613	FORD	F450	2008	5	2013	\$52,297	1FDXF46R68ED69286
20	6615	FORD	F450	2008	5	2013	\$52,297	1FD4F47R58ED80281
20	6617	FORD	F450	2008	5	2013	\$52,297	1FD4X47R08ED80282
23	5823	FORD	F550	2008	5	2013	\$52,297	1FDAF56R38EC00760
23	6616	FORD	F550	2008	5	2013	\$52,297	1FD5F56R58ED92703
60	8744	ROSCO DISTR	IH 7400	2008	10	2018	\$250,275	1HTWDAARX8J681309
32	7803	INTERNATIONAL	7400	2008	8	2016	\$116,900	1HTWCAAN79J079551
32	7916	INTERNATIONAL	7400	2008	8	2016	\$116,900	1HTWCAAN59J079550
32	7917	INTERNATIONAL	7400	2008	8	2016	\$116,900	1HTWCAAN99J079549
32	7918	INTERNATIONAL	7400	2008	8	2016	\$116,900	1HTWCAAN79J079548
32	7934	INTERNATIONAL	7400	2008	8	2016	\$116,900	1HTWCAAN59J079547
34	8378	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN18J641443
34	8379	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN18J641444
34	8380	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN58J641445
34	8381	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN78J641446
34	8382	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN98J641447
34	8485	INTERNATIONAL	7400	2008	8	2016	\$120,850	1HTWCAAN79J079582
36	8721	INTERNATIONAL	7600	2008	8	2016	\$142,950	1HTWYAHRO8J641475

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
36	8722	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR78J641473
36	8723	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR98J641474
36	8724	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR58J641469
36	8739	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR58J641472
36	8887	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR18J641470
36	8890	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR38J641468
36	8892	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR18J641467
36	8897	INTERNATIONAL		2008	8	2016	\$142,950	1HTWYAHHR38J641471
38	8123	FREIGHTLINER	M915A4R2	2008	8	2016	\$153,283	1FVXAU0058PZ13007
38	8471	FREIGHTLINER	M916A3	2008	8	2016	\$153,283	1FULATCG39PAE5952
38	9091	INTERNATIONAL		2008	8	2016	\$153,283	1HTWYAHHR38J641485
38	9092	INTERNATIONAL		2008	8	2016	\$153,283	1HTWYAHHRX8J641483
38	9093	INTERNATIONAL		2008	8	2016	\$153,283	1HTWYAHHR88J641482
38	9094	INTERNATIONAL		2008	8	2016	\$153,283	1HTWYAHHR58J641486
38	9095	INTERNATIONAL		2008	8	2016	\$153,283	1HTWYAHHR18J641484
38	9205	FREIGHTLINER	M915A4R2	2008	8	2016	\$153,283	1FVXAU0048PZ13032
38	9206	FREIGHTLINER	M915A4R2	2008	8	2016	\$153,283	1FVXAU0058PZ13041
39	9086	INTERNATIONAL		2008	8	2016	\$99,625	1HTWCAAN18J641507
39	9087	INTERNATIONAL		2008	8	2016	\$99,625	1HTWCAANX8J641506
39	9088	INTERNATIONAL		2008	8	2016	\$99,625	1HTWCAAN38J641508
39	9089	INTERNATIONAL		2008	8	2016	\$99,625	1HTWCAAN88J641505
44	8899	CHEVROLET	C7	2008	8	2016	\$103,050	1GBM7E1A18F406481
54	8388	FREIGHTLINER	M916AE	2008	8	2016	\$141,167	1FULATCG09PZ72974
54	9090	STERLING	LT9513	2008	8	2016	\$141,167	2FWJAZCKX8AZ08832
54	9117	STERLING	AT9500	2008	8	2016	\$141,167	2FWJA3CK19AAD7946
56	8898	CHEVROLET	C7	2008	8	2016	\$137,588	1GBM7C1A88F406613
57	7514	HEMTT	M977	2008	8	2016	\$137,588	10T2K1J24D1021227
57	8486	INTERNATIONAL		2008	8	2016	\$137,588	1HTWCAAN99J079583
59	8389	FREIGHTLINER	M916A3	2008	8	2016	\$137,588	1FULATCG29PZ72975
59	8905	INTERNATIONAL		2008	8	2016	\$137,588	1HTWYAHHR68J641481
67	7949	INTERNATIONAL		2008	8	2016	\$250,275	1HTMKAANX9H084003

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
67	7983	IH 4400	FB W/NATL CRANE	2008	8	2016	\$250,275	1HTMKAAN89H084002
194	4982	W/AAPLEX SWPR	IH 4400	2008	8	2016	\$218,613	1HTMKAAN29H072640

53 Pieces

Total for Year

\$6,924,205

20	6495	DODGE	RAM	2009	5	2014	\$52,297	3D6W646L99G538472
20	6498	DODGE	RAM 4500	2009	5	2014	\$52,297	3D6WC68L39G538648
20	6851	DODGE	RAM 4500	2009	5	2014	\$52,297	3D6WC66L89G538647
20	6852	DODGE	RAM 4500	2009	5	2014	\$52,297	3D6WC66L69G538646
20	6853	DODGE	RAM 4500	2009	5	2014	\$52,297	3D6WC66L49G538645
22	7100	FORD	F350	2009	5	2014	\$52,297	1FTWW32R89EA17733
23	7596	FORD	F650	2009	5	2014	\$52,297	3FRWF65D99V211583
60	8906	STERLING L7500	ETNYRE DISTR	2009	10	2019	\$250,275	2FZAATBS49AAD1823
32	7601	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B79F410940
32	7602	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B69F411240
32	7603	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B29F410859
32	7610	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B39F411342
32	7612	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B89F410879
32	7614	CHEVROLET	CC7042	2009	8	2017	\$116,900	1GBM7C1B99F411068
32	7615	CHEVROLET	CC7042	2009	8	2017	\$116,900	11GBM7C1B39F411289
36	7661	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR49J179049
36	7662	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR29J179051
36	7672	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR09J179050
36	7805	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR49J179052
36	7895	INTERNATIONAL		2009	8	2017	\$142,950	5HTWYAHHR09J179047
36	7959	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR29J179048
36	8253	INTERNATIONAL		2009	8	2017	\$142,950	1HTWYAHHR69J179053
36	8888	STERLING	LT9511	2009	8	2017	\$142,950	2FZHAZCV79AAJ5047
36	8895	STERLING	LT9511	2009	8	2017	\$142,950	2FZHAZCV99AAJ5048
36	9096	STERLING	LT9511	2009	8	2017	\$142,950	2FZHAZCV09AAJ5049

CODE	TAG	MAKE	DESCRIPTION	MODEL YEAR	ESTIMATED LIFE (YR)	ESTIMATED REPLACEMENT YEAR	EST. REPLACEMENT COST	VIN
36	9097	STERLING	LT9511	2009	8	2017	\$142,950	2FZHAZCV79AAJ5050
38	7597	INTERNATIONAL	7600	2009	8	2017	\$153,283	1HTWYAHHR391179057
38	8298	INTERNATIONAL	7600	2009	8	2017	\$153,283	1HTWYAHHR891179054
38	8473	FREIGHTLINER	M916A3	2009	8	2017	\$153,283	1FULATCG09PZ73008
38	8474	FREIGHTLINER	M916A3	2009	8	2017	\$153,283	1FULATCG19PZ72997
38	8477	FREIGHTLINER	M916A3	2009	8	2017	\$153,283	1FULATCGX9PZ73002
38	9098	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CV69HAJ2315
38	9099	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CVX9HAJ2317
38	9156	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CV19HAJ2318
38	9191	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CV89HAJ2316
38	9192	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CV39HAJ2319
38	9193	FREIGHTLINER	M2	2009	8	2017	\$153,283	1HVHC7CV49HAJ2314
38	9194	INTERNATIONAL	7600	2009	8	2017	\$153,283	1HTWYAHHRX91179055
38	9725	INTERNATIONAL	7600	2009	8	2017	\$153,283	1HTWYAHHR191179056
44	7625	CHEVROLET	CC7E042	2009	8	2017	\$103,050	1GBM7E1B79F410948
44	7641	CHEVROLET	CC7E042	2009	8	2017	\$103,050	1GBM7E1BX9F411303
44	8494	INTERNATIONAL	4400	2009	8	2017	\$103,050	1HTMKAAN89H079897
44	8495	INTERNATIONAL	4400	2009	8	2017	\$103,050	1HTMKAANX9H079898
44	8498	INTERNATIONAL	4400	2009	8	2017	\$103,050	1HTMKAAN49H079900
54	9195	INTERNATIONAL	PRO STAR	2009	8	2017	\$141,167	2HSCTAPR29C064326
56	7624	CHEVROLET	CC7042	2009	8	2017	\$137,588	1GBM7C1B09F410892
56	7644	CHEVROLET	CC7E042	2009	8	2017	\$137,588	1GBM7E1B99F411325
56	8802	INTERNATIONAL	4400	2009	8	2017	\$137,588	1HTMKAAN89H064333
56	8841	INTERNATIONAL	4400	2009	8	2017	\$137,588	1HTMKAANX9H064334
67	8483	INTERNATIONAL	7400	2009	8	2017	\$250,275	1HTWCAAN7AJ236239
194	4566	GMC T7500	W/SCHWARZE SWPR	2009	8	2017	\$218,613	4GTM7F1B28F700223

51 Pieces **Total for Year** **\$6,675,440**

728 Total Pieces **Total Cost** **\$101,610,254**

November 13, 2017

Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Re: Using Volkswagen settlement funds for cost-effective corridor-based NOX reductions

Dear Ms. Treece,

As Executive Director of the Arkansas Propane Gas Association, Inc., representing all the propane dealers in the great state of Arkansas, I thank the ADEQ for its efforts in developing a Beneficiary Mitigation Plan. Your focus on a school bus pilot program is a smart investment for the state of Arkansas since over 5,000 school buses transport 250,000 children to and from school in Arkansas. Many of these buses are pre-2007 school buses, which are 6 times or 95% dirtier than 2010 or newer school buses.

The state's limiting of eligibility to only CNG school buses reduces the amount of cost-effective NOx reductions it could achieve. Propane powered school buses offer virtually the same NOx emissions as CNG, and the use of propane school buses will help Arkansas meet its air quality goals and the objectives of the program since they offer a cost-effective reduction to NOx emissions and improve public health.

Propane school buses often have improved cost-effectiveness versus CNG due to its lower incremental vehicle cost, lower infrastructure costs, and no required upgrades to maintenance facilities. If ADEQ would expand eligibility to include propane, even more vehicle replacements and corresponding NOx reductions could be achieved. These vehicles are also a safe transportation solution because propane is non-toxic, non-carcinogenic and non-corrosive, and because their vehicle fuel tanks are 20 times more puncture-resistant than gasoline or diesel tanks.

Propane fuel tanks operate under approximately 250 PSI verses CNG tanks that are pressured to 3600 PSI. With the average fuel consumption of 16 to 20 gallons of propane per day per bus, an 80-gallon propane fuel tank will operate a school bus 3 to 4 days between fill-ups.

While Arkansas does not list propane fueling stations on the Alternative Fueling Station Locator developed by the Department of Energy, propane fuel infrastructure is already in place throughout the state with almost 400 registered dealers and over 1200 certified employees that have the ability to dispense propane as a motor fuel. Propane motor fuel is also offered along the interstates via truck stops such as Flying J, Pilot, Loves, and other certified propane outlets that dispense propane.

We request that Arkansas Department of Environmental Quality include **propane** as an **equal partner** with CNG under the proposed CNG School Bus Pilot Program.

The 2016 version of AFLEET, developed by Argonne National Laboratory, to model NOx reductions and cost effectiveness. Our analysis compares the replacement of a model year 2007 diesel school bus with new diesel, propane, CNG or electric school buses. It is clear that propane is the most cost-effective option at reducing NOx emissions

Propane school buses are shown to be 33% more cost-effective vs diesel and 28% more cost-effective than CNG school buses.

Standard Argonne AFLEET Emissions Outputs				
Fuel	Purchase Price	NOx Reduced	\$/lb	Cost Effectiveness vs. Propane
Propane	\$ 93,000	537.0	\$ 173	
Diesel	\$ 85,000	330.5	\$ 257	-33%
Electric	\$ 350,000	593.4	\$ 590	-71%
CNG	\$ 125,000	518.3	\$ 241	-28%

We request ADEQ open up the alternative fuel grant program to include propane vehicles as a priority in addition to CNG and electric, and when reviewing applications that ADEQ prioritize actions that achieve the best cost effectiveness and are sustainable beyond the states investment. It is important that the alternative fuel program is able to continue after grant funding is depleted.

¹ The new propane engine is 75 percent cleaner than today's cleanest diesel engines that are compliant with the model year 2010 standard of 0.2 g NOx / bhp-hr. What's more, our new propane buses will be 99 percent cleaner than the oldest, pre-2007 model year buses still operating in many school districts today.²

¹ "Executive Order A-344-0074". California Environmental Protection Agency, Air Resources Board, May 15, 2017. https://www.arb.ca.gov/msprog/onroad/cert/mdehdehdv/2017/roush_hdoe_a3440074_6d8_0d05_lpg.pdf.

² For model year 1998 to 2003 diesel engines, EPA established a NOx emission standard of 4.0 g NOx / bhp-hr. Please refer to EPA's [summary table](#) of diesel engine exhaust emission standards for further detail.

Propane Economics for Arkansas

Arkansas' propane market is a source of economic growth across a variety of industries, including production, transportation, storage, wholesale, and retail. In 2012, the retail propane market through Class One Dealers contributed over 650 jobs and \$270 million in the state's gross domestic product (GDP).³ The propane market supplied nearly \$24 million in direct labor income to Arkansas workers.

The following analyses assumes that Arkansas invest 60% of its Volkswagen settlement funding in a propane school bus program. Further, it assumes that the state provided a 25% rebate per bus to the school districts

With these assumptions, ADEQ could deploy 378 propane school buses, which is over 17% of the total pre-2009 school bus fleet operating in Arkansas currently. If the state were to limit propane solely to CNG, these funds would only be able to replace 281 CNG school buses.

Table 1: Arkansas can more cost-effectively replace school buses by including propane as an eligible fuel.⁴

60% of AR Funding / 25% Rebate Scenario	TOTAL
Total Buses Operating in State (# Units)	5,263
Est. Pre-2009 Buses in Operation (# Units)	2,177
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Number of Estimated Bus Replacements, Propane Scenario	378
Number of Estimated Bus Replacements, CNG Scenario	281

Over the 15-year service life of a school bus, the following total program impacts could be achieved using the propane school bus scenario.

Table 2: Total program impacts assuming a 60% funding investment in a propane school bus pilot program.⁵

	POTENTIAL IMPACT
# of Propane School Bus Replacements	378
% of Pre-2009 AR Bus Fleet Replaced	17.36%
Total Funding Proposed: 60% of AR VW Allocation (\$)	\$8,788,625.40
Total NOx Reduction (lbs)	203,002
Petroleum Reduction (gallons)	10,206,146

³ "Arkansas Propane Market". ICF International, November 2016. Please see Appendix A for additional details.

⁴ Pricing is an estimate for the average base cost for a 2019 model year diesel, propane and CNG school bus. Costs do not include infrastructure, maintenance facility upgrades, etc.

⁵ Assumptions: 378 school buses replaced, 2007 average model year replaced with 2019 model year Vision propane bus, 15-year service life, 12,600 miles per year

Natural Gas wells in Arkansas not only produce natural gas in a raw stage, they also produce propane as a Natural Gas Liquid (NGL) that is imbedded within the natural gas. After the water and condensates are removed from the raw gas, it is shipped via pipeline to Natural Gas processing plants to remove the contaminants and recover the NGLs from the raw gas. After it is processed, the natural gas is ready to be delivered to the end consumer via pipeline, and the propane and other liquids are transported to their destination via trucks or rail.

These processing plants are outside of Arkansas so both natural gas and propane, while produced in Arkansas, are both transported back into our state after processing.

Lyon Oil Company has a refinery in El Dorado, AR that refines gasoline and diesel and a byproduct of that refining is propane, which is transported to dealers in Arkansas and surrounding states to then be delivered to the end consumer.

Natural gas and propane are 'natural state' fuels produced right here in Arkansas and adds to Arkansas state coffers in the form of road taxes, property taxes, income taxes, etc. If propane is not consumed here in America, it will be exported to other countries.

Corridor-Focused Funding Will Generate More Effective Public Health Benefits

School buses operate along dedicated corridors each day and repeatedly expose the same population to harmful emissions. Thus, cleaning them up by replacing with CNG or propane versions will yield air quality benefits in areas that bear a disproportionate share of the air pollution burden. Their localized operations also make the measurement of their benefits easier in that all of the emissions reductions can be attributed directly to these areas.

These alternative fuel school buses significantly reduce children's, operators', and the general public's exposure to emissions that are associated with pre-2007 diesel buses, including increased asthma emergencies, bronchitis, and school absenteeism, especially among asthmatic children. CNG and propane school buses also effectively eliminate diesel particulate matter emissions that are associated with cancer and thousands of premature deaths nationwide every year.

Thank you for considering our request to make **propane** an **equal partner** with the proposed CNG School Bus Pilot Program.

Sincerely,

Sherman Murray
Executive Director
Arkansas Propane Gas Association
apga@windstream.net
479-841-8635

Tricia Treece
Arkansas Department of Environmental Quality
(501) 682-0055
treecep@adeq.state.ar.us

Wednesday, November 1st, 2017

Re: Caterpillar Inc. comments regarding ADEQ's Request For Information on the Proposed VW Environmental Trust Beneficiary Mitigation Plan.

Caterpillar appreciates the opportunity to comment on ADEQ's proposed allocation plan for the state's share of the \$2.9B Mitigation Trust Fund (MTF) established under the Volkswagen Consent Decree. Pursuant to section 2.0.3 of the 2016 Consent Decree,¹ the *primary* purpose of the Mitigation Trust Fund is to fund Eligible Mitigation Actions, which in turn have the goal of reducing NOx emissions in the United States. Caterpillar believes that ADEQ's proposed plan could better meet this objective by focusing funds towards Eligible Mitigation Actions which are more cost effective for the corresponding NOx reduction benefits.

Comment 1: ADEQ's proposed plan invests a disproportionately large amount of its allocated Trust Fund toward CNG school buses vehicles when there are more cost-effective Eligible Mitigation Actions which would realize greater NOx reductions and better meet the stated purpose of the Mitigation Trust Fund.

ADEQ's proposed plan invests a disproportionately large amount of funding towards CNG school buses, when the cost effectivity for NOx reduction is unreasonably high relative to other mitigation options. Total cost effectivity for school buses has been calculated by proponents of CNG buses at a staggering \$440,000/ton² (lifetime). There are several factors contributing to this poor cost effectivity.

School buses:

1. Experience relatively low usage, approximately 12,000 mi/year on average³.
2. Experience relatively low engine load factors during usage.
3. Are relatively new with an average age of about 9 years and thus have engines that are relatively lower emitting compared to other sectors.⁴

Marine, locomotive, and nonroad equipment have significantly longer service lives, higher load factors and higher usage. As a result, emission reduction solutions offered by Caterpillar for these sectors have cost effectivities that are 30x – 200x better. For nonroad repowers, there are additional commercial options available with a waiver sought under EPA's DERA (Diesel Emissions Reduction Act) program. DERA funding for state programs is available under the Mitigation Trust Fund (MTF) action 10.

¹ Order Granting the United States' Motion to Enter Proposed Consent Decree, *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices, and Products Liability Litigation*, Case No. 3:15-md-02672 (N.D. Cal., Oct. 25, 2016) ("2016 Consent Decree")

² http://www.CNGAmerica.org/wordpress/wp-content/uploads/2017/06/CNGA-One-Sheet_School-Bus.pdf

³ <http://www.americanschoolbuscouncil.org/issues/environmental-benefits> Note that NGV America uses an estimate of 15,000 mi/year for their cost effectivity calculations.

⁴ <http://files.schoolbusfleet.com/stats/SBF0317-MaintenanceSurvey.pdf>

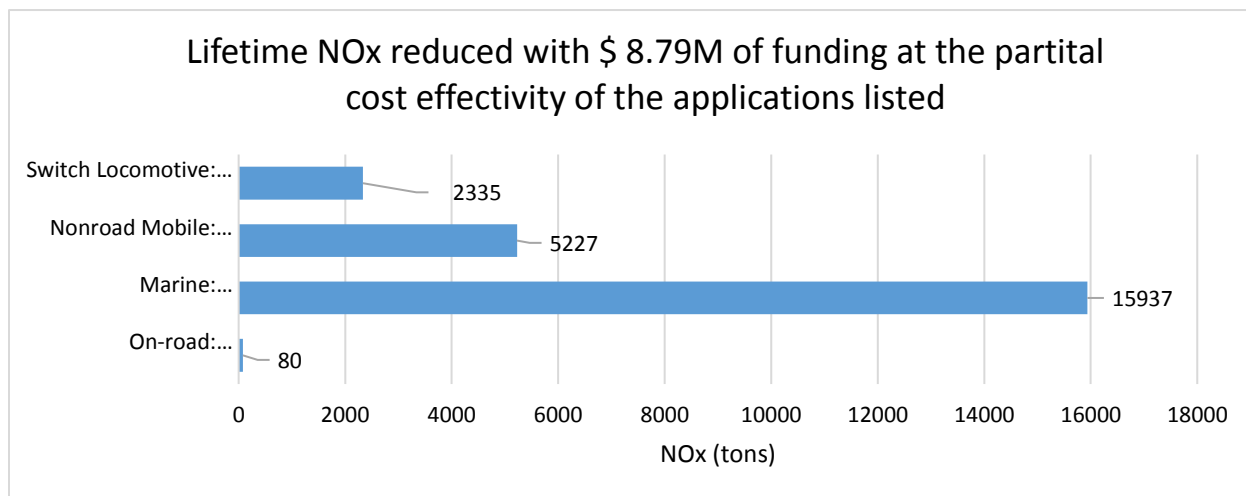


Figure 1: NOx emission reductions available with \$8.79 of MTF

Figure 1 above illustrates the difference in NOx reductions that could be achieved by applying the same amount of MTF towards reductions in different mobile sectors.

In addition to the higher cost per ton of NOx reduced, the proposed plan for electric vehicle grants may be too optimistic about the actual environmental benefits. Currently 75%⁵ of the electric generation in the state comes from the combustion of fossil fuels. Only 7% of Arkansas' electricity is renewable. While Arkansas and the nation progress slowly towards the decarbonization of the electrical grid, the current sources of renewable electricity generation in the state are typically fully utilized; therefore, sudden increases in additional electrical demand (such as would occur by adding more EVs) will likely be met entirely by increased fossil fuel combustion. In contrast, current diesel engines have a CO₂ and NOx footprint per kWh that is comparable or slightly better than the average combustion electrical generation source in Arkansas.

One of the intended goals of the 2016 Consent Decree was to mitigate the total, lifetime excess NOx emissions from the Subject Vehicles to the 2016 Consent Decree. Accordingly, we recommend that ADEQ focus on targeting the maximum NOx reductions that can be achieved with the options available today to achieve that mitigation goal, rather than seeding technology to further a particular industry which will not result in immediate and/or significant emissions benefit.

⁵ U.S. Energy Information Administration, Arkansas July 2017 Electric Generation Profile:
<https://www.eia.gov/state/?sid=AR>

Comment 2: ADEQ’s proposed plan invests a disproportionately small amount of its allocated Trust Fund towards Eligible Mitigation Actions in the locomotive and nonroad mobile sectors, which have been shown to have better cost effectivity for the NOx emissions reduced in line with the stated purpose of the Mitigation Trust Fund.

The Arkansas “emissions inventory” chart, Figure 2 below, is generated from data published by the EPA⁶. It shows that 44.8% of NOx emissions in Arkansas arise from the off-road sectors of marine, locomotive, and nonroad mobile sources combined. We believe these sectors are inadequately represented in ADEQ’s proposed plan and should be proportionally addressed by the Mitigation Trust Funds. The proposal makes no allocation of its MTF to off-road sources. As noted before, however, far greater reductions in NOx emissions can be realized through Eligible Mitigation Actions in these sectors.

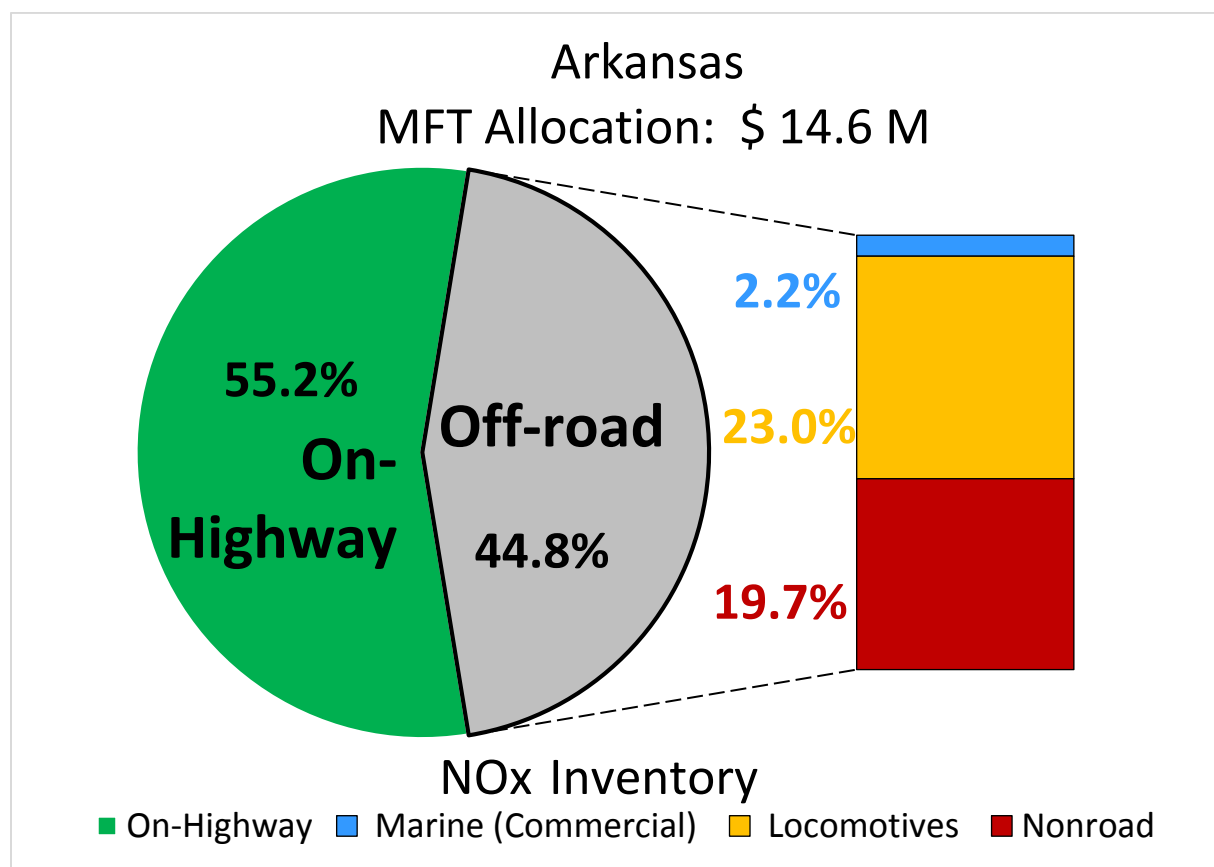


Figure 2: Arkansas Mobile NOx sources

While we recognize that Arkansas does not have to allocate funds proportionally, we believe that ADEQ is not adequately addressing potential NOx reductions from the marine, locomotive and nonroad mobile emissions sectors in its current proposed mitigation plan. These sectors represent a significant portion of the emissions in Arkansas, and Eligible Mitigation Actions in these sectors have the potential to help Arkansas realize greater NOx reductions compared to other Eligible Mitigation Actions.

⁶ USEPA National Emissions Inventory 2014;
<https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>

As noted in the ADEQ proposal, all counties in Arkansas are in attainment with NAAQS for all criterial pollutants and ADEQ has indicated priorities with areas that historically have NAAQS attainment issues and those areas that *receive a disproportionate quantity of NOx emissions*. ADEQ subsequently identified the Pulaski, Benton, and Washington counties of having the highest on-road NOx emissions and also the highest number of VW vehicles that are involved in the consent decree. Caterpillar's emission solutions are more cost effective and reduce far more annual tons of NOx than ADEQ's proposed CNG school bus replacement plan. Figure 3 below provides a comparison of NOx reduction cost effectivity between some key products that Caterpillar can offer in these Arkansas counties.

Lifetime NOx reduced with \$ 8.79M of funding and the partital cost effectivity of the applications listed

	Cost	VW MTF Funding	Partial MTF Cost	NOx Reduced	Service Life*	Lifetime NOx	Total Cost Effectivity	Partial Cost Effectivity	Proposed Qty **	Total Cost	Partial MTF Cost	NOx Reduced	Lifetime NOx
Arkansas ADEQ Proposal	per unit	percent	per unit	tons/year	years	tons	\$/ton	\$/ton	units	all units	all units	tons/year	tons
On-road: CNG School Bus	\$ 148,000	25%	\$ 37,000	0.067	5	0.34	\$ 441,133	\$ 110,283	237.53	\$ 35.15 M	\$ 8.79 M	16	80
Caterpillar Nonroad Repowers													
Marine: Upg Kits 16cyl 645FB 1042+	\$ 475,000	40%	\$ 190,000	14.98	23	344.54	\$ 1,379	\$ 551	46.3	\$ 21.97 M	\$ 8.79 M	693	15937
Nonroad Mobile: CAT 966 Loader, UR -> Tier 4 Interim	\$ 118,000	40%	\$ 47,200	2.807	10	28.07	\$ 4,204	\$ 1,682	186.2	\$ 21.97 M	\$ 8.79 M	523	5227
Switch Locomotive: EMD24 remanufacture, UR->Tier 4	\$ 2,600,000	40%	\$ 1,040,000	13.813	20	276.26	\$ 9,411	\$ 3,765	8.5	\$ 21.97 M	\$ 8.79 M	117	2335

* Quantities are for cost comparison purposes. Arkansas may not have the listed quantity of units within the state.

** Service life for a school bus is approximately 16 years, however, since school buses within 5 years of retirement are more likely to be replaced, the emissions benefit is calculated over those 5 years.

Figure 3: Cost Effectivity Comparison

Total Cost Effectivity is the total cost of the retrofit, repower, or replacement, divided by the lifetime NOx reduction.

Partial Cost Effectivity is the funded portion of retrofit, repower, or replacement, divided by the lifetime NOx reduction.

The ADEQ proposal includes \$8.79M to be used to purchase CNG school buses (first row of data above). This type of investment would yield 80 tons/year reduction of NOx at 25% partial funding. On the other hand, the listed off-road NOx reductions options could yield up to 200x more reduction in NOx for the same amount of money spent. This difference is due to the significantly better partial cost effectivity of the off-road options as shown in the yellow column above. Although not a mandate of the MTF, the off-road reductions listed above also result in significant PM reductions.

Comment 3: ADEQ should consider increasing its proposed allocation for funding of emission reductions for marine vessels, switcher locomotives, and nonroad equipment in the top NOx counties (i.e. figure B-2 in the ADEQ draft proposal), as these Eligible Mitigation Actions provide the most cost-effective NOx reductions and would benefit the urban areas in Arkansas most impacted by the VW, Audi and Porsche vehicles.

Of the Trust Fund's list of Eligible Mitigation Actions, repowers and upgrade kits for marine vessels, switcher locomotives and nonroad equipment provide the most cost-effective NOx reductions for Arkansas. The following are just some examples of Eligible Mitigation Actions in these areas.

Switch Locomotives

Arkansas has approximately 27 switcher locomotives in the State that have various reduction options available under the Eligible Mitigation Actions of Appendix D-2, section (3)(d)(1).



Remanufacture Switch Locomotive EMD24 to Tier 4

Total cost effectivity: \$ 9,411/Ton NOx
Partial cost effectivity: \$ 3,765/Ton NOx

Nonroad Mobile Machines

Caterpillar has been developing and providing retrofits to reduce emissions from older equipment since 2004. We have engineered 31 machine solutions that upgrade nonroad machines to Tiers 2, 3, and 4. Mitigation Trust Fund Appendix D-2, option 10, allows States to fund retrofit programs through EPA's Diesel Emissions Reduction Act (DERA). Options that replace only the engine rather than the entire machine achieve better cost effectivity while significantly lowering the emissions of the engine/machine.

The following machines shown below with unregulated engines can be repowered to Tier 4, however, within the State, 31 machine solutions from Caterpillar could be applied hundreds of machines under the DERA program, if a waiver is granted.

We recommend Arkansas apply for an EPA waiver to allow machines to be repowered to Tier 3 in addition to Tier 4. While upgrades to Tier 4 seem optimal, due to the differences in technologies utilized between Tier 3 and Tier 4, there are many more options available for Tier 3 repowers and they provide better cost effectivity as well.

Nonroad Repowers – Upgrading from unregulated to Tier 4



657 Scraper, unregulated to Tier 4 (dual engine)

Tractor cost effectivity:

Total cost effectivity: \$ 1,154/Ton NOx

Partial cost effectivity: \$ 462/Ton NOx

Scraper cost effectivity:

Total cost effectivity: \$ 1,640/Ton NOx

Partial cost effectivity: \$ 656/Ton NOx



966 Loader, Unregulated to Tier 4

Total cost effectivity: \$ 4,204/Ton NOx

Partial cost effectivity: \$ 1,682/Ton NOx

Marine Tugs

Caterpillar has a very large selection of emission reduction solutions for marine under Eligible Mitigation Actions of Appendix D-2, section (4)(d)(1). Marine repowers have the best cost effectivity due to their high rate of use. Arkansas is less affected by seasonal issues therefore tugs can run all year.



EMD 645FB 1042+ upgrade kit w/ NOx reduction

Total cost effectivity: \$ 1,379/Ton NOx

Partial cost effectivity: \$ 551/Ton NOx

Closing Remarks

Large engines used in locomotive, marine, and nonroad mobile equipment, are often an “invisible fleet”. Buses and trucks receive higher visibility for funding replacement and retrofits, since they are seen and used daily by the public. Trucks are the starting and end points of a transportation chain that frequently involve locomotive and marine in the middle. But despite a lower visibility for replacement and retrofits, marine, locomotive, and nonroad equipment frequently have long service lives, up to 40 years for some applications. There is equipment running in this invisible fleet that is over 50 years old. In contrast, school buses typically have a service life of 16 years and public buses typically have a service life of 12 years. Without incentivizing the replacement or retrofit of engines in this invisible fleet, owners and operators will continue to overhaul the equipment to the same unregulated status for future decades. This is an important sector that makes up almost half of Arkansas’ Mobile Source NOx emissions.

Based on these facts, to significantly improve the NOx reductions in the state, Caterpillar recommends ADEQ reconsider the proposed allocation of funds from the VW Mitigation Trust Fund. This can be achieved through increased allocation to Options 10 (DERA), Option 3 (Freight Switchers), and Option 4 (Ferries/Tugs). The significantly better cost effectivity of the solutions available under these type of emission solutions justifies a significant allocation to these off-road sectors. This kind of investment will yield the best payback to the state, improve air quality, and help Arkansas provide improved air quality in the near term.

Caterpillar appreciates the opportunity to offer our comments on Arkansas’ proposed Beneficiary Mitigation Plan for the Volkswagen, Audi, and Porsche Clean Air Act Settlement Funds, and looks forward to receiving Arkansas’ response on our comments. Caterpillar and its dealers are ready to accomplish these replacements and emission retrofits. We look forward to the opportunity to discuss these and more options with ADEQ.

Sincerely,



Rey Agama
Global Regulatory Affairs Manager
Caterpillar Inc.

JRA:gl



Submitted via email to treecep@adeq.state.ar.us

November 1, 2017

Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

Re: Using Volkswagen settlement funds for cost-effective corridor-based NOX reductions

Dear Ms. Treece,

The U.S. Department of Justice has finalized partial settlements with Volkswagen, which will result in Arkansas receiving approximately \$14.6 million in funding that must be used to implement projects that reduce smog-forming nitrogen oxide ("NOx") emissions. This represents a tremendous opportunity to accelerate the clean-up of older, dirtier diesel buses in Arkansas, especially in communities that have been disproportionately burdened by these vehicles.

As the Director of School Bus Sales of Central States Bus Sales (CSBS), Inc., I write to thank the Department of Environmental Quality for its efforts in developing a Beneficiary Mitigation Plan and the opportunity to recommend that it implement programs that increase the use of propane school buses because they offer a cost-effective strategy to reduce NOx emissions and improve public health. Specifically, we request that the state also include propane as an eligible fuel type under the proposed CNG School Bus Pilot Program.

CSBS pledges to support your efforts, with the assistance of our partnership with ROUSH and a national network of Blue Bird dealerships, including Central State Bus Sales of Arkansas, that have helped deploy over 10,000 propane-fueled buses in more than 750 school districts nationwide.

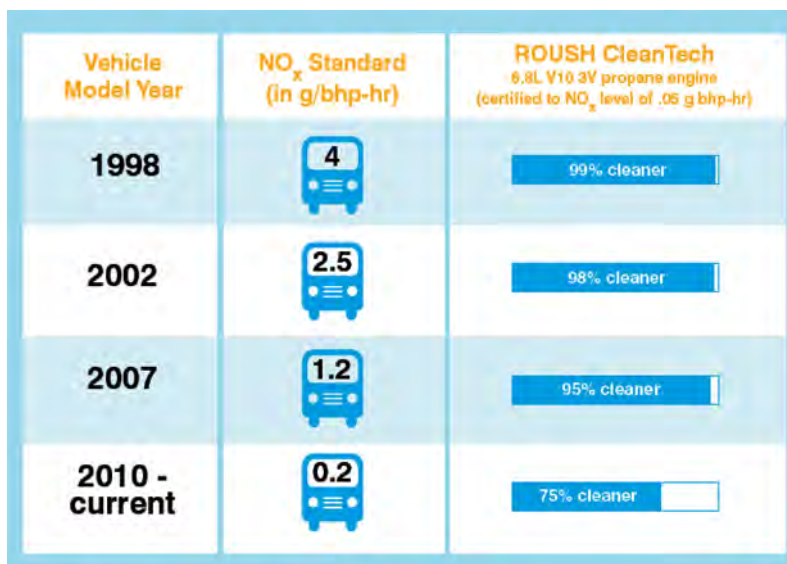
Based on our most recent conversation, we have provided information on a number of different key points, including corridors, NOx emission reduction potential, and economic development impacts. We look forward to continued dialogue with you and your team, and to a future collaboration that will help Arkansas meet its air quality goals.

Expanding Arkansas' Proposed School Bus Pilot Program Will More Effectively Achieve NOx Reduction Goals

We applaud the Arkansas Department of Environmental Quality's (ADEQ) focus on alternative fuel vehicles and infrastructure to achieve and sustain significant NOx reductions. Additionally, the focus on a school bus pilot program is a smart investment for the state of Arkansas. Over 5,000 school buses transport 250,000 children to and from school in Arkansas. Many of these are pre-2007 school buses, which are 6 times or 95% dirtier than 2010 or newer school buses. However, we find that the state's limiting of eligibility to only CNG school buses reduces the amount of cost-effective NOx reductions it could achieve.

Propane-fueled school buses exist today that are much cleaner than even the cleanest diesel school buses. In fact, ROUSH's model year 2017 propane school buses recently received its California Air Resources Board certification at 0.05 grams NO_x per brake horsepower-hour (g/bhp-hr).¹ This new propane engine is 75 percent cleaner than today's cleanest diesel engines that are compliant with the model year 2010 standard of 0.2 g NO_x / bhp-hr. What's more, our new propane buses will be 99 percent cleaner than the oldest, pre-2007 model year buses still operating in many school districts today.²

Figure 1: Nitrogen Oxide Standard for the Roush CleanTech low NO_x engine as compared to the EPA emissions standards dating back to 1998.



We understand the need for investment in CNG vehicles and infrastructure in order to jump-start the market. However, we request ADEQ expand the eligibility of the proposed pilot program to include propane school buses. Propane school buses often have improved cost-effectiveness versus CNG due to its lower incremental vehicle cost, lower infrastructure costs, and no required upgrades to maintenance facilities.

As evidence of this, we used the 2016 version of AFLEET, developed by Argonne National Laboratory, to model NO_x reductions and cost effectiveness. Our analysis compares the replacement of a model year 2007 diesel school bus with new diesel, propane, CNG or electric school buses. It is clear that propane is the most cost-effective option at reducing NO_x emissions.

¹ "Executive Order A-344-0074". California Environmental Protection Agency, Air Resources Board, May 15, 2017. https://www.arb.ca.gov/msprog/onroad/cert/mdehdehdv/2017/roush_hdoe_a3440074_6d8_0d05_lpg.pdf.

² For model year 1998 to 2003 diesel engines, EPA established a NO_x emission standard of 4.0 g NO_x / bhp-hr. Please refer to EPA's [summary table](#) of diesel engine exhaust emission standards for further detail.

Figure 2: Propane school buses are shown to be 33% more cost-effective vs diesel and 28% more cost-effective than CNG school buses.

Standard Argonne AFLEET Emissions Outputs				
Fuel	Purchase Price	NOx Reduced	\$/lb	Cost Effectiveness vs. Propane
Propane	\$ 93,000	537.0	\$ 173	
Diesel	\$ 85,000	330.5	\$ 257	-33%
Electric	\$ 350,000	593.4	\$ 590	-71%
CNG	\$ 125,000	518.3	\$ 241	-28%

In sum, we request ADEQ open up the alternative fuel grant program to include propane vehicles as a priority in addition to CNG and electric. We also request that when reviewing applications that ADEQ prioritize actions that achieve the best cost effectiveness and are sustainable beyond the states investment. It is important that the alternative fuel program is able to continue after grant funding is depleted.

Propane is a Key Economic Driver for Arkansas

Arkansas' propane market is a source of economic growth across a variety of industries, including production, transportation, storage, wholesale, and retail. In 2012, the propane market contributed over 600 jobs and \$270 million in the state's gross domestic product (GDP).³ Specific to labor, the propane market supplied nearly \$24 million in direct labor income to Arkansas workers. We have provided a detailed analysis of the Arkansas market in the attached Appendix A – Arkansas Propane Market Analysis.

Specific to propane vehicles, ADEQ's focus on a statewide alternative fuel grant program is a smart investment as it will provide school districts, counties, and other fleets with the support needed to begin or expand their alternative fuel vehicle programs. Other states that have provided similar grant or incentive programs have shown a measurable increase in deployment activities, and over time, many of the original fleets that took advantage no longer need grant assistance to justify alternative fuel vehicle growth in their fleet.

As stated above, if ADEQ would expand eligibility to include propane, even more vehicle replacements and corresponding NOx reductions could be achieved. We have developed the following analyses that assumes that Arkansas invest 60% of its Volkswagen settlement funding in a propane school bus program. Further, it assumes that the state provided a 25% rebate per bus to the school districts. We have made these assumptions based on our experience that shows that school districts are willing to make the switch when alternative fuels are equitable or a little less than diesel. For example, propane school buses save districts over \$2,500 per year per bus in fuel and maintenance savings (national average). Also, infrastructure rarely cost a school district or the state upfront. No maintenance facility upgrades are required either. Once the initial

³ "Arkansas Propane Market". ICF International, November 2016. Please see Appendix A for additional details.

aversion to change through a lower capital cost is achieved, the district typically sees the other benefits within one year of operation.

With these assumptions, ADEQ could deploy 378 propane school buses, which is over 17% of the total pre-2009 school bus fleet operating in Arkansas currently. If the state were to limit propane solely to CNG, these funds would only be able to replace 281 CNG school buses.

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Total NOx Reduction (lbs)	203,002
Petroleum Reduction (gallons)	10,206,146

Corridor-Focused Funding Will Generate More Effective Public Health Benefits

School buses are a captive fleet in that they operate along dedicated corridors each day and repeatedly expose the same population to harmful emissions. Thus, cleaning them up by replacing with CNG or propane versions will yield air quality benefits in areas that bear a disproportionate share of the air pollution burden. Their localized operations also make the measurement of their benefits easier in that all of the emissions reductions can be attributed

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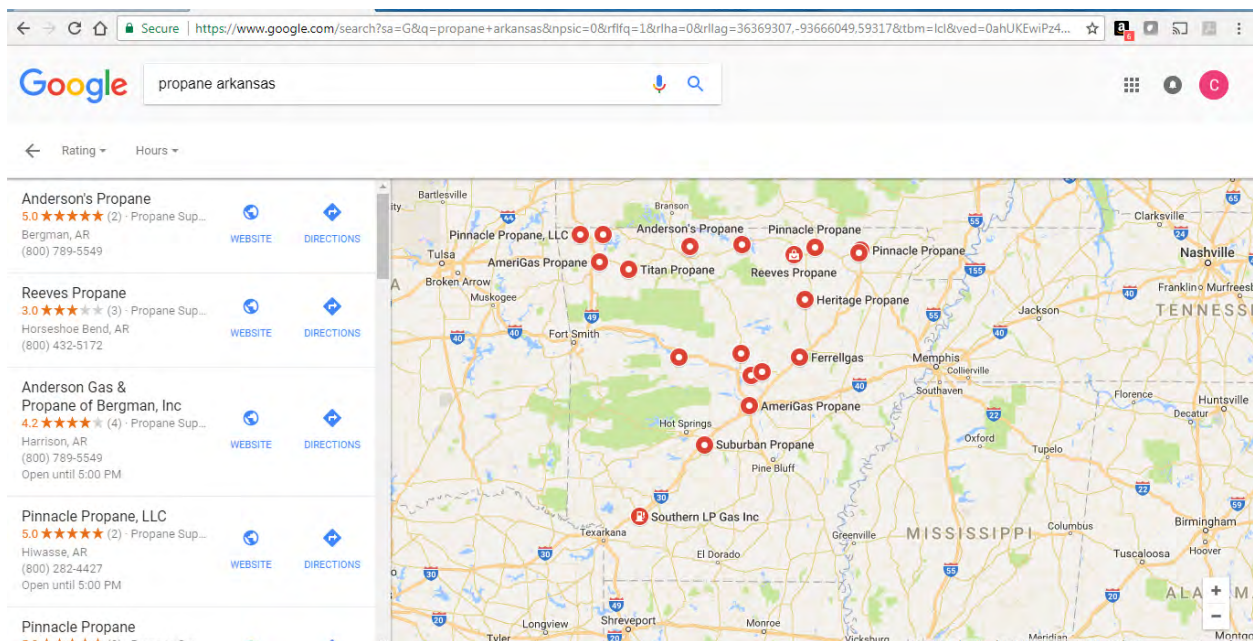
directly to these areas. Other vehicle types, such as long-haul trucks and non-road equipment, cannot claim such directly attributable benefits.

These alternative fuel school buses significantly reduce children's, operators', and the general public's exposure to emissions that are associated with pre-2007 diesel buses, including increased asthma emergencies, bronchitis, and school absenteeism, especially among asthmatic children. CNG and propane school buses also effectively eliminate diesel particulate matter emissions that are associated with cancer and thousands of premature deaths nationwide every year. These vehicles are also a safe transportation solution because propane is non-toxic, non-carcinogenic and non-corrosive, and because their vehicle fuel tanks are 20 times more puncture-resistant than gasoline or diesel tanks.

With this corridor focus in mind, we commend Arkansas on its efforts to prioritize counties in Appendix B of its RFI. While Arkansas' proposed method of county prioritization via vehicle registrations of the offending vehicles is an important metric, we encourage the state to align with EPA's National Priority County List. Specifically, this would add Craighead, Crittenden, and Miller counties to the list of counties already identified in the RFI.

While Arkansas does not list propane fueling stations on the Alternative Fueling Station Locator developed by the Department of Energy, there are indeed retail locations across the state and specifically along certain corridors that are capable of filling vehicles. A simple google map search shows multiple locations along the I-30 corridor, shown below in *Figure 3*. The site would just need an adapter to allow for autogas vehicle refueling, which can be accomplished easily and inexpensively.

Figure 3: Simple google map search of propane retail locations in Arkansas.





Summary

We would like to work with you and your team to ensure the most cost-effective and environmentally beneficial use of Arkansas's Volkswagen Settlement Funds. We thus request a phone or in-person meeting with the most appropriate member of your staff to discuss propane's opportunities further, specifically a collaborative plan for designating propane corridors in Arkansas.

Thank you for considering our request. We look forward to continued dialogue with you and your team, and to a future collaboration that will help Arkansas meet its air quality goals.

Sincerely,

A handwritten signature in black ink that reads 'Joseph P. Wright'.

Joseph P. Wright
Director of School Bus Sales
Central States Bus Sales, Inc.
jwright@centralstatesbus.com
636-343-6050

Arkansas Propane Market

November
2016



Prepared for the Propane
Education and Research
Council

Presented by:
Michael Sloan
ICF International
9300 Lee Hwy
Fairfax, VA 22031

Overview of Arkansas Propane Markets

Economic Value of Propane in Arkansas

2012 Odorized Propane Sales Breakout

(Gallons) (% of State)

Residential	40,020,000	46.7%
Commercial	12,781,000	14.9%
Cylinder	1,736,000	2.0%
Internal Combustion	9,768,000	11.4%
Industrial	4,810,000	5.6%
Agricultural	16,567,000	19.3%

Total Arkansas Odorized Propane Demand	85,682,000	100.0%
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Total Propane-Heated Households	83,916	
Propane Share of Arkansas Home Heating		7.34%

2012 Employment

Production	17
Transportation, Storage, and Wholesale	46
Retail	564

Direct Arkansas Employment Related to Odorized Propane	627
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2012 Contribution to State Economy

(\$1,000)

Total Market Value of Odorized Propane Sold in Arkansas (\$1,000)	\$161,791
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Supply	\$2,536
Transportation, Storage, and Wholesale	\$9,522
Retail	\$70,847

Total Direct Value Added in Arkansas	\$82,905
---	-----------------

Indirect and Induced	\$187,542
----------------------	-----------

Total Odorized Propane Industry Contribution to Arkansas GDP	\$270,447
---	------------------

2012 Labor Income

(\$1,000)

Production	\$1,825
Transportation, Storage, and Wholesale	\$3,261
Retail	\$18,868

Direct Labor Income in Arkansas Odorized Propane Industry	\$23,955
--	-----------------

2012 Propane Production

(Gallons) (% of U.S. Total)

Refineries	3,122,409	0.07%
Gas Processing Plants	758,280	0.01%

Total Arkansas Propane Production	3,880,690	0.03%
--	------------------	--------------

Refineries	1,485,000	0.07%
Gas Processing Plants	361,000	0.01%

Total Allocated Arkansas Odorized Propane Production	1,846,000	0.03%
---	------------------	--------------

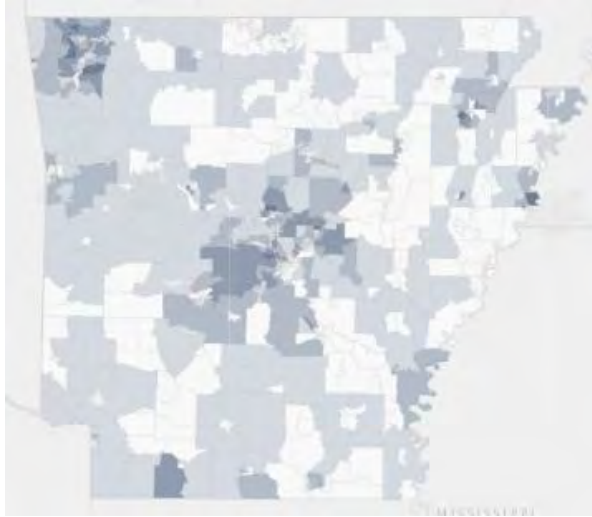
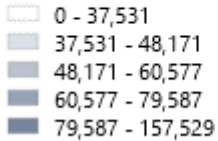
Source: ICF Impact of the U.S. Consumer Propane Industry on U.S. and State Economies in 2012

Arkansas Population and Income Metrics

Median Household Income by Census Tract (2015)

Demographics

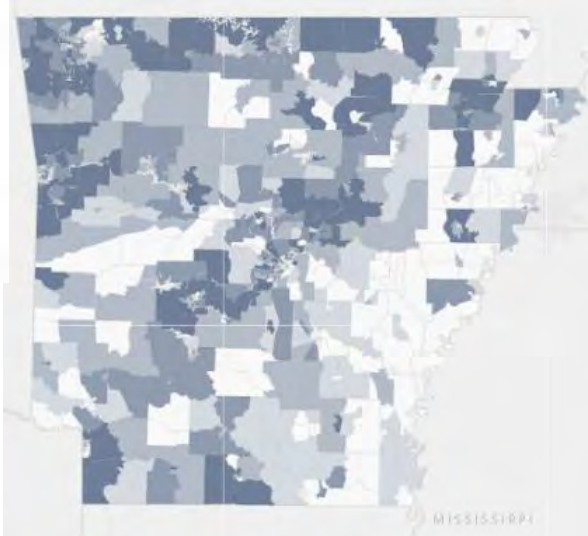
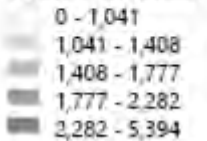
Median Household Income (\$)



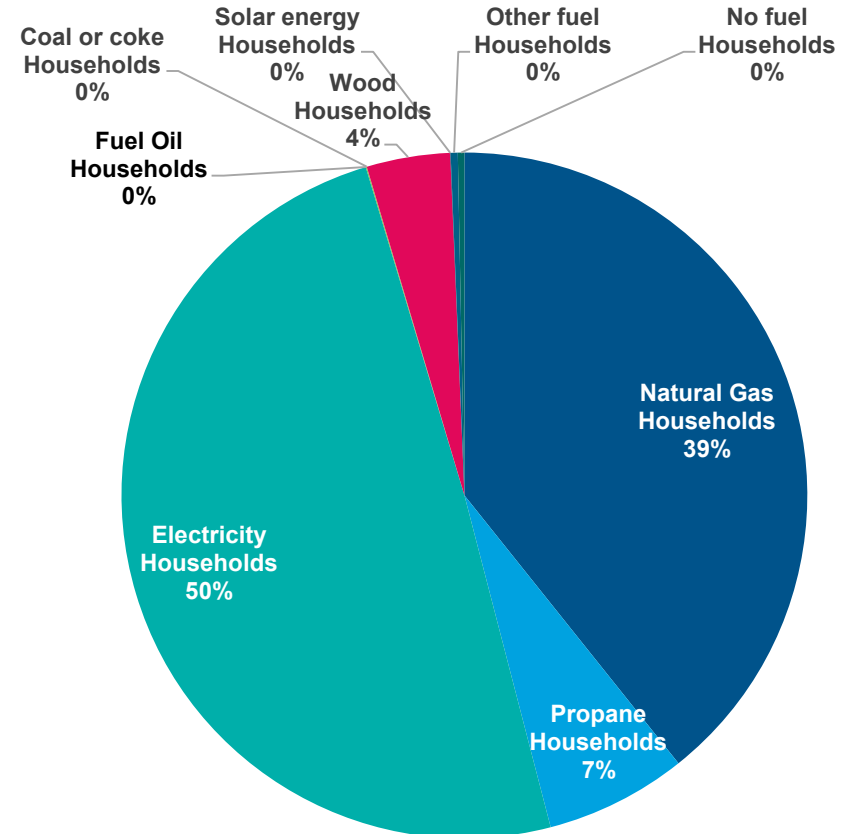
Number of Households by Census Tract (2015)

Demographics

Households (actual)



Arkansas Households by Heating Fuel

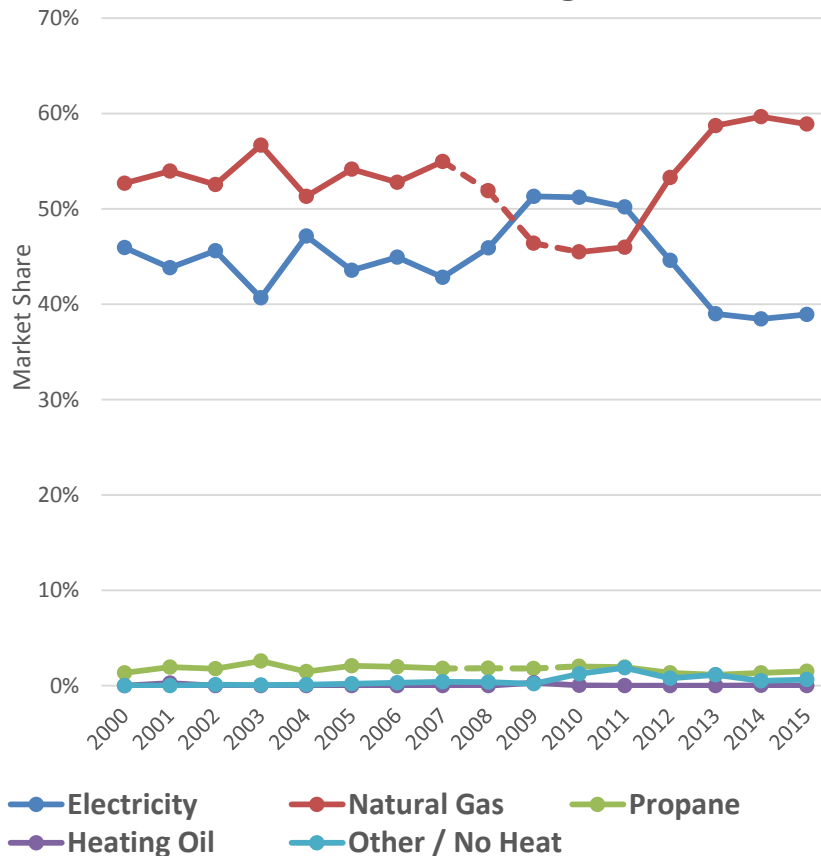


Arkansas Demographic Information

Population 2016	Population Change (%) 2017 - 2022	Households	Median HH Income (\$)	Median Income Change (%) 2017 - 2022
2,994,495	2.08	1,178,438	44,271	6.23

West South Central Region New Home Construction Trends

West South Central; Share of Fuel Sources for All New Housing Starts



**Natural Gas & Propane data for 2008 & 2009 has been estimated*

West South Central Region Housing Starts

Total Housing Starts (2014)	Propane Heated Housing Starts (2014)	Total Housing Starts (2015)	Propane Heated Housing Starts (2015)
119,876	1,528	123,642	1,796

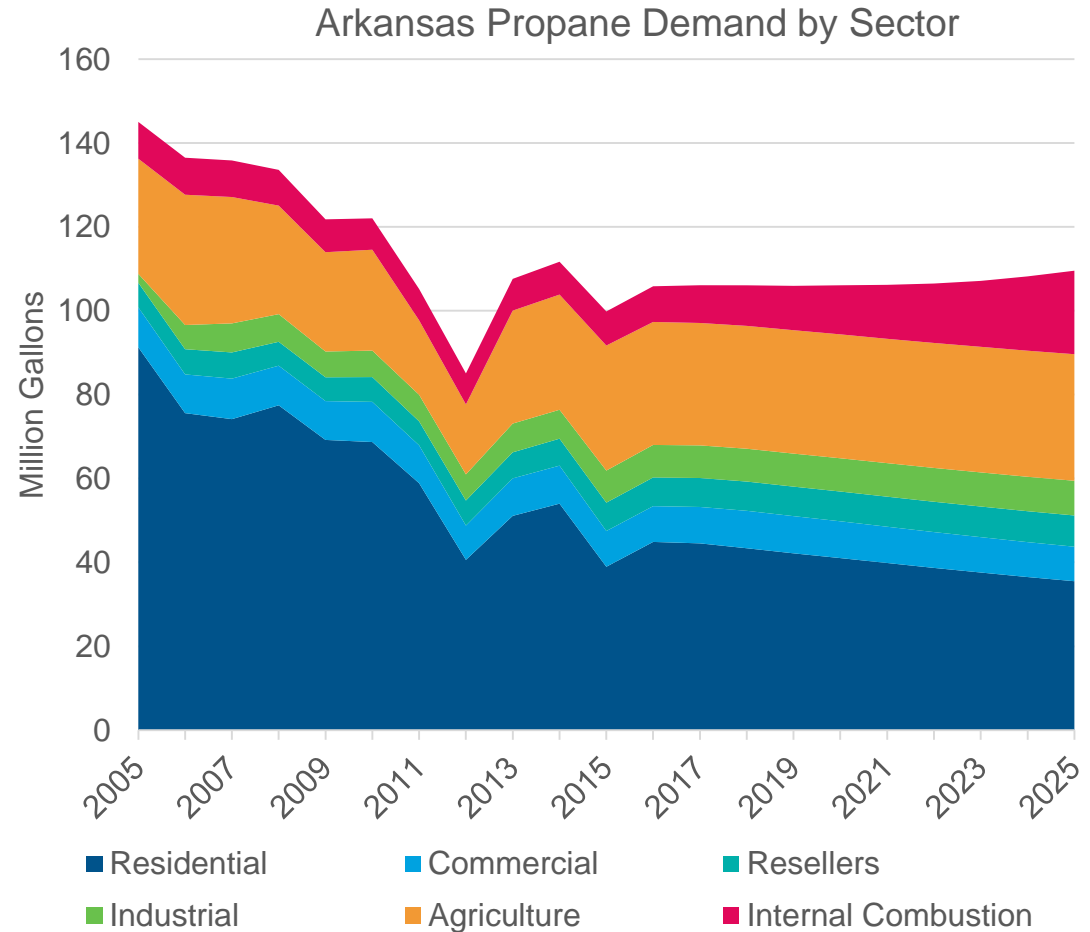
West South Central Region Housing Starts by State

State	2015 Households	2015 Propane Households	2015 New Residential Construction Permits
Arkansas	1,144,663	76,481	8,500
Louisiana	1,737,908	37,623	13,830
Oklahoma	1,465,951	95,737	11,545
Texas	9,421,412	293,458	175,443

Sources: ICF, Survey of Construction Data, American Community Survey

Arkansas Odorized Propane Demand Forecast

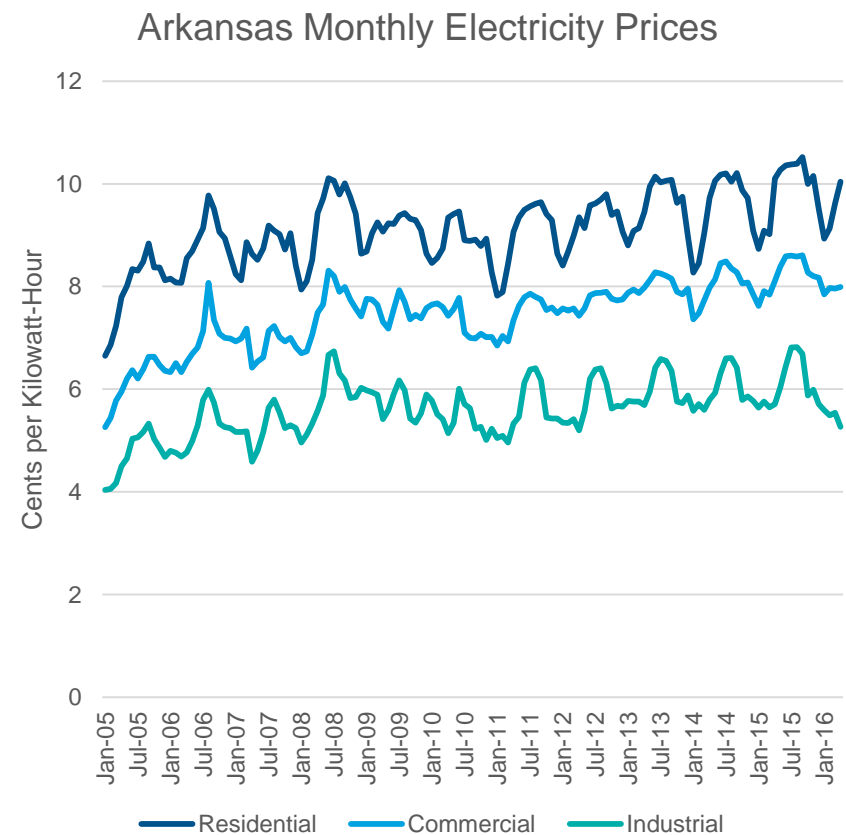
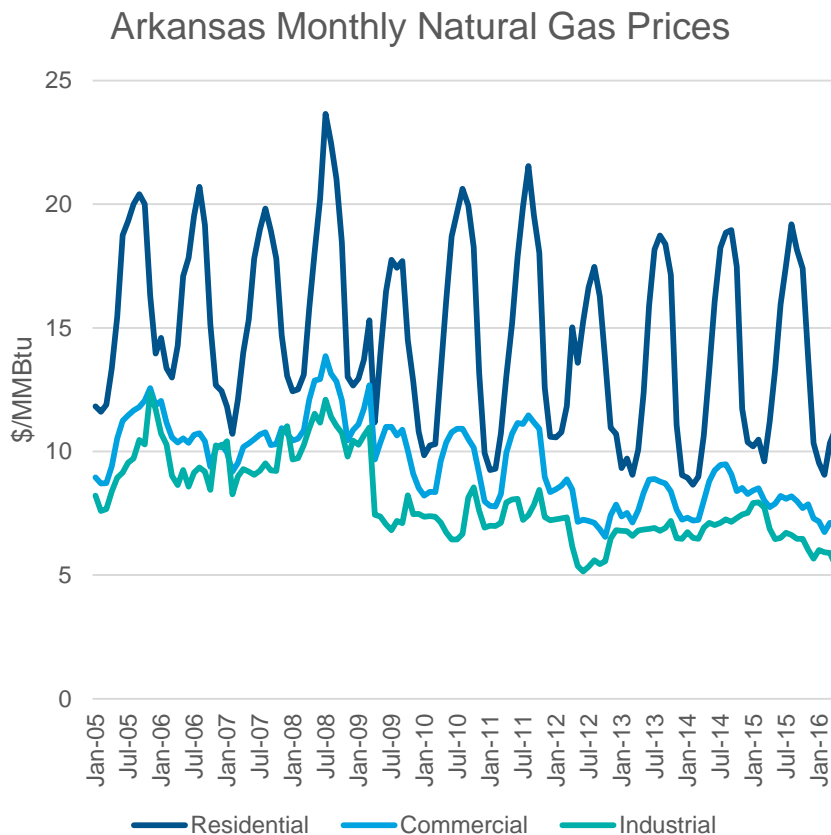
- Total propane demand in 2016 is expected to be 106 million gallons.
 - ICF forecasts propane demand to increase to 110 million gallons by 2025.
 - A 4% increase from 2015 to 2025.
- Residential propane demand is the largest sector within Arkansas and is expected to decline from 45 million gallons in 2016 to 36 million in 2025.



Source: ICF Propane Demand Forecast Model

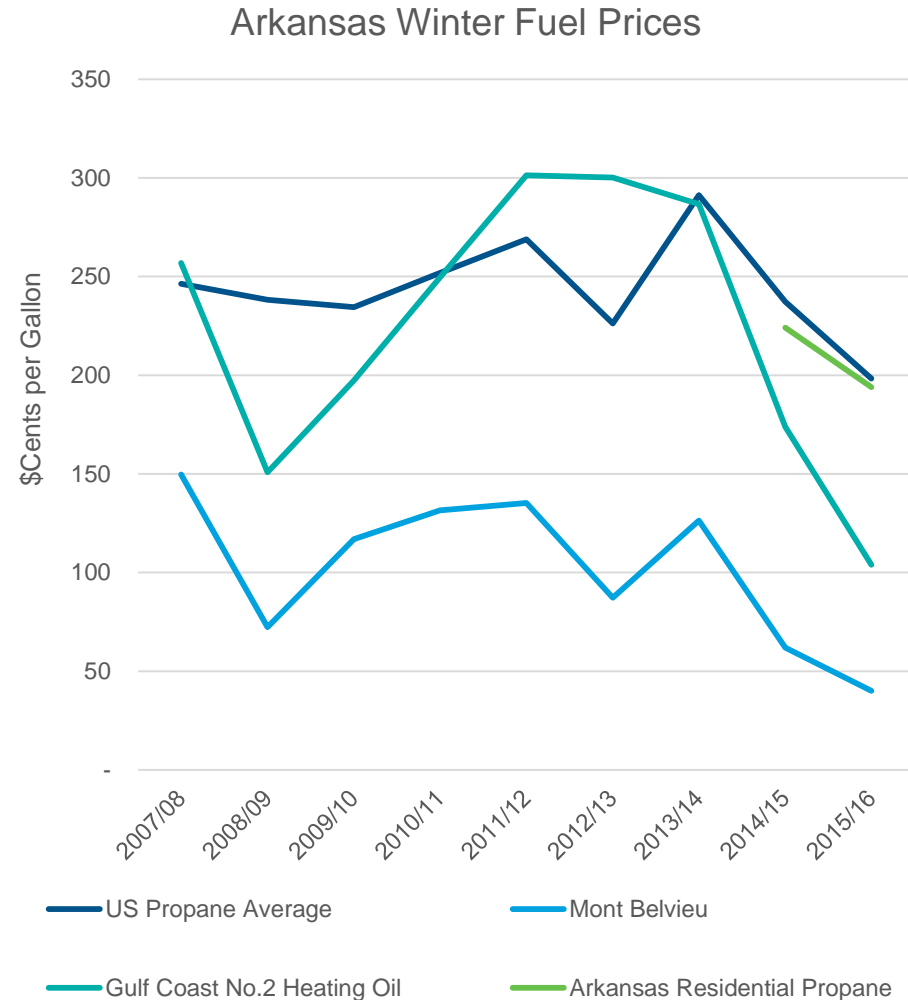
Arkansas Delivered Natural Gas and Electricity Prices

- Arkansas Residential Natural Gas prices have increased 2.7% from 2012 to 2015.
- Arkansas Electricity prices have increased 7.1% from 2012 to 2015.



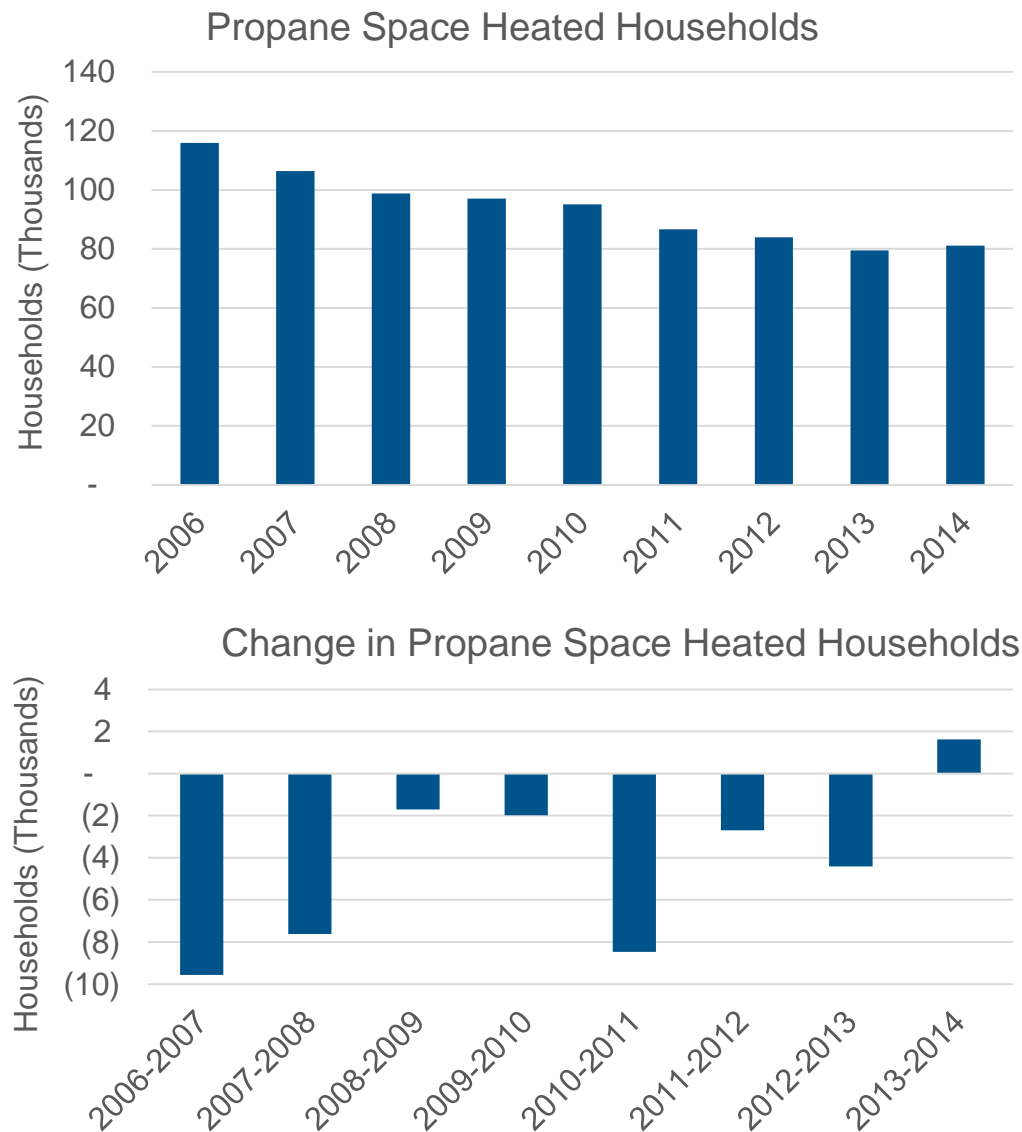
Arkansas Winter Fuel Price Comparison of Propane and Heating Oil

- Arkansas first began reporting Residential Propane prices in 2014/15.
 - Residential prices declined to 194 cents per gallon in 2015/16, a 13% decrease from the prior year.
- Over the past two years, Arkansas Residential Propane prices have averaged -9 cents per gallon below National Residential Propane prices.
 - Arkansas Residential Propane prices have been on average 158 cents per gallon above Mont Belvieu prices during the same time period.
- Arkansas does not report Residential Fuel Oil Prices.



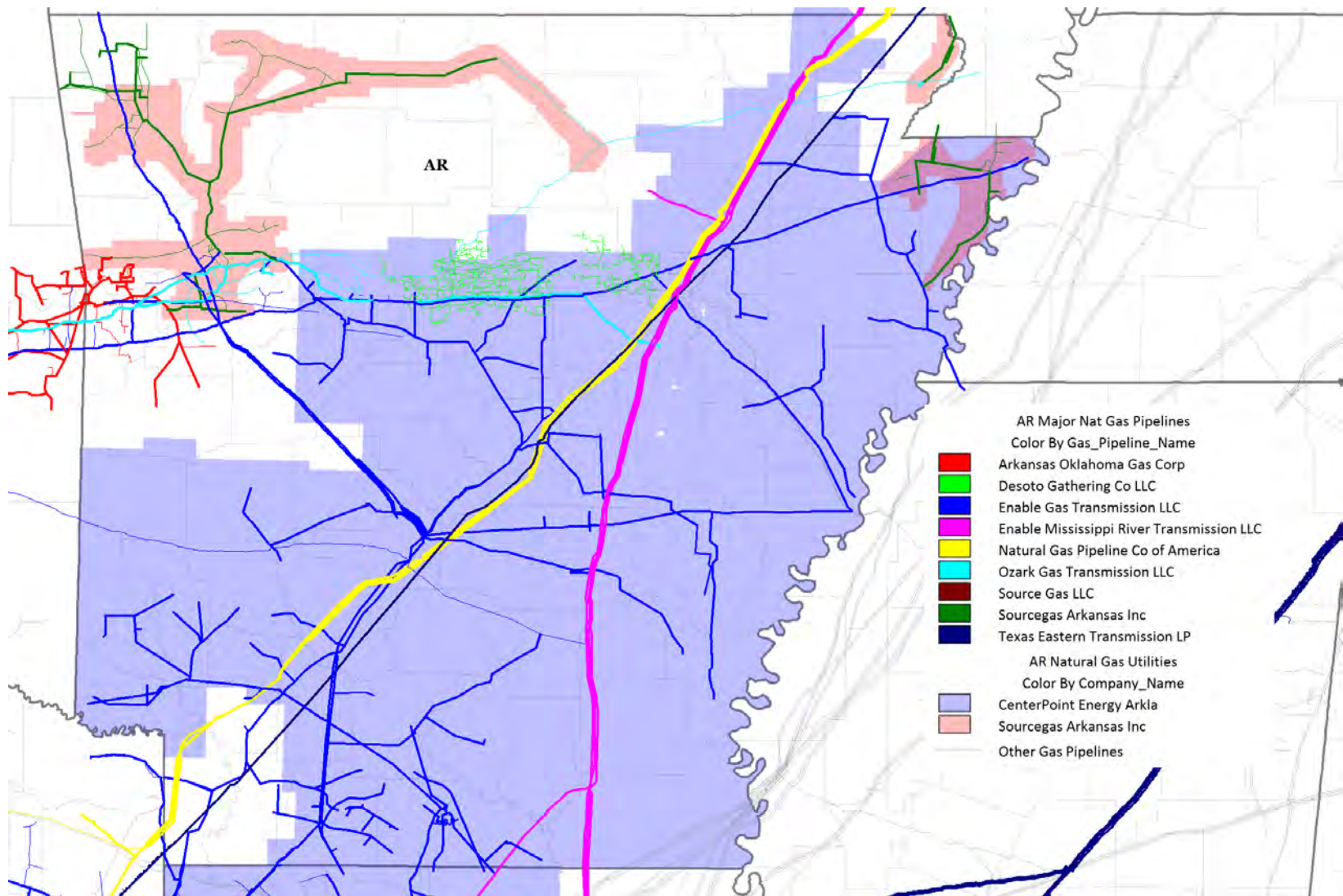
Propane Space Heating Customers in Arkansas

- Propane space heated households have been declining since 2006 when there were 115,000 households using propane.
- In 2014, there were over 81,000 households that used propane as the primary space heating fuel accounting for 7% of households.
- Electricity had a 50% share of home heating households and natural gas had a 39% share.
- ICF forecasts propane households to continue to decrease through 2025.

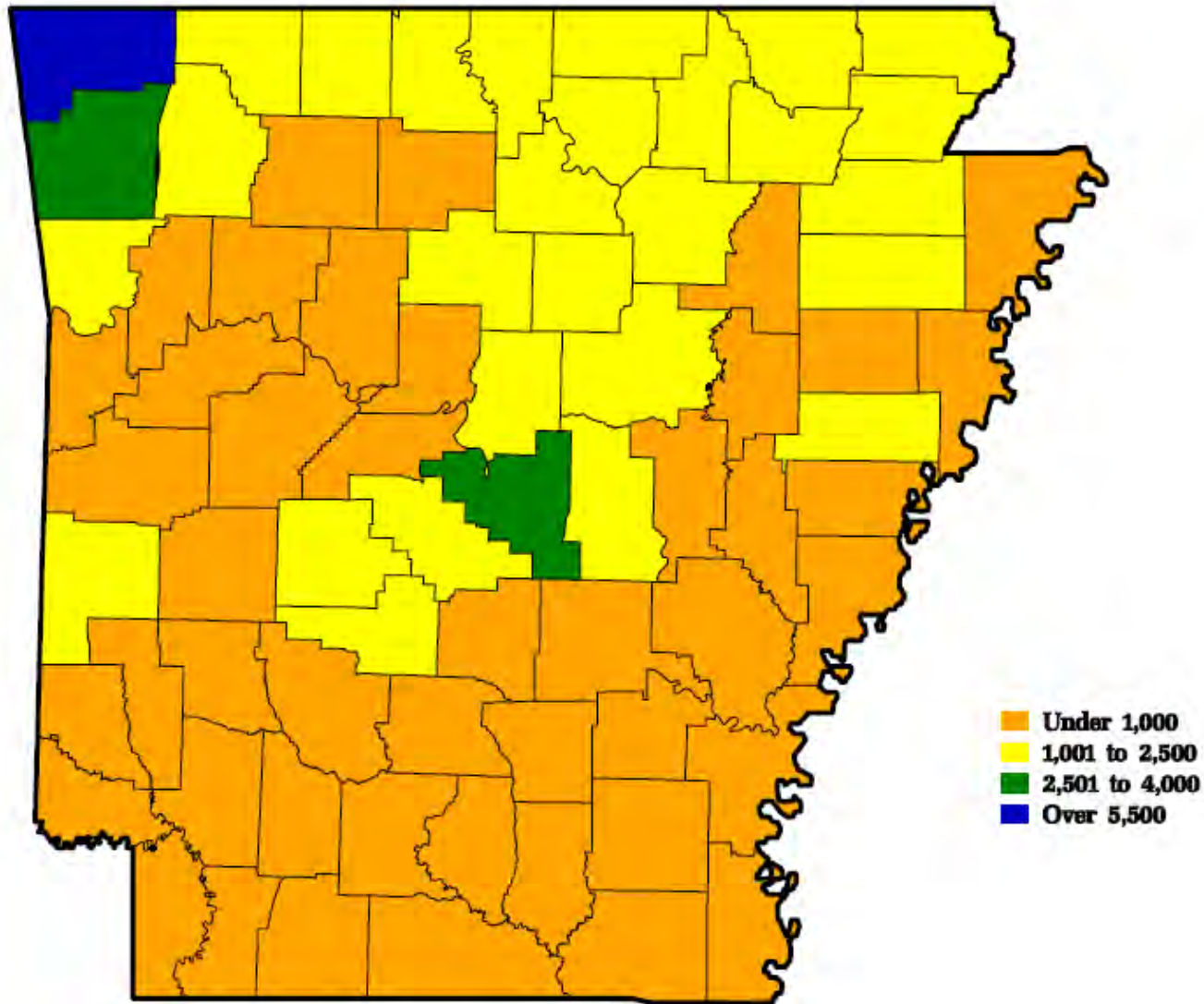


Sources: ICF, American Community Survey

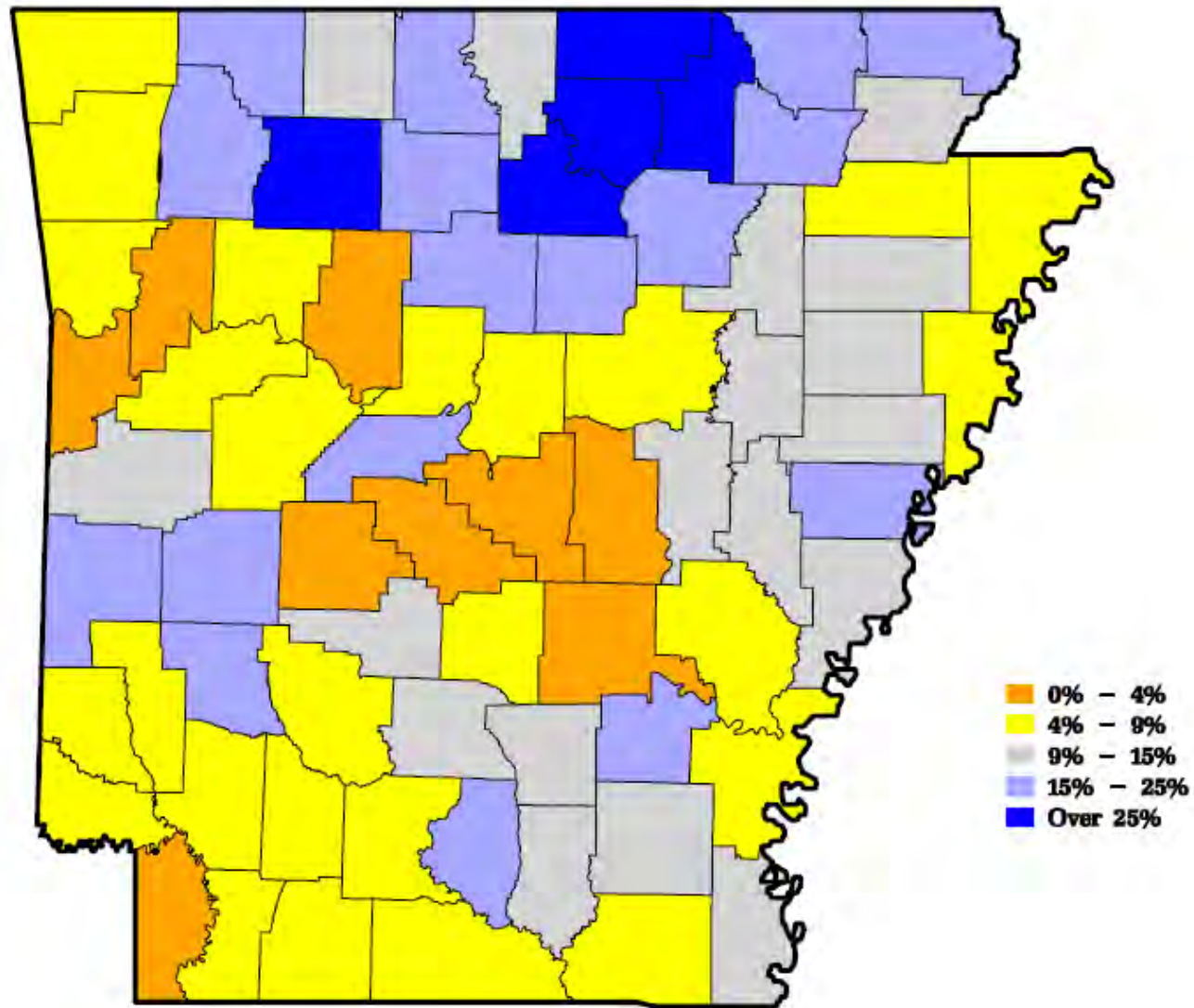
Major Natural Gas Transmission Lines in Arkansas



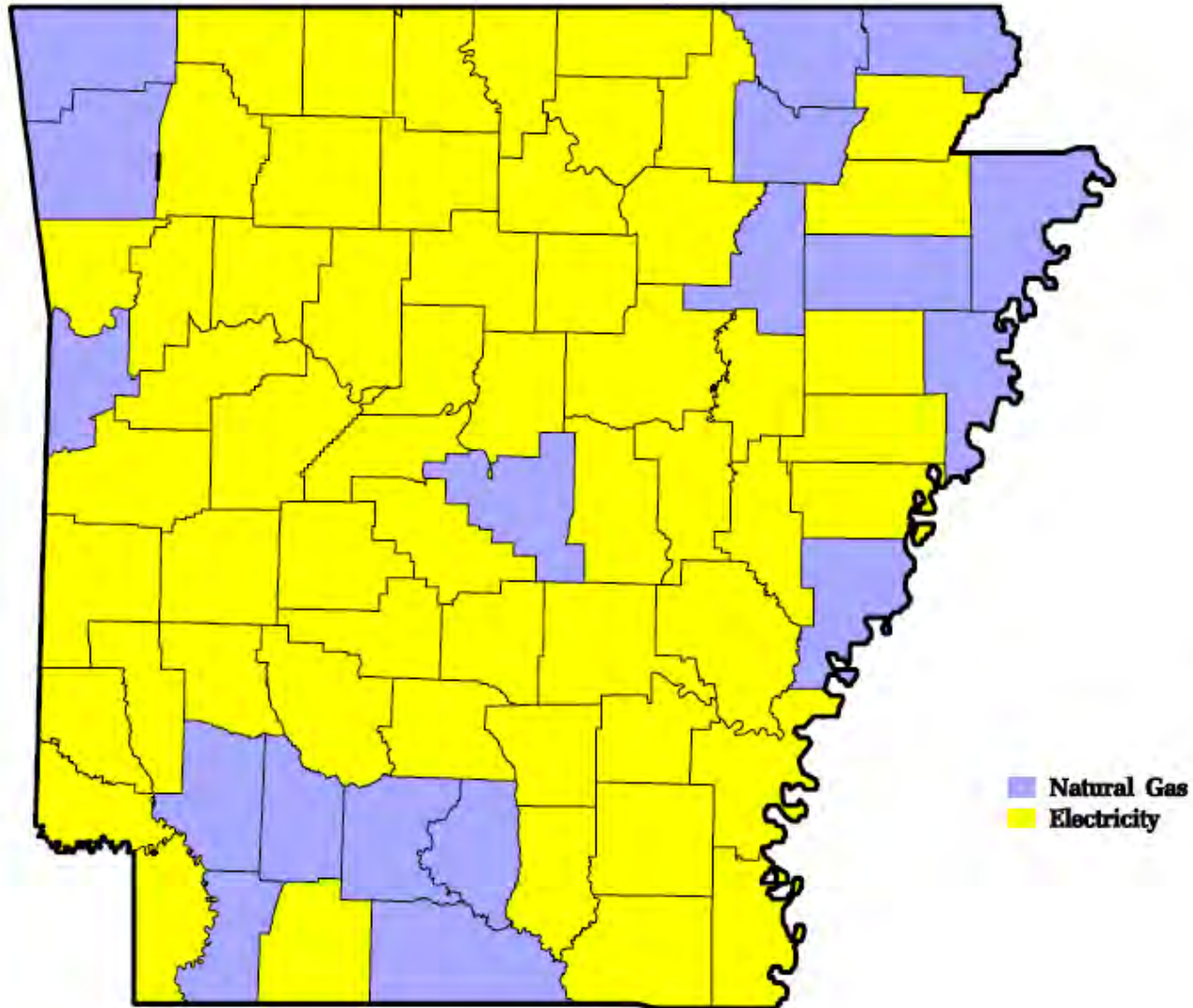
2014 Propane Space Heated Households



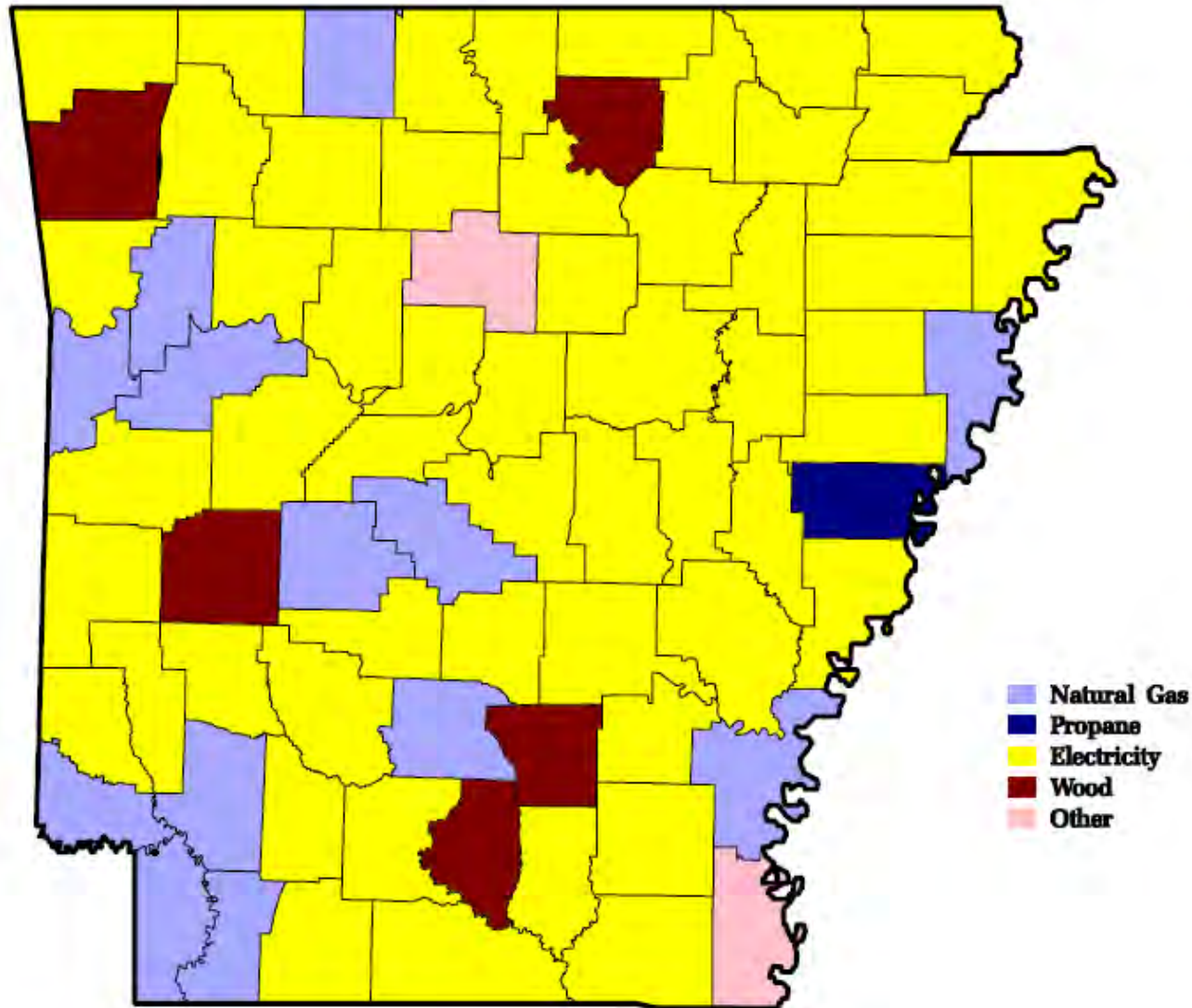
2014 Propane Market Share



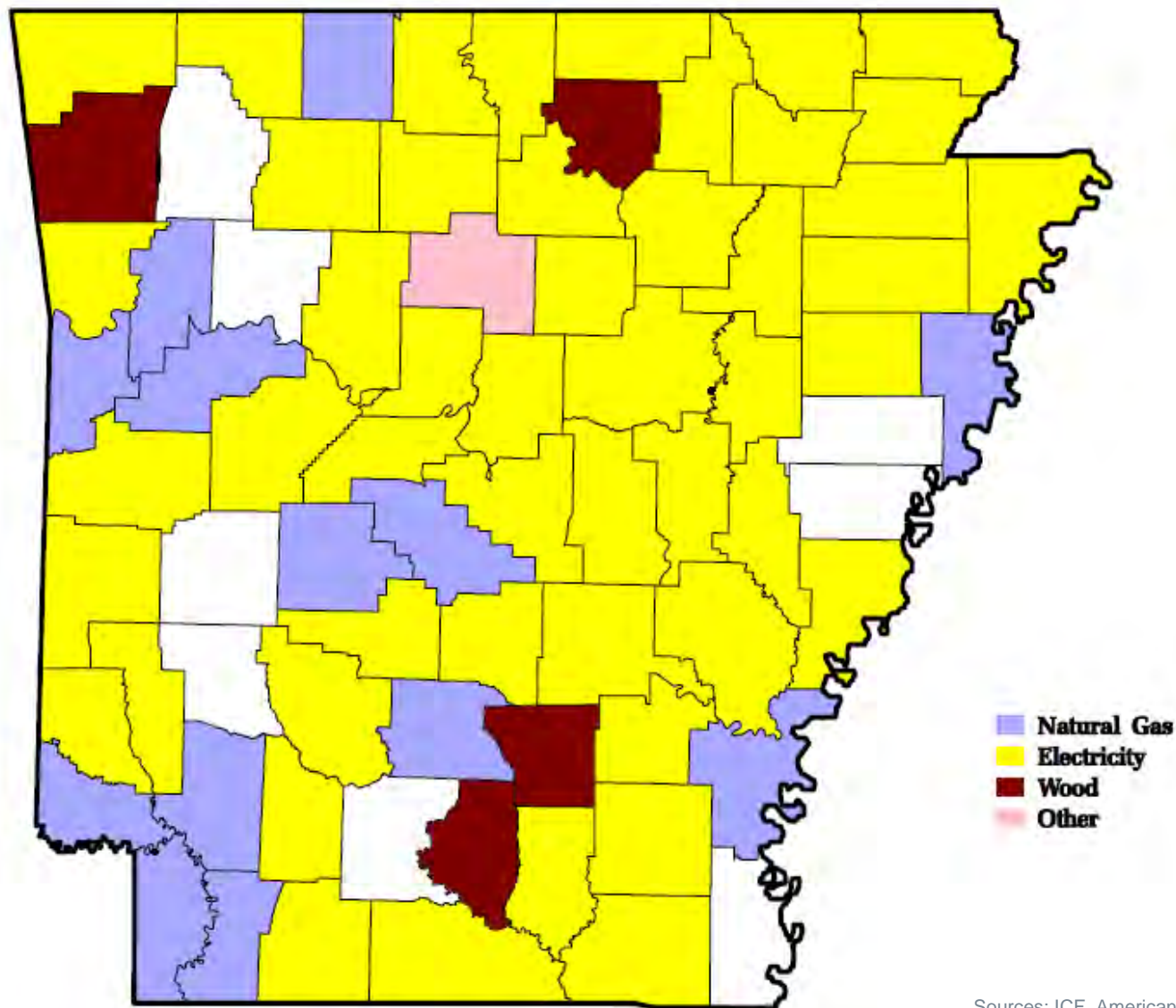
2014 Top Heating Fuel



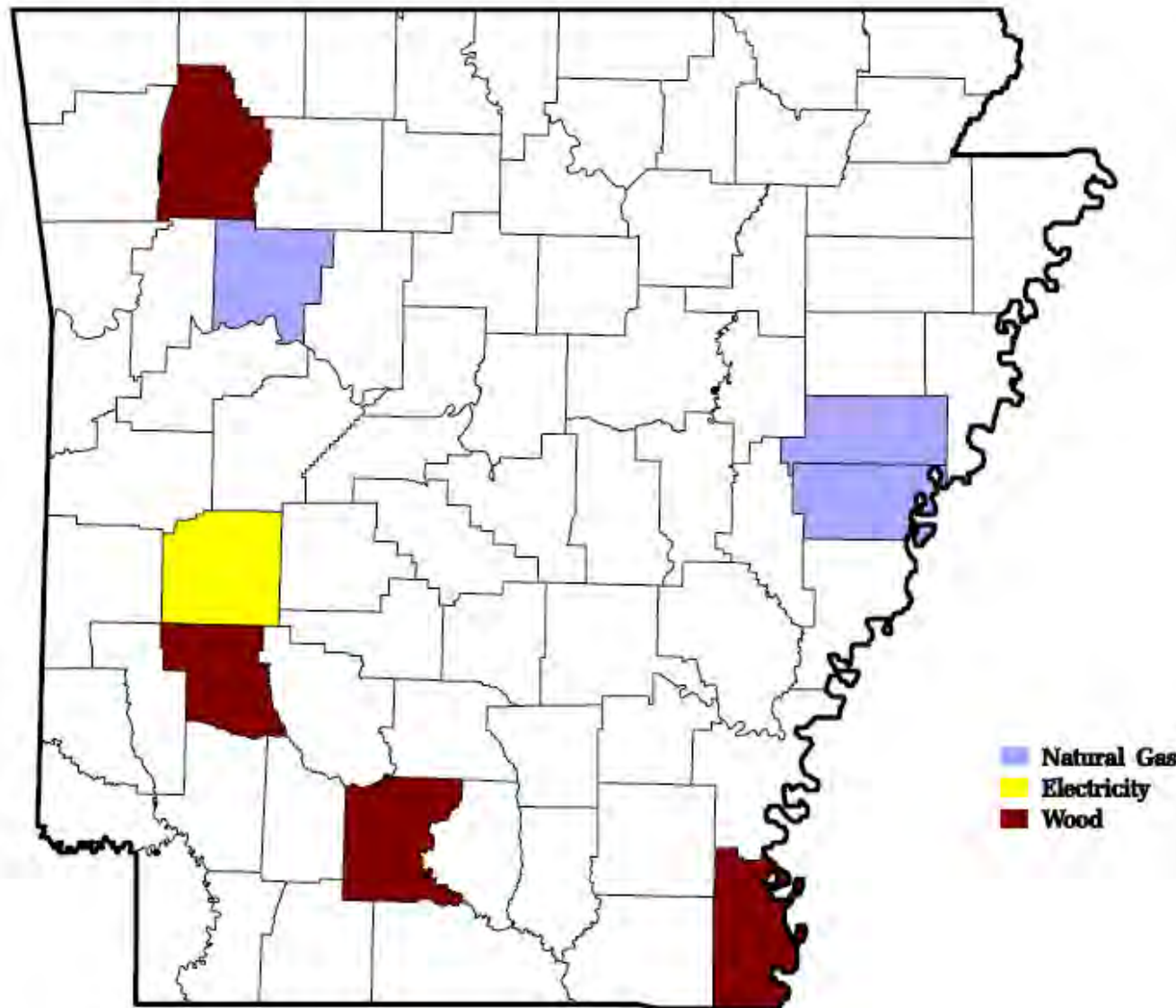
Fuel with Largest Market Share Gain between 2010 & 2014



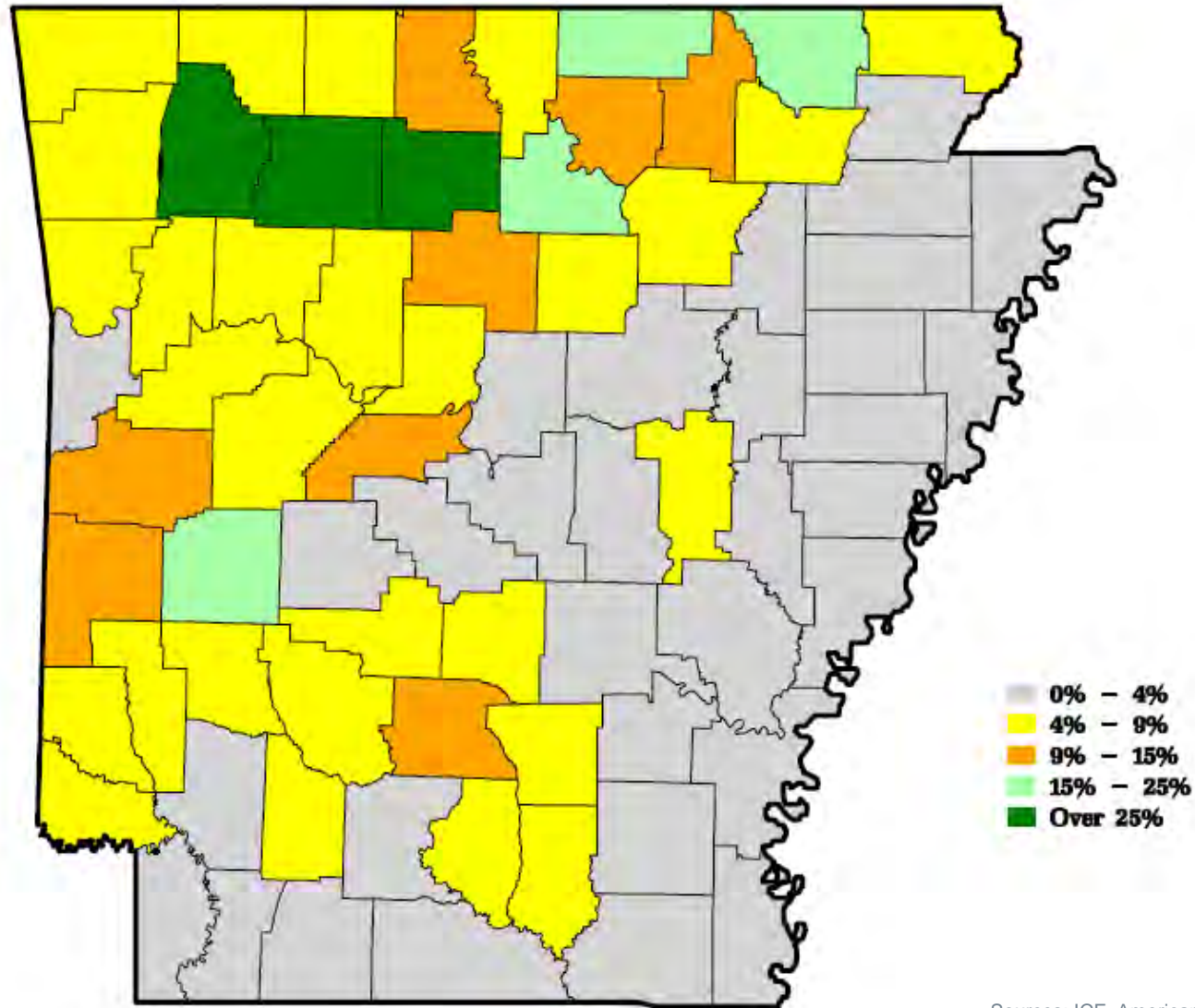
Fuel with Largest Market Share Gain where Propane Declined between 2010 & 2014



Fuel with Largest Market Share Loss where Propane Increased between 2010 & 2014



2014 Market Share of Fuel Oil + Wood



Propane Load Growth Opportunities

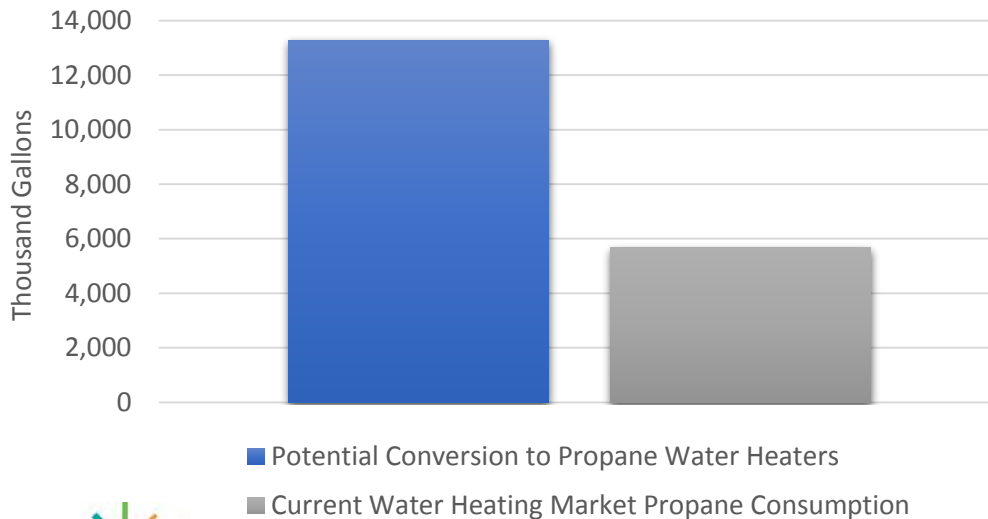
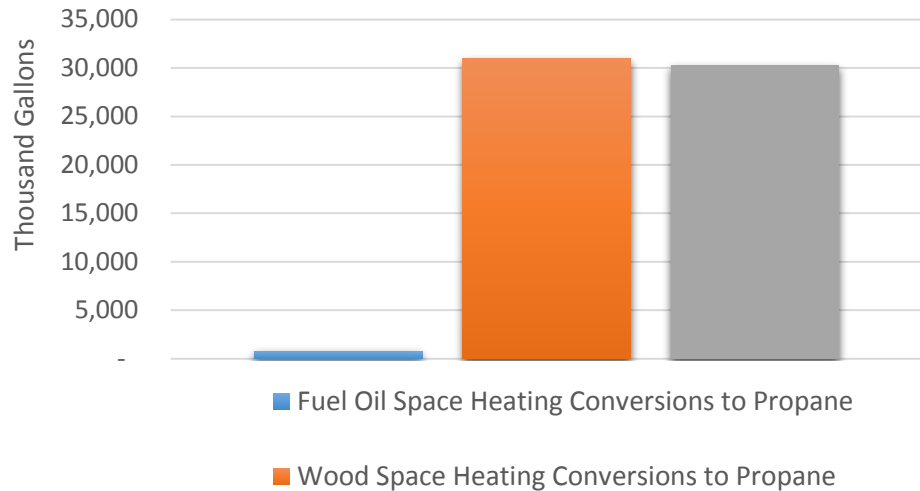


Residential Propane Load Growth Opportunities by Application



Space Heating

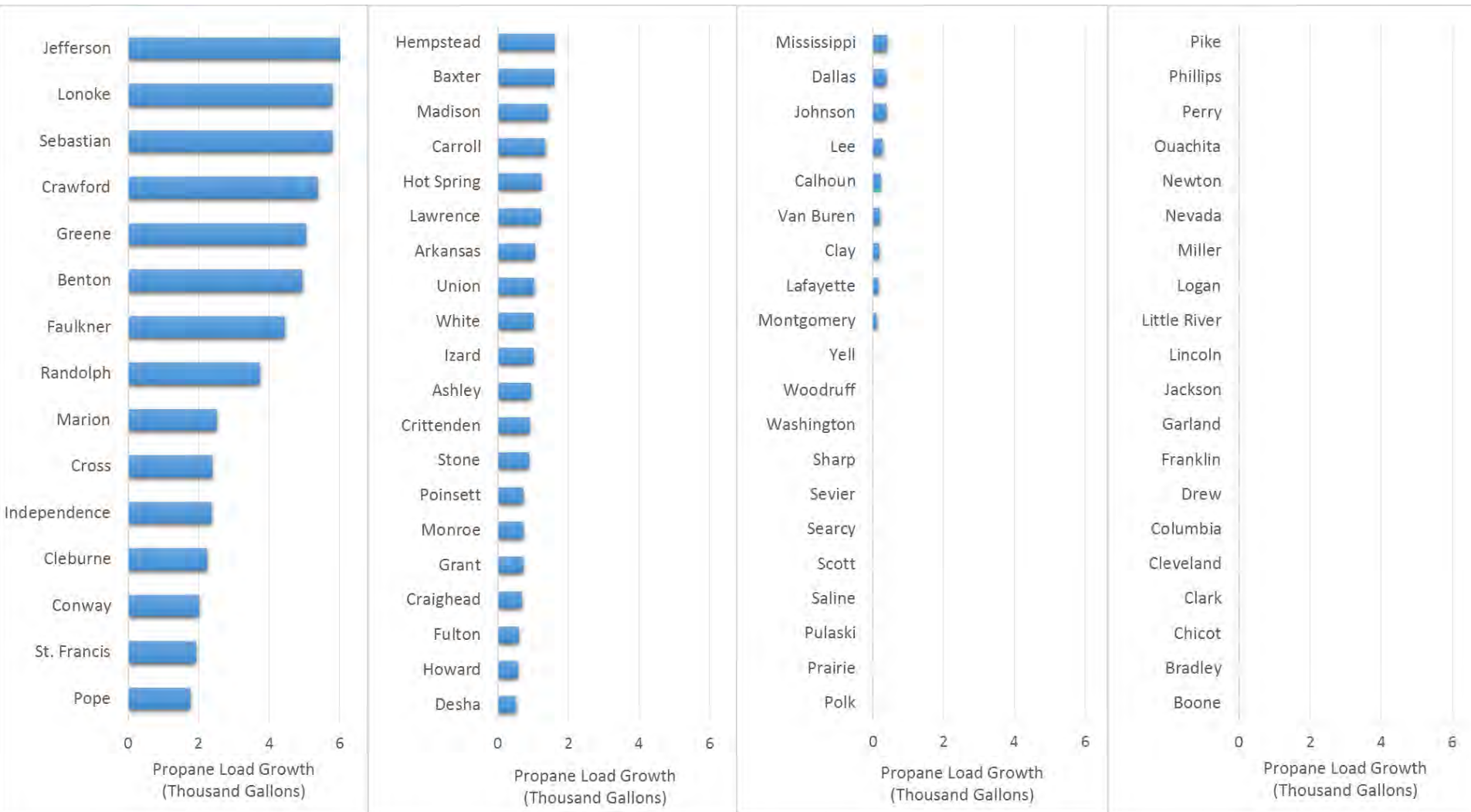
- Propane's opportunity for load growth in the Residential Sector is greatest from Wood Household Conversions.
- In 2015, space heating applications consumed over 30 million gallons of propane (gray bar).
- Potential conversions to propane space heating from fuel oil and wood could increase the size of the propane space heating market.
 - Fuel oil = 790,000 gallons (blue bar)
 - Wood = 31 million gallons (orange bar)



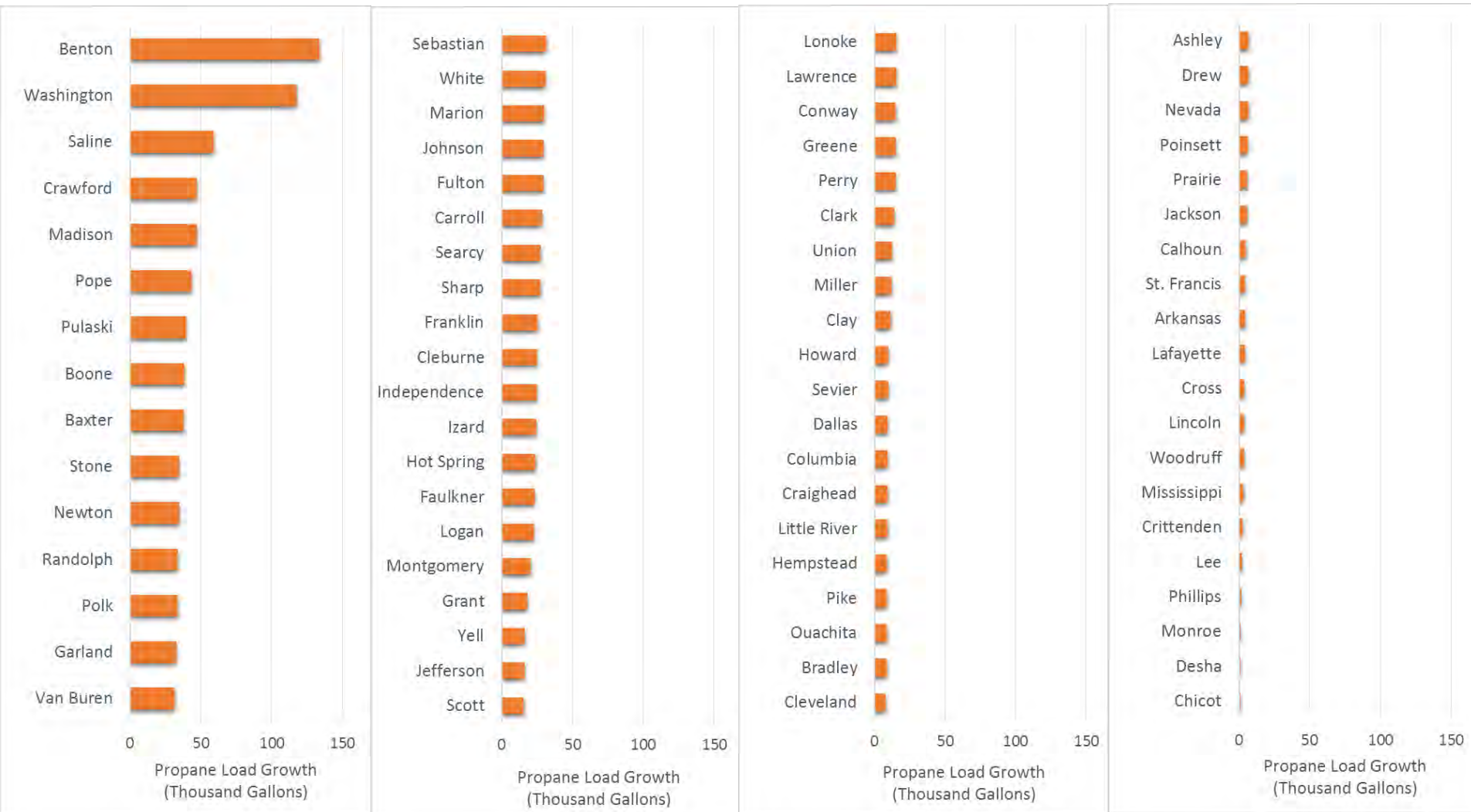
Water Heating

- In 2015, water heating applications consumed 5.5 million gallons of propane (gray bar).
- Conversions of water heaters to propane presents 13 million gallons of load growth potential.

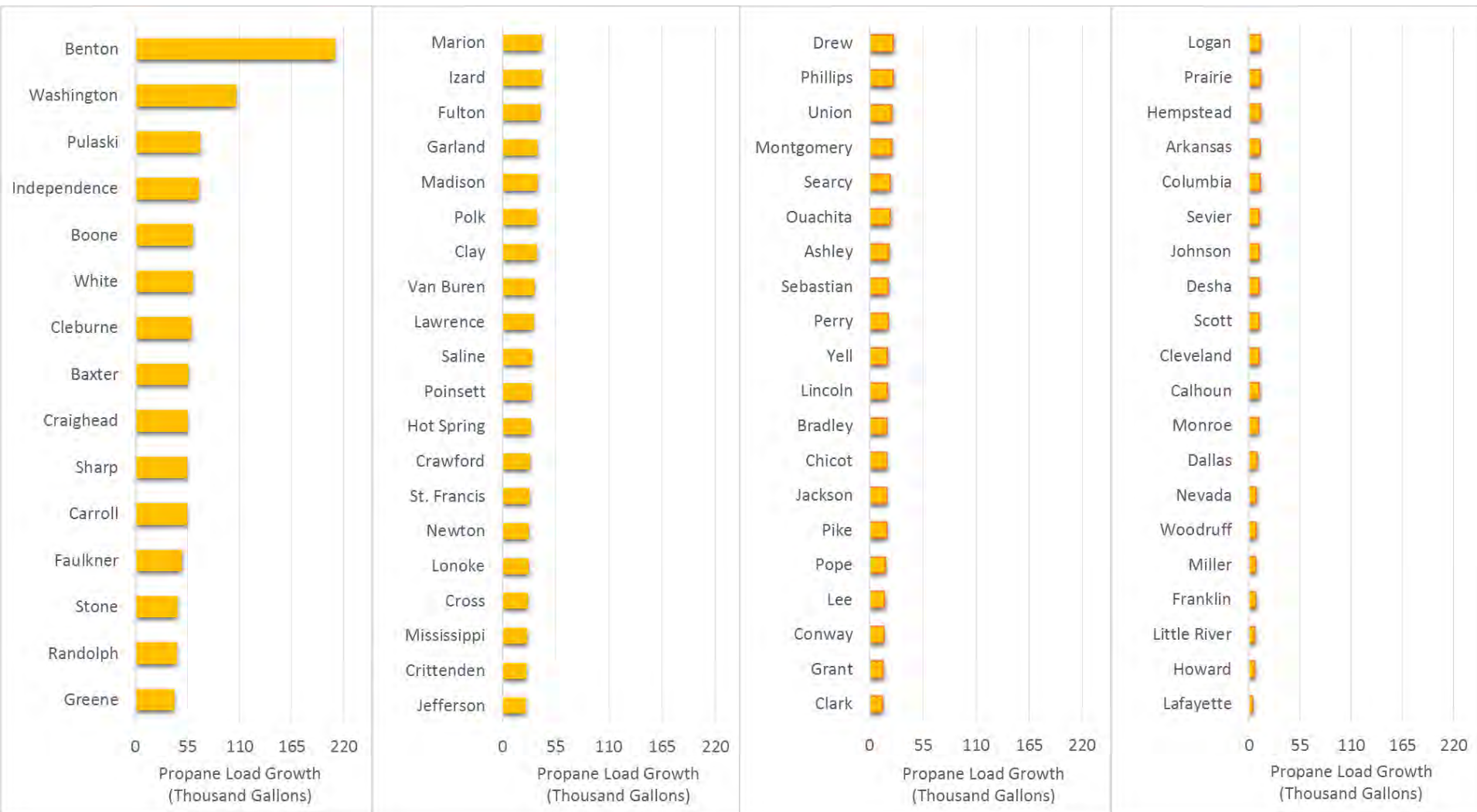
Annual Propane Load Growth Potential from Conversions of Fuel Oil Space Heated Households



Annual Propane Load Growth Potential from Conversions of Wood Space Heated Households



Propane Load Growth Potential from Conversion of Electric Water Heaters in Propane Heated Homes



Arkansas State Propane Profile

ICF

9300 Lee Hwy

Fairfax, VA 22031



October 31, 2017

Tricia Treese
SIP / Planning Supervisor
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118

Re: RFI regarding the Volkswagen Consent Decree Environmental Mitigation Trust

Dear Ms. Treese:

We appreciate the opportunity to provide our comments to the Arkansas Department of Environmental Quality (ADEQ) on the most cost-effective methods to reduce nitrous oxide (NOx) emissions in Arkansas through the \$14.6 million in funding provided by the Environmental Mitigation Trust.

Cummins Inc. is a global power leader that designs, manufactures, sells, and services diesel and natural gas engines, power generation systems, and related products and technologies. We serve our customers through our network of 600 company-owned and independent distributor facilities and more than 7,200 dealer locations in over 190 countries and territories, including two sales and service locations here in Arkansas. We are currently in development on fully electric and hybrid electric platforms which will become commercially available beginning in late 2019. For almost a century, Cummins has been honored to partner with local clean air agencies, nonprofits, and our business customers to improve the communities where we live and work.

Based on today's commercially available technology and the associated costs, the most cost-effective manner for Arkansas to administer the funds related to the VW settlement is to focus on the replacement of existing diesel vehicles with CNG vehicles and engines. With an impact roughly three times greater than investment in equivalent electrical vehicles, CNG options offer NOx emissions equivalent to a 100% battery vehicle, with costs as much as 70% lower than electric, and stable fuel costs to assure ongoing affordability and sustainability.

Similarly, investing in the State Clean Diesel Grant to support the ongoing efforts of the ADEQ's Go RED! program, will have immense impact by simply enabling modern clean diesel technology; clean diesel offers substantial gains in environmental standards through established infrastructure and proven technology, assuring reliable, cost-effective solutions. The EPA has found that investment in clean diesel achieves 50 times greater NOx avoidance than investment in electrical infrastructure, and DERA initiatives have a proven track record of success, collectively upgrading 73,000 older vehicles to the latest emissions standards, and removing 335,000 tons of NOx between 2008 and 2013 through Go RED! and other state programs.

Thank you again for the opportunity to provide our comments regarding Arkansas' administration of the Environmental Mitigation Trust funds. We look forward to seeing the results of your efforts, and hope that you'll use our experts as a resource as you continue to assess various technologies and options. Please feel free to contact us if you have any questions or need any additional information about our products or capabilities in emissions reduction and alternative fuels.

Respectfully,

Doug Powers
General Manager, North Little Rock
Cummins Sales and Service, Gulf Region

RFI Response: VW Settlement Opportunity

North Little Rock, AR

October 31, 2017





Table of Contents

- Introduction
- About Cummins
- What Cummins Can Offer
- Appendix

RFI Response Introduction

- The intention of this response is to:
 - Further support recommendations with regards to the Arkansas VW Mitigation Grant RFI,
 - Provide information on Cummins' industry-leading products in diesel, natural gas, electrical power systems, and how it can support Arkansas' state programs related to the VW settlement,
 - Demonstrate Cummins' capabilities and experience with execution of emissions solutions across a broad array of applications.



About Cummins

Who We Are

WHO WE ARE

*Cummins Inc., a global power leader,
is a corporation of complementary
business units that design,
manufacture, distribute and service
engines and related technologies,
including fuel systems, controls,
air handling, filtration, emission
solutions and electrical power
generation systems.*

WORLD HEADQUARTERS

500 Jackson St.
Columbus, IN 47201

EST. 1919



www.cummins.com

CMI

STOCK SYMBOL
(New York Stock Exchange)

55,200 EMPLOYEES
WORLDWIDE

More than 50 percent of the company's
employees are located outside the United States.
(approximate employee total, as of Dec. 31, 2015)

CUSTOMERS

Cummins' customers are located in approximately
190 countries and territories that the company reaches through
a network of more than **600 company-owned and independent
distributor locations** and approximately **7,200 dealer locations**.

FORTUNE 500 RANKING (2016)

148

SALES / EARNINGS

In 2015, Cummins earned
\$1.4 billion on revenues of

\$19.1 billion

Arkansas Presence

- 43 Full-time local employees offer parts, warranty, sales, engineering, and service support, in the field and at our branch locations
- 20 factory-certified technicians
- 2 Arkansas Sales and Service Locations
 - North Little Rock
 - Springdale



Industry-Leading Expertise

International Presence

Local Impact



Arkansas Community Involvement Initiatives

- 100% employee participation, and hundreds of hours of work annually
- Oil Changes for domestic abuse survivors
- Vocational Training with the National Youth Challenge

HOW WE DO IT

The company is organized into four business units. In 2015 and early 2016, Cummins went through some restructuring designed to help the company innovate faster and bring more value to customers.



CUMMINS ENGINE BUSINESS

The **Engine Business** manufactures and markets diesel and natural gas engines for on- and off-highway use around the world. Markets include heavy- and medium-duty trucks, buses, light-duty trucks and industrial uses in segments such as agriculture, construction and military equipment.

CUMMINS POWER SYSTEMS

Cummins **Power Systems** is a global provider of power generation systems, components and services in standby power and distributed power generation. It provides a full range of services including turnkey and temporary power solutions. Cummins continues to produce high horsepower engines for ships, trains, generators and more, but that function moved from the Engine Business to the new Power Systems business.

COMPONENTS BUSINESS

Cummins Emission Solutions designs and builds exhaust aftertreatment solutions to reduce emissions for light-, medium-, heavy-duty and high horsepower engines.

Cummins Filtration designs and builds heavy-duty air, fuel, hydraulic and lube filtration, and chemical and exhaust system technology products.

Cummins Fuel Systems designs and manufactures fuel systems that maximize power and fuel economy while helping to reduce emissions.

Cummins Turbo Technologies designs and builds turbochargers to maximize performance and reduce emissions and fuel consumption.

CUMMINS DISTRIBUTION BUSINESS

Cummins Distribution Business sells and services the full range of Cummins products for over 20 application segments in more than 190 countries and territories around the world.

OUR RECOGNITION

Cummins' 2015 - 2016 sustainability awards

CORPORATE RESPONSIBILITY / ETHICS

WORLD'S MOST ETHICAL COMPANIES

Cummins was named to Ethisphere's 2016 list of **World's Most Ethical Companies** for a ninth consecutive year.



Cummins was one of 10 global companies awarded the **Golden Peacock for Excellence in Governance** in 2015.



Cummins in 2015 was named to the **FTSE4GOOD Index** for demonstrating strong social, governance and environmental practices.

TOP COMPANIES FOR CORPORATE RESPONSIBILITY

Cummins India was named one of India's **Top Companies for Corporate Responsibility** in 2015 by The Economic Times, a leading Indian financial newspaper.

ENVIRONMENT

MEMBER OF
Dow Jones Sustainability Indices
In Collaboration with RobecoSAM

Cummins was named to the 2015 **Dow Jones Sustainability Index for North America**. It has been on the index since 2006.



Cummins was named to CDP's **Climate Disclosure Leadership Index** in 2015.



Cummins in 2016 received the Clean Energy Ministerial's **Award of Excellence in Energy Management**, one of only three ISO 50001-certified organizations to be honored.

DIVERSITY / WORKPLACE



Cummins received a perfect score for an 11th consecutive year in the 2016 **Corporate Equality Index** from HRC, the largest U.S. civil rights organization for LGBT employees.

TOP 25 EMPLOYERS IN AMERICA

Forbes named Cummins one of its **Top 25 Employers in America** in 2016.



Cummins was named one of the **Top 50 Companies for Diversity** by DiversityInc for a 10th consecutive year in 2016.

MILITARY FRIENDLY EMPLOYER

Cummins was named a 2016 **Military Friendly Employer** by the publisher of G.I. Jobs and Military Spouse.

BUSINESS / PRODUCT

BEST PICKUP FOR 2016

The Cummins-powered 2016 Nissan TITAN XD was named **Best Pickup for 2016** by Cars.com, PickupTrucks.com and AutoGuide.com.

2015 PRODUCT OF THE YEAR

Consulting-Specifying Engineer named the QSK36 Series generator its **2015 Product of the Year**.

TOP 25 SUPPLY CHAIN COMPANY

For a fourth consecutive year, Cummins was named a **Top 25 Supply Chain Company** by Gartner, an IT, research and advisory company.

KEY PERFORMANCE INDICATORS

Cummins takes a broad view of sustainability, including the environment, corporate responsibility, safety, diversity, employee development and governance. The company uses a number of key performance indicators (KPIs) to evaluate how it's doing.

You will find them listed throughout this report.



Cummins believes in transparency. This icon identifies multi-year data that allows for comparisons.

¹ Primary energy excludes sold electricity and associated fuel usage

² Intensity defined as adjusted for sales (energy / GHG) or hours worked (water)

³ Reduction includes consolidated entities only

ECONOMIC

	2013	2014	2015
Revenue	\$17.3 billion	\$19.2 billion	\$19.1 billion
Net Income	\$1.48 billion	\$1.65 billion	\$1.40 billion

ENVIRONMENTAL

	2013	2014	2015
GHG emissions (thousands of metric tons CO ₂ e)	750	788	774
Energy consumption ¹ (thousands of MMBtu)	12,079	12,739	12,903
Water use (millions of gallons)	958	972	953
Water intensity reduction ² (since 2010)	30%	36%	41%
Energy intensity reduction ^{2,3} (since 2005)	30%	34%	33%
GHG intensity reduction ^{2,3} (since 2005)	33%	35%	36%
Recycling rate	89%	90%	90%

SOCIAL

	2013	2014	2015
Major injury rate	0.04	0.043	0.039
Incidence rate	0.65	0.61	0.57
Women leaders in the workforce	20%	20%	21%
Every Employee Every Community (EEEC) participation rate	68%	73%	80%
Number of Environmental Challenge participants	11,500	13,600	21,600
Greenhouse gas reduction as part of the Environmental Challenge (thousands of metric tons)	19	22.4	36.8



What Cummins Can Offer

We unleash the Power of Cummins by demanding that everything we do leads to a cleaner, healthier, safer environment



Cummins Confidential

More emissions reductions can be attained per dollar spent with clean diesel and natural gas

The U.S. Department of Transportation and the U.S. Environmental Protection Agency found that **1 ton of NOx emissions** may be eliminated by investing, on average, **\$20,000** in clean diesel technology versus, on average, **\$1 million** in electric infrastructure

\$5 million spent towards natural gas powered vehicles, **reduce 3,800 tons** of smog forming emissions compared to **1,200 tons** from an Electric Vehicle powered from the grid



Replace or Repower with Clean Diesel or Natural Gas



Transit Buses

Ferries/Tugs



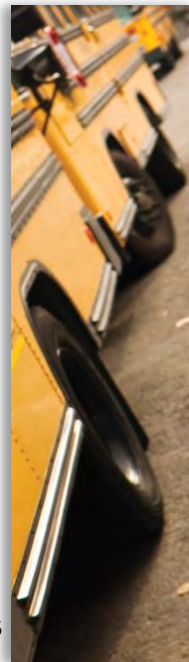
Local Freight Trucks/
Port Drayage Trucks



Switcher Locomotives



School Buses



Depend on
Cummins.

The Right Technology for Today

With technology available today, more emissions reductions can be attained per dollar spent with clean diesel and natural gas

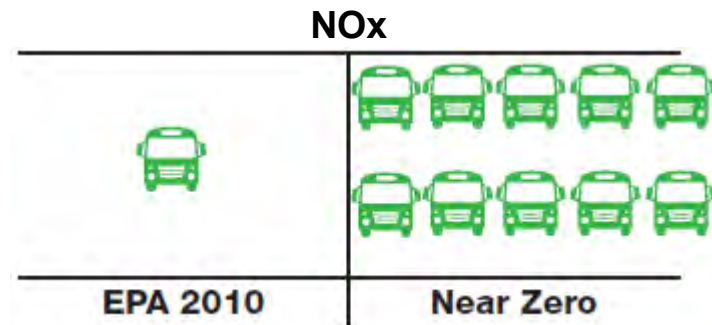
- The U.S. Department of Transportation and the U.S. Environmental Protection Agency found that **1 ton of NOx emissions** may be eliminated by investing, on average, **\$20,000** in clean **diesel** technology versus, on average, **\$1 million** in electric infrastructure*
- **\$5 million** spent towards **natural gas** powered vehicles, **reduce 3,800 tons** of smog forming emissions compared to **1,200 tons** from an Electric Vehicle powered from the grid**

*Congestion Mitigation and Air Quality (CMAQ) Improvement Program Cost-Effectiveness Tables Development and Methodology (December 3, 2015)

**Game Changer Technical White Paper: Next Generation Heavy-Duty Natural Gas Engines Fueled by Renewable Natural Gas;" May 2016; Gladstein, Neandross & Associate

Natural Gas

- Cummins offers natural gas solutions for both bus and truck repowers as well as new vehicles
- The ISL G Near Zero engine NOx emissions is 90% lower than the EPA 2010 standard, which is **as equivalent to a 100% battery truck** using electricity from a modern combined cycle natural gas power plant
- Near Zero technology will be added to the ISX12 G in 2018



In terms of NOx emissions, each ISL G EPA 2010 vehicle is equivalent of 10 Near Zero vehicle

Cummins can Provide a Positive Environmental Impact from Natural Gas Near Zero technology

- Minimum cost impact vs current natural gas product
- No infrastructure changes for current NG fleets
- **Vehicles cost up to 70% less than electric**
- Reduce PM by 80% vs. EPA 2010 standard
- Reduce NOx by 90% vs. EPA 2010 standard
- Reduce GHG by 15% vs. EPA 2010 standard

Natural Gas – Example

- Over the years Cummins has successfully repowered hundreds of older Natural Gas engines in transit buses for major transit authorities across the US
- Current Cummins Arkansas CNG customers: Rock Region Metro, Little Rock Waste Management



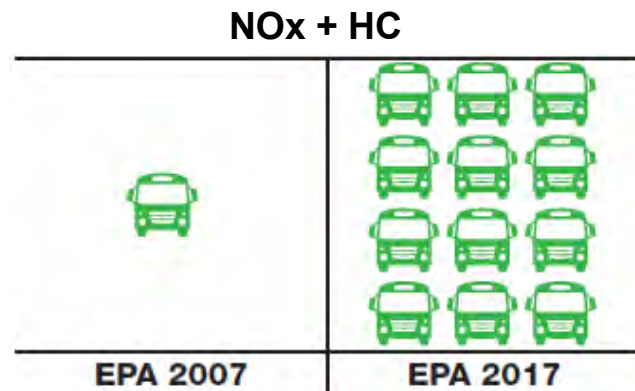
Cummins ISL G Near Zero



- Options available for transit and shuttle buses, school buses, refuse, vocational, and conventional trucks

On Highway

- Cummins offers clean diesel and natural gas solutions for On Highway truck and bus repowers and vehicle replacements
- Cummins has the capability to repower older engines with newer, cleaner solutions
- The EPA 17 products launch will continue our commitment to a cleaner and healthier environment, and bring the emission and fuel economy to a new level



In terms of NOx+HC emissions, each EPA 07 vehicle is equivalent of 12 EPA 17 vehicles

Cummins can Provide a Positive Environmental Impact from EPA 17 products

- Cummins EPA 17 X15 engine can achieve up to 20% of fuel economy compared to EPA 10 version of the same engine model, which means about 2,500 fewer gallons of fuel for a truck running 120,000 miles per year
- Emission Improvement: In terms of NOx+HC, for each EPA 07 powered vehicle, the equivalent of 12 EPA 17 vehicles could be on the road today

On Highway – Repower Example

- Cummins has repowered hundreds of engines manufactured by another OEM with new EPA 07 ISB6.7 engines
- Cummins demonstrated strong engineering capability by replacing two different engine models installed in these buses

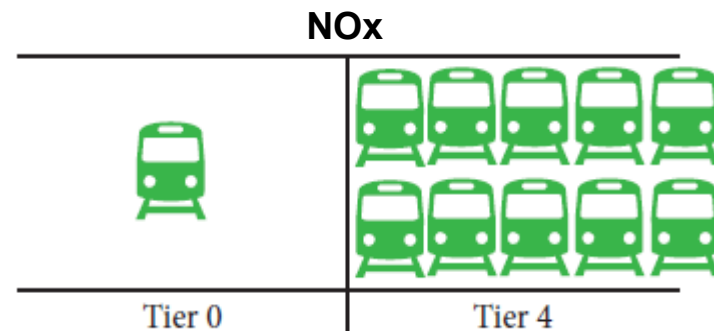


Cummins EPA 07 ISB6.7

- With this repower, customers have achieved up to 17% fuel efficiency improvement on Urban duty cycles
- Other benefits include noise reduction and improved reliability

Switcher Locomotive

- Cummins offers clean diesel solutions for switcher locomotive repowers and replacement
- About **90%** of switcher locomotives were built prior to 1985 long before emission regulations, therefore **10,000+ units** in the United States today are pre-Tier
 - Very high NOx, black smoke, leak oil, fuel & lube oil pass thru the exhaust, loud, ground vibration when left idling
- Many of the historic switch yards also find themselves in neighborhoods and urban areas **where disadvantaged populations reside**. Thus emission & pollution reduction are necessary



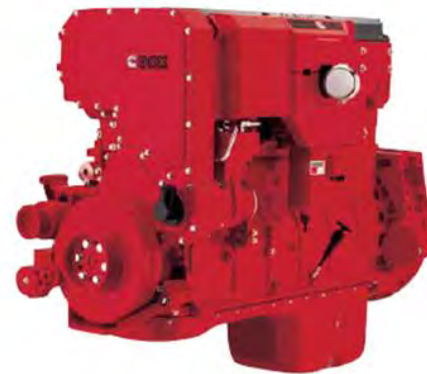
**90% reduction in NOx from Tier 0
to Tier 4 Standards**

Cummins can Provide a Positive Environmental Impact from Tier 4 Locomotive Repowers

- Up to 93% NOx reduction
- Up to 93% PM reduction
- Up to 90% reduction in lube oil consumption
- Up to 18% reduction in Fuel Consumption
- Quieter: High speed engines do not rumble at idle do not affect nearby neighbors with vibration
- Leak free engines: Eliminates spillage on tracks and railroad customer's property

Switcher Locomotive – Repower Example

- In 2013 Cummins began repowering pre-Tier 0 Switcher Locomotives that started operation up to 60 years ago to Tier 4 QSX15 solutions
- The first Tier 4 certified locomotive was Cummins Powered



Cummins Tier 4 QSX15

- About 75 tons of NOx reduction per year per repower engine* compared to the Tier 0 standard
- Significant reduction in Fuel Consumption

** NOx reduction is estimated by using Cummins Certification Engine rating – 600hp and assuming 24/7 operation*



Cummins Sales and Service Repower and Retrofit Capabilities and Experience

- Repowered school buses removing IHC and Cat engines, installing new Cummins clean diesel power
- Repowering Marine Vessels with Cummins power
- Repowering Locomotives
- Retrofitting exhaust systems on both on-highway and off-highway
- Idle Reduction technology with Webasto Fuel Fired Heaters

Exhaust Retrofits

- Installed approximately 2000 Diesel Oxidation Catalyst (DOC) mufflers on school buses, on-highway vehicles, and off highway vehicles
- Installed approximately 175 Diesel Particulate Filters (DPF) systems on school bus and on-highway vehicles

Appendix



Cummins Contact Information

- **Primary Contact**
 - **Doug Powers: General Manager North Little Rock**
 - (501) 569-5619, doug.powers@cummins.com
- **Fleet Account Support**
 - **Darrell Smith: Fleet Account Executive – Arkansas**
 - (501) 580-9476, darrell.smith@cummins.com
- **North Little Rock Sales and Service location**
 - 3115 Highway 391, North Little Rock, AR 72117
- **Springdale Sales and Service Location**
 - 317 N Old Missouri Rd, Springdale, AR 72764

Helpful Links

- VW Settlement Information

<https://www.epa.gov/enforcement/volkswagen-clean-air-act-partial-settlement>

- Includes Consent Decree, FAQ, and other helpful information

- DERA Information

<https://www.epa.gov/cleandiesel>

- Includes current and historical information on DERA

- Ozone Non-attainment Information (including Maps)

- <https://www.epa.gov/green-book/green-book-8-hour-ozone-2008-area-information>

- State 3rd Party Associate Information

- <https://cleancities.energy.gov/coalitions/locations/>

DERA Opportunity

- Current DERA programs may use funds for the non-federal voluntary match
 - Trust Funds cannot be used to meet DERA non-federal mandatory cost share requirements
- Additional markets are covered under DERA that are not covered in the 9 other EMT options
 - Aftertreatment Retrofits
 - Idle Reduction Technology
 - Power Generation
 - Construction
 - Class 4-8 applications not listed directly in EMT

Detailed Comparison of VW Eligible Mitigation Action 1-9 and DERA Option (1/4)

<u>Eligible Mitigation Actions 1-9</u>				<u>*Eligible Mitigation Action 10: DERA Option</u>		
Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks) Class 4-7 Local Freight Trucks (Eligible Medium Trucks) For, 1) Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed EMA, and 2) Eligible Trucks shall also include 2010-2012 engine model year trucks.				Class 5-8 Medium and Heavy Duty Highway Vehicles (including Drayage Trucks)		
Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	Trust Funding Limits		Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	DERA Funding Limits
		Non-Gov. Owned	Gov. Owned			
Repower with new diesel or alternate fueled engine with the engine MY (model year) in which the EMA occurs or one engine model year prior	1992-2009	40%	100%	Repower with 2015 MY or newer engine (diesel or alternative fuel)	1994-2006	40%
				Repower with 2015 MY or newer engine certified to CARB's Optional Low-NOx standards	1994-2006	50%
Repower with all-electric engine with the engine MY in which the EMA occurs or one engine model year prior	1992-2009	75%	100%	Repower with 2015 MY or newer all-electric engine	1994-2010	60%
Replacement with new diesel or alternate fueled vehicle with the engine MY in which the EMA occurs or one engine MY prior	1992-2009	25% (50% for Drayage)	100%	Replacement with vehicle powered by 2015 MY or newer engine (diesel or alternative fuel) (2011 or newer for Drayage)	1994-2006	25% (50% for Drayage)
				Replacement with 2015 MY or newer engine certified to CARB's Optional Low-NOx standards	1994-2006	35%
Replacement with all-electric vehicle with the engine MY in which the EMA occurs or one engine model year prior	1992-2009	75%	100%	Replacement with 2015 MY or newer all-electric vehicle	1994-2010	45%
				Retrofits of verified exhaust control technologies	1994-2006	100%
				Verified Aerodynamic Technologies Low Rolling Resistance Tires (in conjunction with above activities)	1994-2006	100%
				Verified Idle Reduction Technologies (in conjunction with above activities)	1994-2006	100%

Detailed Comparison of VW Eligible Mitigation Action 1-9 and DERA Option (2/4)

Eligible Mitigation Actions 1-9				*Eligible Mitigation Action 10: DERA Option		
Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses) For, 1) Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed EMA, and 2) Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.				Type A, B, C, D Buses Class 5-8 Transit, Shuttle, or other buses		
Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	Trust Funding Limits		Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	DERA Funding Limits
		Non-Gov. Owned	Gov. Owned			
Repower with new diesel or alternate fueled engine with the engine MY in which the EMA occurs or one engine model year prior	2009 and older	40%	100%	Repower with 2015 MY or newer engine (diesel or alternative fuel)	1994-2006	40%
				Repower with 2015 MY or newer engine certified to CARB's Optional Low-NOx standards	1994-2006	50%
Repower with all-electric engine with the engine MY in which the EMA occurs or one engine MY prior	2009 and older	75%	100%	Repower with 2015 MY or newer all-electric engine	1994-2010	60%
Replacement with new diesel or alternate fueled vehicle with the engine MY in which the EMA occurs or one engine MY prior	2009 and older	25%	100%	Replacement with vehicle powered by 2015 MY or newer engine (diesel or alternative fuel)	1994-2006	25%
				Replacement with vehicle powered by a 2015 MY or newer engine certified to CARB's Optional Low-NOx standards	1994-2006	35%
Replacement with all-electric vehicle with the engine MY in which the EMA occurs or one engine MY prior	2009 and older	75%	100%	Replacement with 2015 MY or newer all-electric vehicle	1994-2010	45%
				Idle Reduction Technology (in conjunction with above activities, or on school buses previously retrofitted with verified emission control device)	1994-2006	100%

Detailed Comparison of VW Eligible Mitigation Action 1-9 and DERA Option (3/4)

Eligible Mitigation Actions 1-9				*Eligible Mitigation Action 10: DERA Option		
Freight Switchers Must currently operate 1000+ hours per year.				Line Haul (freight and passenger) and Switcher Locomotives Must currently operate 1000+ hours per year		
Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	Trust Funding Limits		Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	DERA Funding Limits
Repower with new diesel or alternate fueled engine or generator sets that are EPA certified for the engine MY in which the EMA occurs	Pre-Tier 4	40%	100%	Repower with 2015 MY or newer Tier 4 engine	Unregulated – Tier 2; Tier 2+ switcher	40%
Repower with all-electric engine that is engine MY in which the EMA occurs	Pre-Tier 4	75%	100%	Repower with 2015 MY or newer all-electric engine	Unregulated – Tier 2; Tier 2+ switcher	60%
Replacement with new diesel or alternate fueled freight switcher that is EPA certified for the engine MY in which the EMA occurs	Pre-Tier 4	25%	100%	Replacement with vehicle/equipment powered by a 2015 MY or newer engine (diesel or alternate fuel)	Unregulated – Tier 2; Tier 2+ switcher	25%
Replacement with all-electric freight switcher that is engine MY in which the EMA occurs	Pre-Tier 4	75%	100%	Replacement with 2015 MY or newer all-electric vehicle/equipment	Unregulated – Tier 2; Tier 2+ switcher	45%
				Certified Remanufacture System or Verified Engine Upgrade	Unregulated – Tier 2+	40%
				Retrofit with verified exhaust control technology	Unregulated – Tier 2+	100%
				Idle reduction technology, including shore power	Unregulated – Tier 2+	40%
Ferries/Tugs				Marine Engines Must currently operate 1000+ hours per year.		
Repower with new Tier 3 or 4 diesel or alternate fueled engine	Pre-Tier 3	40%	100%	Repower with a 2015 MY or newer Tier 3 or Tier 4 engine (diesel or alternative fuel)	Pre-Tier 3	40%
Repower with new all-electric engine	Pre-Tier 3	75%	100%	Repower with 2015 MY or newer all-electric engine	Pre-Tier 3	60%
Certified Remanufacture System or Verified Engine Upgrade	Pre-Tier 3	40%	100%	Certified Remanufacture System or Verified Engine Upgrade	Pre-Tier 3	40%

Detailed Comparison of VW Eligible Mitigation Action 1-9 and DERA Option (4/4)

Eligible Mitigation Actions 1-9				*Eligible Mitigation Action 10: DERA Option		
Ocean Going Vessels (OGV) Shore Power				Marine Shore Power Connection System		
Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	Trust Funding Limits		Activity	Vehicle and Equipment Eligibility (Engine Model Year or Tier)	DERA Funding Limits
		Non-Gov. Owned	Gov. Owned			
Costs associated with shore-side system	n/a	25%	100%	Costs associated with shore-side system	n/a	25%
Airport Ground Support Equipment Forklifts and Port Cargo Handling Equipment				Nonroad Diesel Engines		
Repower with new all-electric engine	GSE: Pre-Tier 3 diesel; 3 g/bhp-hr and higher spark ignition	75%	100%	Repower with all-electric engine	0-50 HP = 2004 and newer;	60%
Replacement with new all-electric airport ground support equipment	Forklifts and Port CHE: Greater than 8000 lbs lift capacity	75%	100%	Replacement with 2015 MY or newer all-electric vehicle/equipment	51-300 HP = 1994 and newer;	45%
				Repower with a 2015 MY or newer engine (diesel or alternative fuel)	301+HP = 1984 and newer	40%
				Replacement with vehicle/equipment powered by 2015 MY or newer engine (diesel or alternative fuel)		25%
				Retrofit with verified exhaust control technologies		100%
				Verified Engine Upgrade		40%
				Electrified Parking Spaces (Truck Stop Electrification)		
				Labor and equipment of eligible EPA SmartWay verified electrified parking space technologies	n/a	25%
Light Duty Zero Emission Vehicle Supply Equipment						
Level 1, level 2, or fast charging equipment that is not consumer light duty electric vehicle supply equipment						

Cummins Product Solutions

EMT Programs	Product/Technology
Class 8 Local and Port Drayage Trucks	X15, X12 (2018), ISX12 G, ISX12 G Near Zero (2018)
Class 4-7 Local Freight Trucks	B6.7, L9, X12 (2018), ISB6.7 G, ISL G Near Zero
Class 4-8 School, Shuttle, or Transit Bus	V5.0, B6.7, X12 (2018), L9, ISB6.7 G, ISL G Near Zero
Freight Switchers	Tier 4: QSX15 (500-675hp), QST30 (1000-1500HP), QSK50 (1500-2250hp), QSK60 (2310-2700hp)
Ferries/Tugs	Tier 3: QSK19, QSK38, QSK50





Thank you for your time

Cummins IS YOUR Partner in
Emissions Solutions



November 01, 2017

Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Dr.
North Little Rock, AR 72118

**RE: Introduction of EV Connect and
Comments on VW Settlement Appendix D Environmental Mitigation Trust**

EV Connect thanks you for this opportunity to provide comments on the Environmental Mitigation Trust funding allocated to Arkansas under Appendix D of the VW Settlement. We commend Arkansas in taking the opportunity to make a major investment in the public health of its residents by investing in clean transportation and improving overall air quality. EV Connect believes that by taking advantage of the full 15% of eligible funding to develop EV (Electric Vehicle) infrastructure will garnish the largest emissions reduction benefit to Arkansas. However, it is crucial for Arkansas to make prudent decisions on the type of EV infrastructure that it invests in.

EV Connect is a leading provider of **open, standards-based** electric vehicle (EV) charging solutions for commercial, enterprise, hospitality, university and government facilities. EV Connect developed and operates the industry's most robust, open, and flexible cloud-based platform for the management of the entire EV ecosystem -- charging stations, the drivers that use them, the hosts that own them and the electric utilities that feed them. The EV Connect platform provides **charge station agnostic** command & control; enterprise and energy systems integration via an open API; driver communications and support; and demand-response functionality across multiple charging stations and networks. This approach maximizes investment dollars into a variety of EV charging solutions by preventing host sites within Arkansas from being locked into a proprietary network and hardware relationship.

EV Connect's focus on providing a Software-as-a-Service (SaaS) solution to the EV charging industry enables it to manage across multiple charging station networks; provide integration between disparate charging station hardware; and increase feature/functionality to the charging eco-system.

The market has seen over 650,000 new EVs hit the road in the United States, since 2010—and growing. Every major automaker has announced substantial investments in electrification of light duty vehicles, with over 20 EV models already available. Transit and medium duty vehicle products are now competitive with combustion engine counterparts and major fleets across the country have announced plans for full electrification. EV Connect currently manages over 2,500 EV charging locations and is prepared to work in collaboration with Arkansas offering the ability to provide a range of partnerships from simple charging management solutions to full turn-key development abilities.

EV Connect makes the following recommendations needed to **necessitate a robust EV charging infrastructure for Arkansas:**

Jordan Ramer, CEO
615 North Nash Street, Suite 203, El Segundo, CA 90245
310.961.2096 • jordan@evconnect.com



Light Duty EV Supply Equipment (EVSE)

- EV Connect recommends that Arkansas commit its full 15% allowance towards the implementation of an open, robust charging infrastructure throughout the State.
- Incentives should be structured through competitive programs;
- Insist upon an open, standards-based platform, as opposed to a proprietary, closed system where participants are restricted to one vendor/manufacturer;
- Promote public-private partnerships that support industry competition and allow a variety of business models to participate in the program;
- Seek a balanced approach between highway (DC Fast Charging) and residential/workplace and public (Level 2) charging infrastructure;
- Encourage cooperation with the local electric utility

All of these will encourage the adoption of environmentally-friendly electric vehicles; contribute to an efficient EV ecosystem within your state, and provide your citizens with reliable fueling capabilities.

Non-EVSE Appendix D Funding

EV Connect has experience providing charging infrastructure within the medium and heavy-duty sector including both fleet and transit and therefore believe that a large portion of the remaining 85% of Environmental Mitigation Trust funding available to your state can be fulfilled with EVs. As the largest emitters, the greatest relief in transportation emissions can be gained by through the electrification of the fleet and truck sectors. **EV Connect encourages Arkansas to prioritize electrification over other alternative fuel sources.** EV Connect has already begun working in many U.S. cities on possible projects include regional, municipal and school bus fleets.

We hope you have found this letter informative, and thank you for considering our recommendations. As you work toward finalizing the Beneficiary Mitigation Plan, please consider EV Connect not only as an experienced, well-qualified supplier for your EV charging infrastructure needs, but also as a resource for insight into both the EV charging industry and the broader EV industry. We welcome a continuing partnership to usher in an era of transportation innovation in Arkansas.

Sincerely,

A handwritten signature in black ink, appearing to read "Jordan Ramer".

Jordan Ramer, CEO

Jordan Ramer, CEO
615 North Nash Street, Suite 203, El Segundo, CA 90245
310.961.2096 • jordan@evconnect.com

November 1, 2017

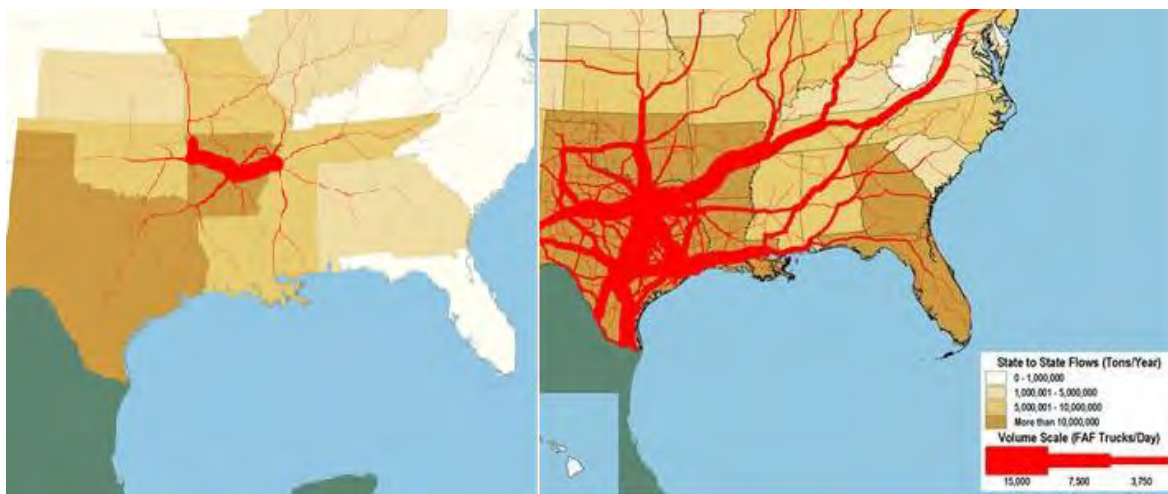
Tricia Treece
Arkansas Department of Environmental Quality
(501) 682-0055
treecep@adeq.state.ar.us

Re: Inclusion of Funding for Interstate Alternative Fuel Trucks – Response to VW Consent Decree RFI

Dear Ms. Treece:

On behalf of the Interstate Clean Transportation Corridor (ICTC), I would like to thank the Arkansas Department of Environmental Quality (ADEQ) for the opportunity to submit the following comments on the VW BMP. Our response to the RFI is focused on using the VW funding to shape a program that will effectively reduce NOx emissions in the state. ICTC is driven to create clean fuel corridors that accelerate the deployment and stimulate commercialization of cleaner fuel technologies for heavy-duty trucks. ICTC's efforts focus on the market development and the deployment of alternative fuel vehicles and infrastructure. We believe that the environmental benefits derived from replacing heavy duty diesel trucks with cleaner vehicles will reduce cancer risk, increase energy independence, and improve overall health for residents of Arkansas. ADEQ can play a prime roll in putting clean vehicles on the road.

Interstate goods movement trucks have very high vehicle miles travelled (VMT) and offer an outstanding opportunity to tap an extremely cost-effective source of emission reductions, petroleum displacement and acceleration of near-zero emission technologies. While Arkansas generates less freight volume than some of its surrounding states, it is placed as a critical "through state" for goods moving between the Gulf States and the east coast. The graphic below¹ displays the key placement of Arkansas and its interstate



corridors playing a large role in moving freight to and from trade partners throughout the United States.

¹ California Transportation by the Numbers: https://www.rita.dot.gov/bts/sites/rita.dot.gov.bts/files/california_11x17.pdf

On-road heavy-duty diesel vehicles account for the largest share of NOx emissions in Arkansas throughout all sectors, and they even produce 50% more than coal fired electricity generation.² Prioritizing incentives on these vehicle types should be of utmost importance as the goal is to reach conversion quickly in order to meet state air quality goals.

The most effective use of incentive funding is to target high-mileage, heavy-duty trucks with a specific allowance for interstate vehicles that operate in interstate goods movement. State agencies often restrict incentive funds to vehicles that operate mostly in-state, and this inadvertently prevents some of the most attractive markets from developing without funding support. Interstate goods movement trucks have very high VMT and offer an outstanding opportunity to tap an extremely cost-effective source of emission reductions, petroleum displacement and acceleration of near-zero emission technologies.

Recommendation 1: Provide funding for vehicles that operate across state lines

We strongly encourage the ADEQ to develop programs that encourage interstate funding and collaboration. As evidenced by the map above, there are many vehicles that do business on Arkansas's highways, and the fleets could greatly expand alternative fuel use with clean vehicle funding, but the existing programs exclude fleets that operate significantly across state lines. To date the majority of funding offered to fleets requires that the use of the funded vehicles must occur within Arkansas, but accommodating funding for fleets that operate with a greater percentage of time in other states will still create a desperately needed benefit within Arkansas. In this scenario it would be appropriate to offer funding at levels that are commensurate with the in-state use, with funds coming from multiple agencies to provide meaningful funding levels. Technologies available today, such as telematics and geofencing, make it feasible to monitor the location of miles traveled by interstate trucking under a cooperative program. This can lead to an effective way to fund and allocate percentages between multiple states in the case of a shared funding pool. Currently, the VW funding, targeted at effective reduction of NOx emissions, is allocated to each state with each state's beneficiary deciding on the most effective use. Funding such as this and other public funds continue to offer an opportunity for interstate cooperation targeted at clean transportation.

Recommendation 2: Can't Fool Me Twice – Do Not Fund Diesel.

The VW Settlement funds came into existence because diesel engines do not perform up to their demanded standards at the levels of emissions for which they are certified. Studies are showing that in real-world duty cycles, diesel engines produce significantly more NOx than their certified levels. Funding diesel engines with VW Settlement money would be counterproductive to reducing NOx in Arkansas.

Recommendation 3: Prioritize funding to encourage the strategic placement of publicly accessible fueling infrastructure

We recommend that the projects that have the best cost effectiveness for realizing the greatest displacement in gasoline and diesel use be given a greater share of the funding, thereby, increasing the rate of program success. We recommend that ADEQ plan to enhance the network of publicly accessible

² "2014 National Emissions Inventory." United States Environmental Protection Agency. <https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-data>.



Interstate Clean Transportation
C O R R I D O R

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fueling infrastructure thereby reducing range anxiety for fleets that want to deploy NGVs. VW Settlement funds cannot be spent directly on infrastructure, but the programs that they can create that will ultimately fund cleaner heavy duty vehicles should have infrastructure considerations when evaluating the applicant. For example, priority could be given to fleets that plan infrastructure to be installed within close proximity of main thoroughfares. This aligns with the priorities of the 2015 Fixing America's Surface Transportation (FAST) Act, as detailed in Appendix C of the BMP

Cancer risks are greatly increased within close proximity of roads and highways that many have become diesel exposure corridors, particularly those with high VMT by heavy-duty vehicles. Because the cancer risk is greatest along highways and cost effective NOx reduction is the priority for VW settlement funds, our recommendations simultaneously achieve the goals of NOx reduction and cancer risk reduction that stems from diesel use. We are eager to work with you and your team to advance zero and near zero emission technologies and to accelerate the deployment of clean technology in Arkansas. In particular, we would love to assist in developing an impactful way to deploy clean technology in Arkansas by funding clean interstate transportation.

Sincerely,

Karen Mann
Interstate Clean Transportation Corridor
2525 Ocean Park Blvd. Suite 200
Santa Monica, CA 90405
310-573-8546
karen@gladstein.org



November 1, 2017

Mr. William K. Montgomery
Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: NGV America Comments on the State of Arkansas Volkswagen Environmental Trust Draft Beneficiary Mitigation Plan

Dear Mr. Montgomery and Ms. Treece:

Natural Gas Vehicles for America (NGV America), the national trade association for the natural gas vehicle industry, respectfully submits the following comments to the Arkansas Department of Environmental Quality (ADEQ) on the State of Arkansas Volkswagen Environmental Trust Draft Beneficiary Mitigation Plan (Plan). These comments are in addition to the NGV America comments submitted on March 23, 2017 (attached) regarding NGV America's recommendations on how states can best use the Environmental Mitigation Trust (EMT or Trust) funds that each state will receive as part of the Volkswagen (VW) diesel emission settlement.

The VW EMT funds provide an extraordinary opportunity for Arkansas to cost-effectively transition to cleaner vehicle fuels with lower vehicle emissions. Whether regional trucking, waste hauling, medium duty delivery, transit or school buses, commercially-available natural gas vehicles offer the best solutions for addressing the goals of the EMT, delivering the most nitrogen oxide (NOx) emission reductions for the least cost.

Arkansas' draft VW Plan reflects a good understanding of the goals of the EMT, especially the primary goal of **achieving significant and sustained reductions of NOx emissions**. In reviewing the following secondary goals, it is evident that ADEQ has focused on the important outcomes that the VW funding can accelerate for Arkansas:

- Reductions in emissions of other pollutants (PM & GHG);
- Spurring private investment in alternative fueling infrastructure and vehicles;
- Creating jobs by increasing alternative fuel production in AR; and
- Establishing alternative fuel corridors along interstates to link to corridors established in other states.

The specific three programs that ADEQ has identified as funding priorities for its \$14.65 million include:

- **CNG School Bus Pilot Program** (60% of AR VW funding) - \$8.78 million for CNG natural gas school buses
- **Light Duty Electric Vehicle Infrastructure Rebate Program** (15%)- \$2.2 million rebate program for EV charging stations
- **Statewide Alternative Fuel Grant Program** (25%) - \$3.66 million for a state-wide grant program for low-NOx CNG engines/vehicles or electric vehicles

As a general comment and request, NGV America asks that liquefied natural gas (LNG) and renewable natural gas (RNG) also be allowed in addition to compressed natural gas (CNG). LNG is a very viable option in the heavy-duty truck and bus sector (also rail, marine, mining and other heavy-duty applications), and RNG actually enables natural gas vehicles (NGVs) to be the cleanest available technology due to taking emissions from the waste produced through animals, plants, food and waste water, that would otherwise go into the air.


With regard to the CNG School Bus Pilot Project, a similar effort in Colorado has significantly increased the numbers of CNG school buses in the state, thereby reducing emissions, noise and cost for students and school districts. The average cost for an eighty-passenger school bus has been about \$150,000 in that program, and so Arkansas with the stated desire to have cost sharing should be able to fund almost 60 buses at a 50% cost share for the \$8.78 million. It should be noted that Class A, C and D CNG buses are currently available to meet the specific needs of school districts.

EV fueling infrastructure continues to be funded through several Federal and state programs, and it is NGV America's position that if fueling infrastructure needs to be developed for any of the types of alternative vehicles, funding should be secured as part of private-public partnerships. Using the funding in this way will encourage additional economic development in the state and increase the availability of stations for future deployments.

The proposed Statewide Alternative Fuel Grant Program will encourage the growth of NGVs and EVs, helping achieve the goals of the ADEQ VW Plan. NGV America asks ADEQ to consider a funding strategy similar to that proposed in Colorado's Draft VW Plan that effectively incentivizes all alternative vehicles at the same percentage (25% of the total cost of the vehicle for private industry and 40% for the public sector) and stresses that projects that are ready now to reduce the most NOx for the funds expended will be given priority (new Argonne Lab AFLEET tool has updated emissions data).

NGV America applauds the State of Arkansas for recognizing the value of natural gas vehicles in accomplishing the State's economic and environmental goals while using an important Arkansas fuel. We welcome the opportunity to meet with you to provide further information and analysis on the economic and environmental benefits of natural gas vehicles in Arkansas. Please contact Jeff Clarke, NGV America General Counsel & Director Regulatory Affairs at 202.824.7364 or jclarke@NGVAmerica.org, or Sherrie Merrow, Director, NGV America State Government Advocacy at 303.883.5121 or smorrow@NGVAmerica.org to set up a meeting and for additional information.

Sincerely,



Daniel J. Gage
President

Summary of NGV America's Recommendations for EMT Funding

- ✓ Provide a larger incentive and greater overall funding for medium- and heavy-duty engines that deliver greater NOx reductions than currently required for new vehicles and engines
- ✓ Target funding for technologies that have demonstrated the ability to deliver actual lower in-use emissions when operated in real-world conditions
- ✓ Provide the highest level of funding to applications that produce the largest share of NOx emissions (in most regions this means prioritizing for short-haul, regional-haul and refuse trucks)
- ✓ Prioritize funding for commercially available products that are ready to begin
- ✓ Prioritize funding for clean vehicles rather than fueling infrastructure
- ✓ Scale funding to incentivize the cleanest engines available
- ✓ Ensure that funding incentivizes adoption by both public and private fleets
- ✓ Accelerate the funding in the early years to maximize the NOx reduction benefits
- ✓ Because the EMT was created for NOx pollution associated with non-compliant diesel vehicles, the funding should be set aside for clean, alternative fuel vehicle projects that focus on maximizing NOx reduction for the funds spent

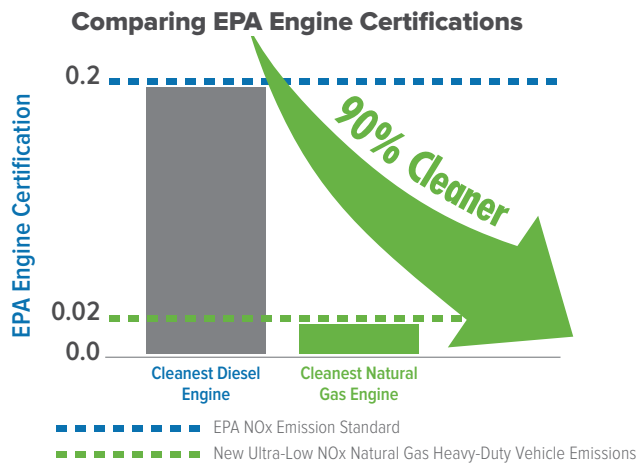
Make a Bold Impact on Air Quality Today

Allocating funds to deploy low-NOx natural gas vehicles provides the best way to deliver immediate and cost-effective NOx reductions and air quality benefit. Nearly 40% of Americans are exposed to unhealthful levels of ozone and particulate pollution. Volkswagen's \$2.9 billion Environmental Mitigation Trust fund provides each state an incredible opportunity to make an immediate and tangible impact on air quality by targeting medium- and heavy-duty vehicles, the leading source of these toxic air contaminants in almost every metropolitan area.

Natural gas vehicles (NGVs) are transforming the medium- and heavy-duty transportation sector.

Sustainable:

NGVs Offer the Cleanest Heavy-Duty Truck Engines in the World



Natural gas medium- and heavy-duty engines provide unmatched reductions of smog-forming emissions of nitrogen oxides (NOx). In 2015, a revolutionary natural gas engine was certified by the U.S. Environmental Protection Agency and California Air Resources Board to a level 90% below the EPA's current exhaust standard and 90% below the cleanest diesel engine. A truck with this engine has an emission profile equivalent to that of a heavy-duty battery electric truck.

Available:

NGVs are Commercially Available Today Across All Applications Qualified for Funding

NGVs are commercially available from traditional truck and bus OEMs with established sales and service networks. Retrofit and repower options are also available from a variety of manufacturers.

Applications Include:

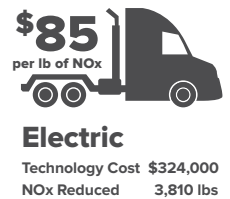
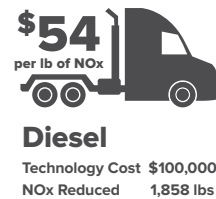
- Heavy Semi Tractor
- Single Axle Van
- Cement Mixer
- Large Walk In Van
- School Bus
- City Delivery Truck
- Motor Coach
- Shuttle Bus
- Conventional Van
- Rack Truck
- Transit Bus
- Dump Truck
- Refrigerated Van
- Tow Truck
- Fuel Truck
- Refuse Truck
- Utility Truck

Responsible:

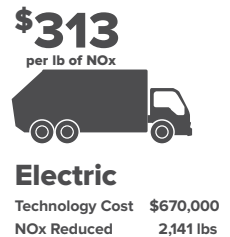
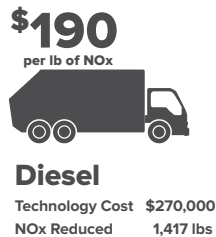
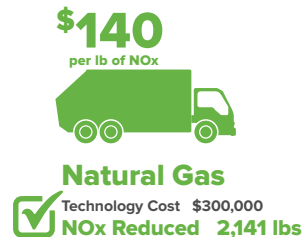
Dollar-for-Dollar, NGVs Deliver the Most Cost-Effective NOx Emissions Reductions

The calculations shown below assume the deployment of the cleanest commercially available model for each application. Funding natural gas vehicles will lead to the largest total reduction in NOx emissions.

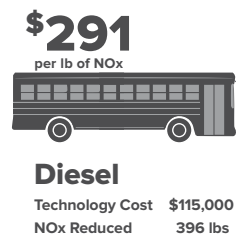
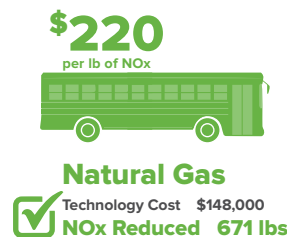
Short/Regional Haul Trucks



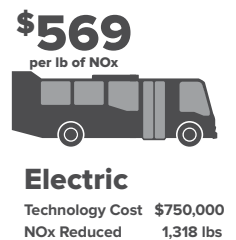
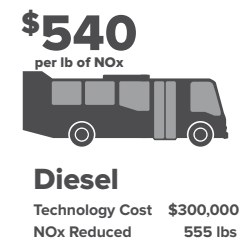
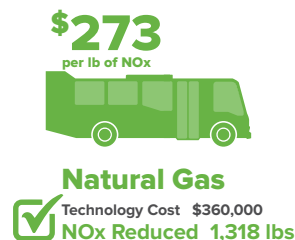
Refuse Trucks



School Buses



Transit Buses



#1

Natural Gas Producer in the World



90+

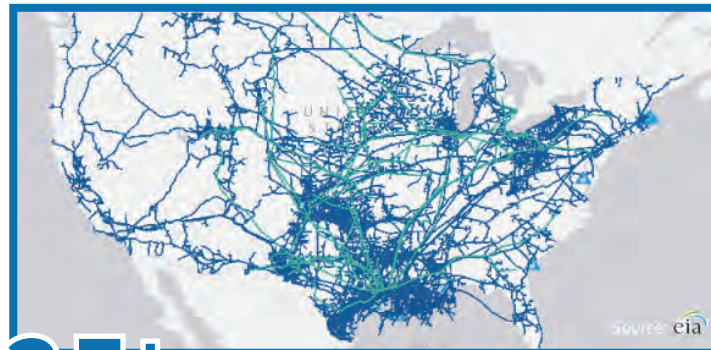
years supply of recoverable natural gas

Continual supply by harnessing renewable sources



2.5+ million

miles of U.S. pipeline infrastructure

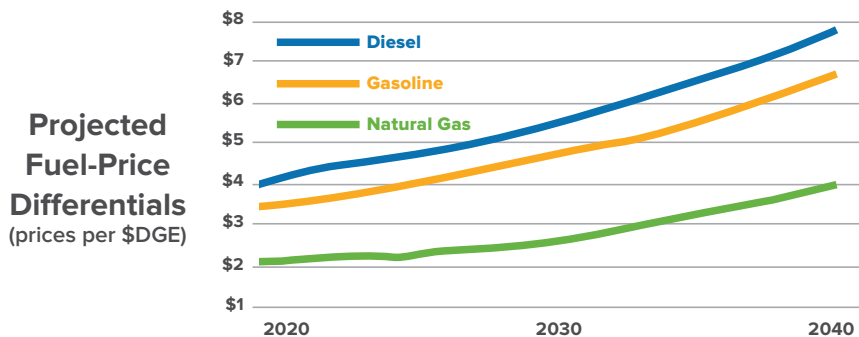


The U.S.' expansive natural gas pipeline system is well poised to support a national network of natural gas fueling stations. Nearly 2,000 CNG and LNG fueling stations are operating today, with continual expansion underway.

Source: U.S. Energy Information Administration

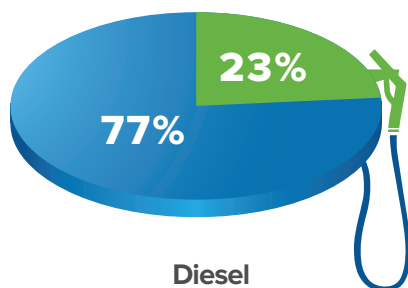
Natural gas is a clean, low-cost, and domestically abundant transportation fuel.

Natural Gas Provides Long-Term Fuel Price Stability and Cost Savings

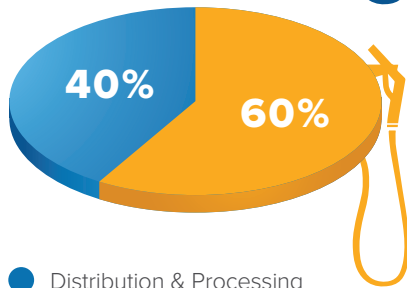


Source: U.S. Energy Information Administration

Natural Gas



Diesel



- Distribution & Processing
- Natural Gas Commodity Cost
- Crude Oil Commodity Cost

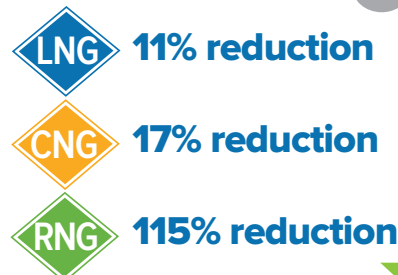
Currently, natural gas prices can be \$0.75 to \$1 or more lower than diesel at the pump, with a firm price advantage expected to remain for decades as shown in the chart above.

Beyond the fuel-price differential, the pump price of natural gas remains relatively stable for two reasons. First, it is domestically sourced. Second, the commodity cost of natural gas only makes up 23% of the pump price so price fluctuations have minimal impact.

In contrast, approximately 60% of the price of diesel fuel is impacted by the market cost of crude oil, which is largely sourced from politically unstable, high-conflict regions. When crude oil prices increase, diesel prices follow suit which can lead to significant swings in a fleet's fuel costs.

Natural Gas Reduces WTW Greenhouse Gas Emissions

Compared to Diesel:



Source: NGV America Fleets Run Cleaner on Natural Gas White Paper 2016



Volkswagen EMT Funding Recommendations

- ✓ Fund alternative fuel vehicle projects that cost effectively maximize NOx reductions for both public and private fleets
- ✓ Provide higher funding levels for medium- and heavy-duty engines that deliver NOx reductions greater than current EPA standards
- ✓ Target funding for technologies that have demonstrated lower in-use emissions
- ✓ Prioritize funding for commercially available products and projects that are ready to begin
- ✓ Stay flexible in plans and leverage private investment to stretch dollars and get more alternative vehicles on the road

Natural gas vehicles can fulfill all of these recommendations today!

NGVAMERICA

Natural Gas Vehicles for America

For more information visit: www.ngvamerica.org/vwsettlement



Natural Gas Vehicles for America

400 North Capitol Street, N.W.
Washington, D.C. 20001
ngvamerica.org



March 23, 2017

Mr. William K. Montgomery
Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-5317

RE: NGVAmerica Comments on the Volkswagen Diesel Emissions Settlement and the Environmental Mitigation Trust Implementation for the States

Dear Mr. Montgomery and Ms. Treece:

Natural Gas Vehicles for America (NGVAmerica), the national trade association for the natural gas vehicle industry, respectfully submits the following comments on how the Arkansas Department of Environmental Quality (ADEQ) can best use the Environmental Mitigation Trust (EMT or Trust) funds (\$14.6 million) that the state will receive as part of the Volkswagen (VW) diesel emission settlement.

The VW EMT funds provide an extraordinary opportunity for Arkansas to cost-effectively transition to cleaner vehicle fuels to lower vehicle emissions. Whether regional trucking, waste hauling, medium duty delivery, transit or school buses, commercially available natural gas vehicles offer the best solutions for addressing the goals of the EMT, delivering the most nitrogen oxide (NOx) emission reductions for the least cost.

The following pages outline key facts related to vehicle emissions, total cost of ownership, and current availability, as well as NGVAmerica's recommendations on how EMT funds should be allocated.

The Need to Take Meaningful Action Today

The funding available through Volkswagen's Environmental Mitigation Trust comes at a time when it is critical to address transportation emissions. The American Lung Association's "State of the Air 2016" report found that air pollution continues to be a pressing concern with more than half of all Americans—166 million people—living in counties where they are exposed to unhealthy levels of ozone and particulate pollution.

Medium- and heavy-duty on-road vehicles are the number one source of ozone-forming emissions of nitrogen oxides (NOx) in almost every metropolitan region in the U.S., therefore there is considerable opportunity to develop and deploy funding programs that make an immediate and tangible impact on air quality and related public health issues.



*Approximately 50% of
Americans live in
areas with air that is
unhealthy to breathe*



*Medium- and heavy-duty
vehicles are the #1 source
of smog*

Advocating the increasing use of NGVs where they benefit most.
For the economy. For the environment. For health. For security. **For America.**

Sustainable, Responsible, Available: Natural Gas Vehicles

Today's natural gas vehicles (NGVs) are proven technologies that can uniquely, immediately, and cost-effectively transform our nation's medium- and heavy-duty transportation sector. The advantages of natural gas as a transportation fuel include its domestic availability, widespread distribution infrastructure, low cost, and inherently clean-burning qualities.

In these comments NGVAmerica presents the compelling reasons that states should prioritize funding for NGVs to *maximize the impact* of the available funding. As your organization is aware, the EMT was set up to fund projects that make an impactful reduction on NOx emissions to mitigate the excess emissions currently in our air from the non-compliant light-duty diesel vehicles VW sold. NGVAmerica strongly believes that NGVs are the best solution to meet the core goals put forth by the Volkswagen EMT funding. NGVs are:

1. **Sustainable:** NGVs maximize long-term emission reductions
2. **Responsible:** NGVs extend the funding and foster economic development
3. **Available:** NGVs meet the diverse operating requirements of every fleet application

1. Sustainable: NGVs Maximize Long-Term Emission Reductions

- ❖ **Key Point:** Today's natural gas medium- and heavy-duty engines provide *unmatched* reductions of smog-forming emissions of nitrogen oxides (NOx).

"Near Zero-Emissions": EPA and CARB Certified a Heavy-Duty Natural Gas Engine to 0.02 g Standard

In September 2015, the U.S. Environmental Protection Agency (EPA) and the California Air Resources Board (CARB) certified the world's first heavy-duty engine that emits oxides of nitrogen (NOx) at levels so low they are considered "near-zero" (0.02g NOx/bhp-hr). This is the cleanest commercially available heavy-duty truck engine available in the market today, offering the ability to reduce emissions 90% below even the most stringent U.S. EPA standards.



Today's natural gas engines offer a 90% NOx reduction over the EPA's strictest emission standards, making them the cleanest commercially available technology



The "Game Changer" report shows that "Near-Zero" NGVs are cleaner than "Zero-Emission" All-Electric trucks

NGVs Have Lower NOx Emissions Than All-Electric Trucks

The emission benefits of the new "Near-Zero" engine are well documented in the 2016 *Game Changer* report issued by Gladstein, Neandross and Associates (GNA)¹. The GNA report indicates that a truck or bus equipped with a natural gas engine that has been certified to the 0.02 g/bhp-hr Optional Low NOx Standard has tailpipe NOx emissions that are comparable to – or possibly lower than – the amount of NOx emitted to produce electricity used to charge a comparable heavy-duty All-Electric Truck.

¹ Gladstein, Neandross & Associates, *Game Changer Technical White Paper* (2016) <http://ngvgamechanger.com/>, Section 6.4 and Appendix 1. Emissions of low-NOx natural gas engines produce NOx emissions that are comparable to or lower than similar electric drive vehicles in all 50 U.S. states when considering upstream NOx.



Heavy-duty drayage trucks: Diesel trucks tested in study exceed certification level

Critical Insight:

Study Finds that Natural Gas Engines Outperform Diesel Engines in Real World Situations

Natural gas (NG) engines today meet an optional Low NOx standard that is ten times cleaner than the standard required for new diesel and natural gas engines. However, the in-use emission benefits of NG engines could be even more significant.

A recent report published in *Environmental Science and Technology*², evaluated in-use emissions of earlier model year NG vehicles and found that NG engines performed much better in real world conditions (i.e., operating within city limits in low-speed, high-idling situations), registering NOx levels that were 96% lower than levels produced by tested diesel engines equipped with the latest emissions controls. The study found that diesel NOx emissions operating in similar conditions produced emissions that were 5 -7 times higher than in-use certification limits in some cases.

Related Recommendations for EMT Funding

- ✓ **Provide a higher level of funding for technologies that are proven to exceed federal emission levels for nitrogen oxides**
 - Vehicles with engines certified to California's Optional Low-NOx Standard should receive the highest level of funding (e.g., 25% in the case of private sector vehicle replacements)
 - Use the state's approved DERA plan to fund low-NOx natural gas trucks (i.e., 35% of the replacement cost for private vehicles equipped with low-NOx engines)
- ✓ **Provide the highest level of funding to applications that will reduce the largest share of NOx emissions**
 - Evaluate the main mobile source(s) of NOx emissions in urban and non-attainment areas (Note: In most regions, this means prioritizing funding for short-haul, regional-haul, and refuse trucks)
 - Do not segment the funding – fund the projects that best achieve the most NOx reductions

² *Environ. Sci. Technol.*, **2015**, 49 (8), pp 5236–5244 (Emission Rates of Regulated Pollutants from Current Technology Heavy-Duty Diesel and Natural Gas Goods Movement Vehicles).

2. **Responsible:** NGVs Extend the Funding and Foster Economic Development

- ❖ **Key Point:** NGVs are far more cost-effective in delivering emission reductions than other alternative fuel options, such as hybrid and electric vehicles.

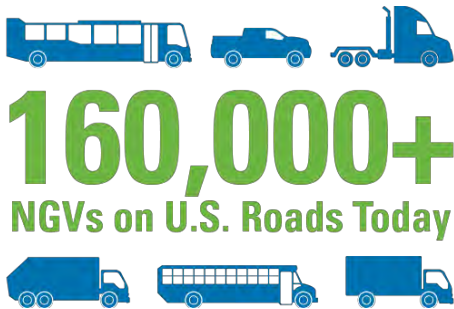


Due to lower fuel and maintenance costs, NGVs offer an 18 to 24 month payback. As production increases and fuel tank prices come down, vehicles will become less expensive and enjoy a shorter payback period

NGVs Offer a Fast Return on Investment

While NGVs typically cost more than gasoline or diesel vehicles upfront (largely due to the cost of high-pressure and insulated fuel tanks which are necessary to store CNG or LNG), owners and operators of high mileage vehicles typically see a pay back in as little as 18–24 months. This is due to:

- **Lower Fuel Costs:** Natural gas fuel is currently \$0.50 to \$1.00 less per gallon. The savings in fuel costs can translate into significant savings over the life of a vehicle, depending on fuel efficiency and the number of miles driven. The greatest savings are currently being seen in heavy-duty, high mileage fleets.
- **Lower Maintenance Costs:** NGVs are easier and cheaper to maintain than diesel trucks because they have:
 - No diesel particulate filter (DPF)
 - No DPF regeneration or waste disposal
 - No selective catalytic reduction (SCR)
 - No diesel emission fluid (DEF)



High-profile fleets across the U.S. are using natural gas vehicles in their everyday operations, transporting passengers, and hauling waste, packages, beverages, and other goods

NGVs Have Been Road-Tested by Leading Fleets

There are more than 160,000 NGVs on U.S. roads today, spanning all weight classes and vehicle applications. The adoption of NGVs has been pioneered by several high-profile fleet operators, including UPS, Anheuser-Busch, Kroger, FedEx, Frito Lay, Waste Management, LA Metro, all of which performed exhaustive analysis to determine the best vehicle and fueling options for their fleet based on application, range, duty cycle, and payload.

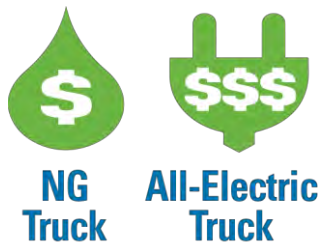
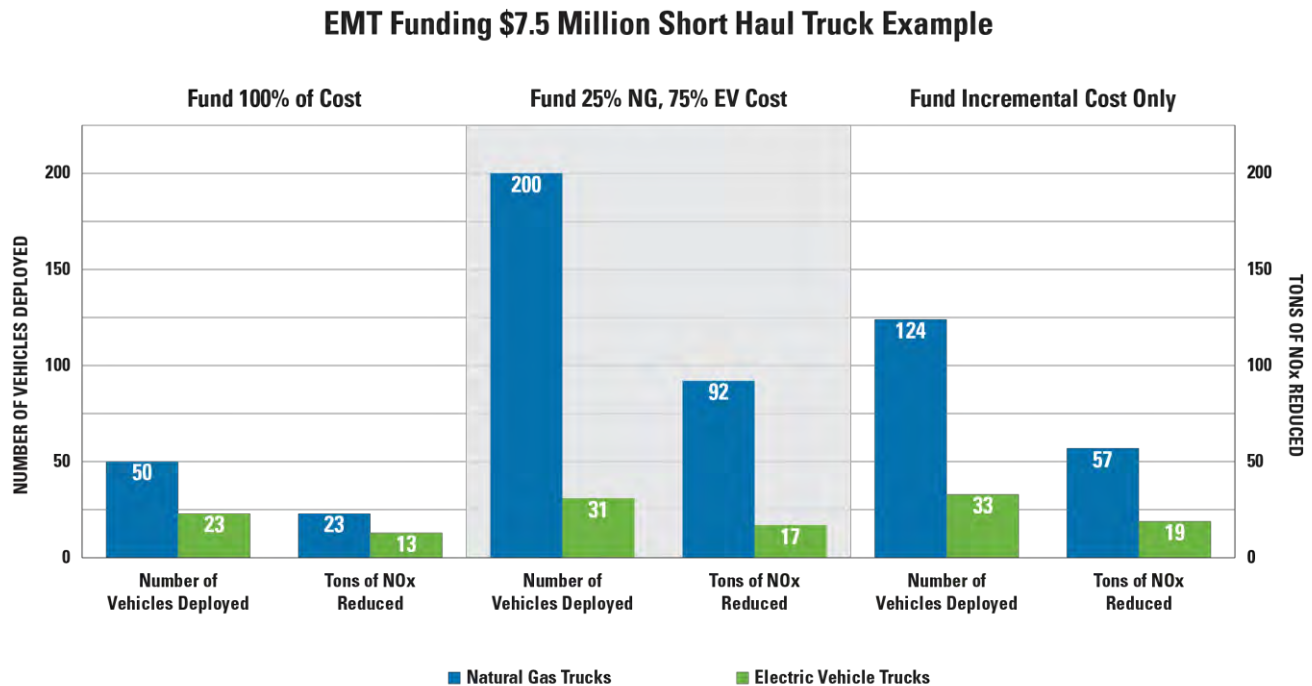
Given the significant fuel and emission reductions realized by early adopters, the popularity of NGVs has continued to build in the U.S., with 20% of all U.S. transit buses now running on CNG or LNG, 35 airports operating NGVs in their private fleets or championing policies that encourage use by private fleets, and more than 50% of new refuse trucks running on natural gas.

To fuel these vehicles, natural gas infrastructure is rapidly expanding with more than 1,640 CNG and 123 LNG fueling stations operating today.

Dollar-for-Dollar Natural Gas Delivers Greater Numbers of Total Vehicles and Greater Total Tons of NOx Emission Reductions

This is illustrated by the chart below which looks at several different funding options for natural gas and electric vehicles including providing 100% of the cost of new, replacement vehicles for public fleets, using the maximum funding levels specified in the settlement for natural gas and electric vehicles purchased by private fleets, or funding only the incremental cost of new, replacement vehicles. In each case, the deployment of natural gas vehicles (e.g., regional haul trucking, refuse trucks, and transit buses) will provide the most NOx emissions reduction to comply with the EPA's latest national ozone standards.

Chart: Heavy-Duty Truck Deployment & NOx Reduction Comparisons Under Different Funding Scenarios



Critical Insight:

Comparable All-Electric Vehicles Cost 2-3x More Than an NGV

While actual cost depends on the application, an all-electric medium- or heavy-duty vehicle usually costs two to three times the amount of a comparable vehicle powered by a 0.02 g NOx natural gas engine. As noted above, funding heavy-duty NGVs delivers greater emission reductions than similar projects involving all-electric trucks, and they offer the best ability to reduce emissions on a large scale because the funding will extend further.

Related Recommendations for EMT Funding

- ✓ **Ensure that funding incentivizes adoption by both public and private fleets**
 - While it might be tempting to fund public vehicles at the 100% level, this will limit the total number of deployed vehicles and therefore lessen the overall emission reductions
 - Funding levels should be large enough to offset the incremental cost of new, cleaner vehicles, as well as to address the fact that replaced vehicles must be scrapped
- ✓ **Prioritize funding for clean vehicles rather than fueling infrastructure**
 - Funding should be used to incentivize fleets and vehicle acquisitions where existing fueling infrastructure exists to better support investments that have already been made
 - If fueling infrastructure needs to be developed, funding should be secured as part of private-public partnerships. Using the funding in this way will encourage additional economic development in the state and increase the availability of stations for future deployments

3. Available: NGVs Meet the Diverse Operating Requirements of Every Fleet Application

- ❖ **Key Point:** Dozens of models of medium- and heavy-duty low-emission natural gas vehicles and engines are commercially available from reputable, world-known OEMs with established sales and service networks.



Wide Array of NGV Options Commercially Available

There are many natural gas vehicle options available from several original equipment manufacturers (OEM). These vehicles can be purchased from the dealership through a process that has been streamlined for the customer.



Many other medium- and heavy-duty vehicle options are available through small vehicle modifiers (SVM). These companies manufacture conversion systems that have been certified and approved by the U.S. Environmental Protection Agency and/or the California Air Resources Board. These approved systems can be installed on new and used vehicles to run on natural gas.



Additionally, Cummins Westport currently offers the 6.7L ISB-G, 8.9L ISL-G and the 11.9L ISX-G natural gas engines. These spark-ignited engines are used in a variety of applications, including refuse trucks, transit buses, cement trucks, short- and regional-haul tractors, delivery trucks, school buses, and shuttles. Roush offers a school bus engine that is certified to the Low-NOx standard of 0.10. Retrofit and repower options are also available from a variety of manufacturers.

For a full list of EPA and CARB certified engines, visit www.ngvamerica.org/vehicles/vehicle-availability. A list of available NGV manufacturers and conversion companies follows.



HD Vocational OEMs

Autocar Truck
Capacity
Crane Carrier
Elgin
Johnston
Kalmar
McNeilus
Mack
Peterbilt
Power Solutions Int'l.
Schwarze
Tymco

HD Truck OEMs

Cummins Westport
Freightliner
Kenworth
Mack
Peterbilt
Volvo

HD Bus OEMs

Blue Bird Bus
DesignLine
El Dorado
Gillig
New Flyer/NABI Bus
NOVA Bus
Motor Coach Industries
Thomas Built Bus

HD Retrofit/ Repowers

American Power Group
Clean Air Power
Diesel 2 Gas
Fyda Energy Solutions
NGV Motori
Omnitek Engineering

MD Retrofits

AGA Systems
Altech-Eco
Crazy Diamond Performance
Greenkraft
Landi Renzo USA/Baytech
M-Tech Solutions
NAT G
NGV Motori USA
PowerFuel Conversions
Roush CleanTech
STAG
Westport Fuel Systems
Zavoli

Fuel Systems

Agility Fuel Systems
Mainstay
Momentum Fuel
Technologies

Critical Insight: Heavy-Duty Electric and Fuel Cell Vehicles are Not Commercially Available

As of today, three unique fuel-technology combinations hold the most promise to successfully transform America's HDV transportation sector to zero and near-zero emissions:

1. Near-zero-emission internal combustion engines fueled by conventional or renewable natural gas
2. Zero-emission battery-electric-drive systems
3. Zero-emission hydrogen fuel cell systems

While battery-electric and hydrogen fuel cell systems can offer extremely low emissions profiles, the lack of commercially available heavy-duty and limited medium-duty products and charging/fuel distribution networks makes implementation in the near future impractical or very difficult. Furthermore, these vehicles are being developed by niche, start-up companies and have only been used in early test programs; comparatively, medium- and heavy-duty NGVs from major OEMs have been widely, commercially available in dozens of applications for over two decades. Near-zero-emission internal combustion engines fueled by conventional or renewable natural gas are the only option to immediately and cost-effectively provide extremely low NOx and GHG emissions in high-impact HDV sectors.

Related Recommendations for EMT Funding

- ✓ **Prioritize funding for commercially available products**
 - Given that the NOx emissions from Volkswagen vehicles are already in the air, funding should be concentrated to projects that allow us to deploy the cleanest vehicles available today (i.e., not pre-commercial or research and development projects)
- ✓ **Scale funding to incentivize the cleanest engines available**
 - Provide greater funding for medium- and heavy-duty engines that deliver NOx reductions over and above what is currently required for new diesel vehicles
 - Given that the EMT was created because of NOx pollution associated with non-compliant diesel vehicles, we believe that the funding should be set aside for clean, alternative fuel vehicle projects and should not be used to fund more diesel fueled vehicles

Let's Transform Clean Transportation Together

NGVAmerica and its members are eager to serve as a resource to assist ADEQ in their evaluation and development of the state's Beneficiary Mitigation Plan. We strongly encourage Arkansas to recognize the superior and unmatched role that natural gas vehicles can play in delivering nitrogen oxide (NOx) emissions reductions required by the settlement and Trust.

NGVAmerica welcomes the opportunity to meet with you to provide further information and analysis on the economic and environmental benefits of natural gas vehicles in Arkansas. Please contact Jeff Clarke, NGVAmerica General Counsel & Director Regulatory Affairs at 202.824.7364 or jclarke@NGVAmerica.org, or Sherrie Merrow, NGVAmerica State Government Advocacy Committee Chair at 303.883.5121 or smerrow@NGVAmerica.org to set up a meeting and for additional information.

Sincerely,



Matthew Godlewski
President

Summary of NGVAmerica's Recommendations for EMT Funding

- ✓ Provide a larger incentive and greater overall funding for medium- and heavy-duty engines that deliver greater NOx reductions than currently required for new vehicles and engines
- ✓ Target funding for technologies that have demonstrated the ability to deliver actual lower in-use emissions when operated in real-world conditions
- ✓ Provide the highest level of funding to applications that produce the largest share of NOx emissions (in most regions this means prioritizing for short-haul, regional-haul and refuse trucks)
- ✓ Prioritize funding for commercially available products that are ready to begin
- ✓ Prioritize funding for clean vehicles rather than fueling infrastructure
- ✓ Scale funding to incentivize the cleanest engines available
- ✓ Ensure that funding incentivizes adoption by both public and private fleets
- ✓ Accelerate the funding in the early years to maximize the NOx reduction benefits
- ✓ Given that the EMT was created because of NOx pollution associated with non-compliant diesel vehicles, we believe that the funding should be set aside for clean, alternative fuel vehicle projects that focus on maximizing NOx reduction for the funds spent



November 13, 2017

Mr. William K. Montgomery
Ms. Tricia Treece
Arkansas Department of Environmental Quality
5301 Northshore Drive
North Little Rock, AR 72118-531

RE: NGV America Comments on the State of Arkansas Volkswagen Environmental Trust Draft Beneficiary Mitigation Plan

Dear Mr. Montgomery and Ms. Treece:

Kinetrex Energy, one of the leading manufacturers of LNG in the United States, respectfully submits the following comments to the Arkansas Department of Environmental Quality (ADEQ) on the State of Arkansas Volkswagen Environmental Trust Draft Beneficiary Mitigation Plan (Plan). These comments are in support of Natural Gas Vehicles for America (NGV America)'s comments and recommendations on how states can best use the Environmental Mitigation Test (EMT or Trust) funds that each state will receive as part of the Volkswagen (VW) diesel emission settlement. **We request that the Statewide Alternative Fuel Grant Program be broadened to *natural gas engines/vehicles*, which includes Liquefied Natural Gas (LNG) fuel systems.**

We submit that the Statewide Alternative Fuel Grant Program (25%) should be broadened to *natural gas engines/vehicles*, which includes Liquefied Natural Gas (LNG) fuel systems. All medium and heavy duty natural gas trucks use the same natural gas engine, only the fuel systems vary. An LNG fuel system is better suited for an over the road trucking application than CNG because **LNG fuel systems have 800+ mile ranges, are less expensive, and are lighter weight than their CNG counterparts. As a result, over the road, heavy duty trucking operations looking to convert to natural gas look to LNG as the right technology.** If the language is not broadened to natural gas engines/vehicles or LNG, then over the road, heavy duty trucking operations will be left out of this program.

We are working to implement an LNG pilot in Arkansas, for a company domiciled in Arkansas, who will be purchasing ten new Class 8 LNG trucks. These trucks will be run in an over the road transportation network. This private, wholesale LNG development would benefit tremendously from being a beneficiary of the Statewide Alternative Fuel Grant Program. This will support the public-private goals ADEQ has identified.

By broadening the language of the Statewide Alternative Fuel Grant Program to *natural gas engines/vehicles*, which includes LNG fuel systems, you will be broadening the program to include over the road, heavy duty truck operations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Johnson".

Aaron Johnson
President & CEO

Appendix E Federal Land Manager Notification



February 28, 2018

Linda Geiser
National Air Program Manager
U.S. Forest Service
RE: VW Settlement

Sent via email to lgeiser@fs.fed.us

This letter is to notify you that the State of Arkansas has been designated a Beneficiary under the Volkswagen Environmental Mitigation Trust (Trust) in accordance with Section 4.2.8 of the Environmental Trust Agreement for State Beneficiaries. The Arkansas Department of Environmental Quality (ADEQ) has been designated by Governor Asa Hutchinson as the lead agency for the purposes of Arkansas's participation in the Trust. 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 Arkansas 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). ADEQ will review, consider, and make a written determination upon each such request in accordance with the terms of the underlying settlement agreement documents, all applicable laws and regulations, and any additional procedures and criteria that will be developed, adopted, and published by ADEQ relating to the handling of requests or applications for funding.

For further information, please visit our Volkswagen Environmental Mitigation Trust website at <https://www.adeq.state.ar.us/air/planning/vw.aspx>.

Sincerely,

*WLM
for*

Stuart Spencer

Stuart Spencer
Associate Director, Office of Air Quality

cc: Bret Anderson, National Air Modeling Coordinator, U.S. Forest Service

Enclosures:

Environmental Mitigation Trust Agreement for State Beneficiaries
Notice of Beneficiary Designation
Amended D-3 Certification with Attachment

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES

On October 25, 2016, the Court entered a Partial Consent Decree (“First Partial Consent Decree”) in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), among Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, the “Settling Defendants”), the United States, and the State of California. In that case, the Court also entered a Second Partial Consent Decree (Dkt. No. 3228-1) on May 17, 2017, among the Settling Defendants, Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. (collectively, the “Defendants”), the United States, and the State of California. Pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, the Defendants and Wilmington Trust, N.A. (the “Trustee”): (1) hereby enter into this Environmental Mitigation Trust Agreement for State Beneficiaries (i.e., for the 50 States, Puerto Rico, and the District of Columbia) (hereinafter, the “State Trust Agreement”) and establish the environmental mitigation trust described herein (the “State Mitigation Trust” or “State Trust”); and (2) concurrently enter into a separate Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries (i.e., for federally-recognized Indian Tribes) (hereinafter, the “Indian Tribe Trust Agreement”) and establish the environmental mitigation trust described in that agreement (“Indian Tribe Mitigation Trust” or “Indian Tribe Trust”). The Defendants and the Trustee acknowledge that the purpose of the State Mitigation Trust and the Indian Tribe Mitigation Trust is to fulfill the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree. All payments to and expenditures from the State Mitigation Trust and the Indian Tribe Mitigation Trust shall be for the sole purpose of fulfilling the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree, and for the costs and expenses of administering each trust as set forth in the State Mitigation Trust and the Indian Tribe Mitigation Trust. The State Mitigation Trust and the Indian Tribe Mitigation Trust shall be funded with Mitigation Trust Payments according to the terms of the First Partial Consent Decree and the Second Partial Consent Decree (jointly, the “Consent Decree”), and in accordance with the following allocation: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.01% to the Indian Tribe Mitigation Trust; and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.3% to the Indian Tribe Mitigation Trust.

PURPOSE AND RECITALS

Whereas, the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated (“Eligible Mitigation Actions”), and to pay for Trust Administration Costs as set forth in this State Trust Agreement;

Whereas, the funding for the Eligible Mitigation Actions provided for in the State Trust Agreement and the Indian Tribe Trust Agreement is intended to fully mitigate the total, lifetime excess NOx emissions from the Subject Vehicles where the Subject Vehicles were, are, or will be operated;

Whereas, the Defendants hereby establish this State Mitigation Trust to provide funds for Eligible Mitigation Actions and Trust Administration Costs;

Whereas, the Trustee has been selected to be the trustee under this State Trust Agreement in accordance with the requirements set forth in the First Partial Consent Decree; and

Whereas, the Trustee is willing to act as trustee in accordance with the terms of this State Trust Agreement;

Now, therefore, the Defendants and the Trustee agree as follows:

I. DEFINITIONS

1.0 Unless otherwise defined in this State Trust Agreement, all capitalized terms used herein shall have the meaning set forth in the Consent Decree.

1.1 “Beneficiary” shall mean each governmental entity among the 50 States, Puerto Rico, and District of Columbia that is determined to be a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries).

1.2 “Business Day” means, with respect to any delivery requirement, deadline, or payment under this State Trust Agreement, each Monday, Tuesday, Wednesday, Thursday, and Friday that is not a day on which the Trustee in the State of Delaware or, as to a specific Beneficiary, a day on which that Beneficiary under this State Trust is authorized or obligated by law, regulation, or executive order to close.

1.3 “Claims” shall mean any and all losses, liabilities, claims, actions, suits, or expenses, of any nature whatsoever, including legal fees and expenses.

1.4 “Consent Decree” shall mean the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), and the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.5 “Court” shall mean the United States District Court for the Northern District of California.

1.6 “Day” shall mean a calendar day unless expressly stated to be a Business Day. In computing any period of time under this State Trust Agreement, where the last day would fall on a Saturday, Sunday, or federal or Delaware holiday, the period shall run to the close of business of the next Business Day;

1.7 “Delaware Act” shall mean the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826.

1.8 “DERA” shall mean the Diesel Emission Reduction Act, Title VII, Subtitle G, of the Energy Policy Act of 2005 (codified at 42 U.S.C. §§ 16131-16139).

1.9 “Eligible Mitigation Action” shall mean any of the actions listed in Appendix D-2 to this State Trust Agreement.

1.10 “Eligible Mitigation Action Administrative Expenditure” shall mean those administrative expenditures by Beneficiaries specified in Appendix D-2 to this State Trust Agreement, and shall not include Trust Administration Costs.

1.11 “Federal Agency” shall mean any agency of the United States government.

1.12 “First Partial Consent Decree” shall mean the Partial Consent Decree entered by the Court in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), on October 25, 2016.

1.13 “Force Majeure” shall have the same meaning as in Paragraph 54 of the First Partial Consent Decree.

1.14 “Indian Land” shall mean the lands of any Indian Tribe or within Indian country.

1.15 “Indian Tribe” shall mean any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe as provided in the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Pursuant to 25 U.S.C. § 5131, the Bureau of Indian Affairs of the Department of the Interior published a current list of federally acknowledged Indian Tribes at 82 Fed. Reg. 4,915 (Jan. 17, 2017), which will be updated from time to time.

1.16 “Investment Manager” shall mean Wilmington Trust, N.A., acting solely in its role as the professional investment manager of Trust Assets in accordance with subparagraph 3.2.2 of this State Trust Agreement and the Investment Management Agreement entered into on the Trust Effective Date. In subparagraphs 2.2.4, 3.1.2.8, 3.5.3 (last sentence), 3.5.6, and 3.5.7 of the State Trust Agreement, each reference to the Investment Manager shall include the Investment Manager and its officers, directors, and employees.

1.17 “IRS” shall mean the Internal Revenue Service.

1.18 “Shared State and Indian Tribe Administration Costs” shall mean the costs, fees, and expenses of: (1) establishing and maintaining the Trustee’s public-facing website; and (2) establishing and maintaining a secure method of internet-based communication for the Trustee and Beneficiaries.

1.19 “Start-up Costs” shall mean all fees, costs, and expenses incurred in connection with establishing the State Mitigation Trust and the Indian Tribe Mitigation Trust and setting them up for operation. Start-up costs shall not include the cost of premiums for insurance policies.

1.20 “Subject Vehicles” shall mean: (i) the “2.0 Liter Subject Vehicles,” as defined in the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1); and (ii) the “3.0 Liter Subject Vehicles,” as defined in the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.21 “Tax” or “Taxes” shall mean all federal, state, and local taxes that may be imposed on the Trust by any taxing authority.

1.22 “Tax Professionals” shall mean all accountants and tax lawyers hired to assist the Trustee with the Trust’s reporting obligations, tax filings, audits, and all other tax and accounting-related activities, including efforts to obtain and, if granted, maintain the IRS Private Letter Ruling as described in subparagraphs 2.1.5.1, 2.1.5.2, and 3.1.2.7, and Paragraph 6.7 of this State Trust Agreement.

1.23 “Tax Return” or “Tax Returns” shall mean all required federal, state, and local tax returns and information returns, including any returns associated with compliance with withholding and reporting requirements.

1.24 “Termination Date” shall mean the date that the State Trust terminates pursuant to Paragraph 6.8 of this State Trust Agreement.

1.25 “Trust Administration Costs” shall mean all expenditures of Trust Assets by the Trustee.

1.26 “Trust Effective Date” shall mean the date that the United States files the fully executed final version of the State Trust Agreement with the Court.

1.27 “Trustee” shall mean Wilmington Trust, N.A., acting solely in its role as the Trustee of this State Mitigation Trust as appointed in accordance with Paragraph 3.0, or a successor trustee pursuant to subparagraph 3.7.2. In subparagraphs 2.2.4, 3.1.2.8, 3.5.2, 3.5.3, 3.5.6, and 3.5.7 of this State Trust Agreement, each reference to the Trustee shall include the Trustee and its officers, directors, and employees.

1.28 “United States” shall mean the United States of America, acting on behalf of the U.S. Environmental Protection Agency (“EPA”).

II. STATE MITIGATION TRUST

2.0 Establishment of the State Mitigation Trust

2.0.1 Irrevocable Establishment. The Defendants hereby and irrevocably establish this State Mitigation Trust on behalf of the Beneficiaries in the form of a statutory trust under the Delaware Act, which shall bear the name “Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.” In connection with the Trustee’s power hereunder, the Trustee may use this name or a variation thereof. The Trustee is hereby authorized and directed to execute and

file a Certificate of Trust for the State Mitigation Trust in the form attached hereto as Appendix D-5. The Trustee hereby accepts and agrees to hold the assets owned by the State Mitigation Trust (“Trust Assets”) for the benefit of the Beneficiaries and for the purposes described herein and in the Consent Decree.

2.0.2 Trustee. In accordance with Paragraph 3.0 below, on the Trust Effective Date, the Trustee, not individually but solely in the representative capacity of trustee, shall be appointed as the Trustee in accordance with the Consent Decree to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree.

2.0.3 Trust Purpose. It shall be the purpose of the State Mitigation Trust to timely and efficiently fund Eligible Mitigation Actions to be proposed and administered by the Beneficiaries subject to the requirements of the Consent Decree and this State Trust Agreement, and to provide funds for the administration and operation of this State Trust in accordance with this State Trust Agreement. The goal of each Eligible Mitigation Action shall be to achieve reductions of NOx emissions in the United States.

2.0.4 Creation and Use of State Trust Account. Within 15 Days following the Trust Effective Date, the Trustee shall establish a trust account (“State Trust Account”), and file with the Court a designation and identification of the State Trust Account. The purpose of the State Trust Account shall be to receive deposits from the Defendants (directly or through the Court Registry) pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, to hold them in trust, to receive income and gains from any investment of Trust Assets (collectively, “Trust Funds”), and to make disbursements to fund Eligible Mitigation Actions by Beneficiaries and to pay Trust Administration Costs, all in accordance with the Consent Decree and this State Trust Agreement. Disbursements shall be directed by each Beneficiary pursuant to a Beneficiary Eligible Mitigation Action Certification (Appendix D-4) delivered to the Trustee in accordance with Paragraph 5.2. Unless otherwise agreed by the parties to the Consent Decree (“Consent Decree Parties”), the State Trust Account shall be the only account that may be used for these purposes.

2.0.4.1 State Trust Account Divisions. The State Trust Account may be divided into such number of discrete trust subaccounts dedicated for specific purposes as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and to implement, the Consent Decree and this State Trust Agreement.

2.1 Funding of the State Mitigation Trust: The Settling Defendants shall fund the State Mitigation Trust as required by the First Partial Consent Decree, and the Defendants shall fund the State Mitigation Trust as required by the Second Partial Consent Decree. The Trustee shall allocate to the State Mitigation Trust the following amounts: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account, and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account.

2.1.1 Intentionally Reserved.

2.1.1.1 Intentionally Reserved.

2.1.1.2 Intentionally Reserved.

2.1.1.3 Intentionally Reserved.

2.1.1.4 Intentionally Reserved.

2.1.1.5 Intentionally Reserved.

2.1.2 Intentionally Reserved.

2.1.3 Funding of the Trust Administration Cost Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall fund a subaccount to pay for Trust Administration Costs ("Trust Administration Cost Subaccount") by transferring into it from the State Trust Account the funds allocated to the Trust Administration Cost Subaccount in accordance with Appendix D-1 (Initial 2.0 Liter Allocation) and Appendix D-1A (Initial 3.0 Liter Allocation). The Trustee may further subdivide the Trust Administration Cost Subaccount into such number of additional subaccounts as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and implement, the Consent Decree and this State Trust Agreement. No additional Trust Assets may be directed to the Trust Administration Cost Subaccount, or to the payment of Trust Administration Costs, other than investment earnings on the Trust Administration Cost Subaccount, absent further order of the Court.

2.1.3.1 Allocation of Trust Administration Costs. The funds in the Trust Administration Cost Subaccount shall be internally allocated in accordance with each Beneficiary's allocation rate as set forth in Appendices D-1 and D-1A. The Trustee shall debit those Trust Administration Costs associated with a particular Eligible Mitigation Action request against the Trust Administration Cost Subaccount allocation of the Beneficiary that requested the funds associated with that Eligible Mitigation Action. The Trustee shall debit all other Trust Administration Costs ("Shared Administration Costs") among all Beneficiaries, weighted in accordance with each Beneficiary's Trust Administration Cost Subaccount allocation in place at the time such costs are incurred. Pursuant to Paragraph 3.6, the State Mitigation Trust shall pay 98% of the Trustee's Start-up Costs, and shall pay 98% of the Shared State and Indian Tribe Administration Costs. These costs shall be allocated to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B.

2.1.3.2 Intentionally Reserved.

2.1.4 Intentionally Reserved.

2.1.5 Tax Payment Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall deduct an amount equal to the estimated taxes owed on earnings of the Trust Funds while on deposit in the Court Registry that have been allocated to the State Mitigation Trust pursuant to Paragraph 2.1. The amount of the deduction shall be based on applicable income tax withholding and reporting requirements, and consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. Such amount shall be deposited into a dedicated, non-interest bearing account ("Tax Payment Subaccount"). In addition, prior to the allocation of any investment income pursuant to subparagraph 3.2.3, the Trustee shall deduct an amount equal to the estimated taxes owed on such earnings and deposit that sum into the Tax Payment Subaccount. The amounts in this Tax Payment Subaccount shall be used for the express purpose of paying all applicable taxes with respect to the State Trust in a manner consistent with Paragraph 6.7. If at any time the funds on deposit in this Tax Payment Subaccount are insufficient to pay all Taxes then due and owing, the Trustee shall seek to resolve any dispute pursuant to the dispute resolution procedures of Paragraph 6.2.

2.1.5.1 Within 30 Days of receipt of a Private Letter Ruling from the IRS determining that all investment income earned on the Trust Assets is excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall allocate all amounts held in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B.

2.1.5.2 Upon receipt of a Private Letter Ruling from the IRS, which determines that all or a portion of the investment income earned on the Trust Assets is not excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall pay any additional taxes owed from the Tax Payment Subaccount. Within 30 Days of receipt of such a letter ruling, the Trustee shall amend its calculation of estimated taxes and deposits to the Tax Payment Subaccount to reflect the proportion of investment income that is determined to be taxable by the IRS.

2.1.5.3 Within 120 Days of each tax-year end, the Trustee shall reconcile the amount of taxes owed and paid from the Tax Payment Subaccount, if any, and return all remaining amounts in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B. All overpayments of estimated taxes or refunds of taxes paid by, or on behalf of, the Trust shall be allocated to the Beneficiaries consistent with the allocation rates included in Appendix D-1B.

2.1.5.4 Pursuant to the secure internet-based communication established in Paragraph 6.0, the Trustee shall provide the Beneficiaries a copy of all communications from the IRS related to the payment or non-payment of taxes within 15 Days of receipt.

2.2 Trust Limitations

2.2.1 No Consent Decree Party or Beneficiary, nor any of their components, agencies, officers, directors, agents, employees, affiliates, successors, or assigns, shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the State Mitigation Trust.

2.2.2 All Trust Assets shall be used solely for the purposes provided in the Consent Decree and this State Trust Agreement.

2.2.3 This State Mitigation Trust is irrevocable. The Defendants: (i) shall not retain any ownership or residual interest whatsoever with respect to any Trust Assets, including, but not limited to, the funds transferred by the Defendants to fund the State Trust pursuant to the terms of the Consent Decree, (ii) shall not have any liabilities or funding obligations with respect to the State Trust (to the Trustee, the Beneficiaries or otherwise) other than the funding obligations expressly set forth in the Consent Decree, and (iii) shall not have any liability or obligation to pay tax on any income or gains from any investments of Trust Assets. Nor shall the Defendants have any rights or role with respect to the management or operation of the State Trust, or the Trustee's approval of requests for Eligible Mitigation Action funding.

2.2.4 Exculpation. Neither the Trustee and its officers, directors, and employees, the Investment Manager and its officers, directors, and employees, the Tax Professionals nor the State Mitigation Trust shall have any liability whatsoever to any person or party for any liability of the Defendants; provided, however, that the State Mitigation Trust shall be liable to the Beneficiaries for funding of Eligible Mitigation Actions in accordance with the terms of this State Trust Agreement and the Consent Decree.

III. TRUSTEE RESPONSIBILITIES

3.0 Appointment: Pursuant to Paragraph 15.e. of the First Partial Consent Decree, the Court appointed Wilmington Trust, N.A., as Trustee of the Environmental Mitigation Trust. Dkt. No. 3030 at 2. Wilmington Trust, N.A., not individually but in its representative capacity as Trustee, is hereby appointed to serve as the Trustee to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree. The Trustee hereby accepts such appointment and agrees to serve, commencing on the Trust Effective Date, in such capacity to the State Mitigation Trust and for the benefit of the Beneficiaries.

3.0.1 Wilmington Trust, N.A. is acting in two separate and distinct roles under the State Mitigation Trust: (1) as the Trustee of the State Mitigation Trust; and (2) as the Investment Manager of the Trust Assets. These roles are subject to different standards of

care. Wilmington Trust, N.A., acting as Trustee, is subject to the standard of care set forth in subparagraphs 3.1.1 and 3.5.2. In its role as Investment Manager, Wilmington Trust, N.A. is subject to the standard of care set forth in subparagraph 3.2.2.

3.1 Powers of the Trustee

3.1.1 Except as set forth in this State Trust Agreement, the Trustee shall have the power to perform those acts necessary and desirable to accomplish the purposes of the State Mitigation Trust, which shall be exercised in an efficient and expeditious manner in furtherance of and in a manner consistent with the purposes of this State Trust Agreement and the Consent Decree. Subject to the limitations on liability set forth in subparagraph 3.5.2, the Trustee shall act in accordance with the current professional standards of care and with the diligence, skill, and care expected for the administration of such a Trust. The Trustee shall have only such duties, rights, powers, and privileges expressly set forth in the Consent Decree, this State Trust Agreement, and as otherwise provided by the Delaware Act. No implied duties (including fiduciary duties) shall be read into this State Trust against Wilmington Trust, N.A., acting as the Trustee.

3.1.2 Upon the Trust Effective Date, the powers of the Trustee shall include the following:

- 3.1.2.1 To receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 of this State Trust Agreement or to engage a professional investment manager (“Investment Manager”) to receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 for the benefit of the Beneficiaries. The Trustee appoints Wilmington Trust, N.A. as the Investment Manager for the State Mitigation Trust pursuant to an Investment Management Agreement entered into on the Trust Effective Date to manage the Trust Assets in accordance with Paragraph 3.2;
- 3.1.2.2 To establish and maintain a public-facing website onto which it will post all materials as required hereunder;
- 3.1.2.3 To establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries;
- 3.1.2.4 To hold title to property in the name of the Trustee in its capacity as such;
- 3.1.2.5 To incur, and pay from the Trust Administration Cost Subaccount, any and all customary and commercially reasonable charges and expenses upon or connected with the administration of this State Mitigation Trust in the discharge of its obligations hereunder, including 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs;

- 3.1.2.6 To engage and compensate professionals to assist the Trustee in accordance with this State Trust Agreement, including, but not limited to, legal, environmental, investment, accounting, tax, website, and third-party auditing professionals, or internet service providers, or insurance providers. Such third-party auditing professionals may be used by the Trustee to audit and/or review expenditures to verify that they comport with the requirements and limitations on use of Trust Funds, as set forth herein. The Trustee may initiate such an audit and/or review on its own initiative or in response to credible reports or suggestions that such review or audit is appropriate. The Trustee shall have an annual independent audit prepared and posted on the website. In its sole discretion, the United States may waive the requirement of an annual audit starting in year ten or at an earlier time in order to preserve Trust Funds;
- 3.1.2.7 To engage and compensate professionals to assist the Trustee in requesting a Private Letter Ruling from the IRS: (1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust, and to take such actions as may be reasonably necessary to secure such ruling and to ensure that the State Trust continues to comply with such ruling upon the advice of the Tax Professionals;
- 3.1.2.8 To purchase any insurance policies as the Trustee may determine to be prudent to protect the State Mitigation Trust, the Trust Assets, the Trustee and its officers, directors, and employees, Wilmington Trust, N.A., in its role as Investment Manager, and its officers, directors, and employees, and to cover Tax Professionals, if required, from any and all Claims that might be asserted against each;
- 3.1.2.9 To distribute Trust Assets for the purposes contemplated in this State Trust Agreement and the Consent Decree, including distributions of funds to Beneficiaries for approved Eligible Mitigation Actions;
- 3.1.2.10 To file documents in Court on behalf of itself and the State Trust;
- 3.1.2.11 To make all necessary state and federal filings and to provide information as required by law;
- 3.1.2.12 To vote shares or other investments;

- 3.1.2.13 To open or maintain any additional bank accounts, or close bank accounts or open securities accounts as are necessary or appropriate to manage the Trust Assets;
- 3.1.2.14 To apply, as soon as practicable after the Trust Effective Date, for an employer identification number for the State Trust pursuant to IRS Form SS-4, and in accordance with Treasury Regulation Section 1.468B-2(k)(4), 26 C.F.R. § 1.468B-2(k)(4);
- 3.1.2.15 To deduct and withhold from allocation of investment earnings to the Beneficiaries under subparagraph 3.2.3 all Taxes that the Trustee may be required to deduct and withhold under any provision of tax law, and any allocation of investment income under subparagraph 3.2.3 to a State Trust subaccount shall be reduced to the extent such withheld amounts are remitted to the appropriate taxing authority;
- 3.1.2.16 To file on behalf of the State Trust all required Tax Returns, which shall be completed in consultation with Tax Professionals, ensure compliance with withholding and reporting requirements, and pay any and all Taxes, including estimated Taxes, due and owing with respect to the State Trust from amounts in the Tax Payment Subaccount pursuant to subparagraph 2.1.5; and
- 3.1.2.17 Subject to applicable requirements of this State Trust Agreement (including the limitations on liability set forth in subparagraph 3.5.2), the Consent Decree, and other applicable law, to effect all actions and execute and deliver all contracts, instruments, agreements, or other documents that may be necessary to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree, each in accordance with its duties and the current professional standards of care, and with the diligence, skill, and care expected for the administration of such a State Trust for the benefit of the governmental entities identified in Appendix D-1 and Appendix D-1A.
- 3.1.2.18 Duty to Comply with Law. The Trustee shall not be required to take any action that would violate a law or regulation to which it is subject.
- 3.1.2.19 Relation-Back Election. If applicable, the Trustee and the Defendants shall fully cooperate in filing a relation-back election under Treasury Regulation Section 1.468B-1(j)(2), 26 C.F.R. § 1.468B-1(j)(2), to treat the State Trust as coming into existence as a settlement fund as of the earliest possible date.

3.2 Investment of Trust Assets: The Trustee shall engage the Investment Manager to invest and reinvest the principal and income of the Trust Assets in those investments that are reasonably calculated to preserve the principal value, taking into account the need for the safety and

liquidity of principal as may be required to fund Eligible Mitigation Actions and Trust Administration Costs.

3.2.1 Any investment income that is not reinvested shall be deposited into the State Trust Account for distribution among the Beneficiaries or Supplemental Funding Eligible Beneficiaries, weighted in accordance with the allocation in place at the time of such deposit.

3.2.2 In investing, reinvesting, exchanging, selling, and managing Trust Assets, the Trustee or Investment Manager must perform its duties solely in the interest of the Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent investor, acting in a like capacity and familiar with such matters, would exercise in the conduct of an enterprise of like character and with like aims. The Investment Manager shall comply with all applicable laws and shall be held to a fiduciary standard of care with respect to the investment and reinvestment of the principal and income of Trust Assets; except that the right and power of the Investment Manager to invest and reinvest the Trust Assets shall be limited to: (i) demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured; (ii) U.S. Treasury bills, bonds, and notes, including, but not limited to, long-term U.S. Treasury bills, bonds, and notes; (iii) repurchase agreements for U.S. Treasury bills, bonds, and notes; (iv) AA or AAA corporate bonds (with the rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's, or Fitch)); or (v) open-ended mutual funds owning only assets described in subparts (i) through (iv) of this subsection; *provided*, however, that the value of bonds of any single company and its affiliates owned by the State Trust directly rather than through a mutual fund shall not exceed \$10 million when purchased, but may be held, despite increase in value, so long as such amount does not exceed \$16 million. Any such investments shall be made consistently with the Uniform Prudent Investor Act. The determination of the rating of any investments made by the Investment Manager shall be made on the date of acquisition of any such investment or on the date of re-investment. The Investment Manager shall reconfirm that all investments of Trust Assets still meet the original rating requirement on a quarterly basis. If the Investment Manager determines that any particular investment no longer meets the rating requirement, the Investment Manager shall substitute that investment with an investment that meets the ratings requirement as promptly as practicable, but in no event later than the next reporting period. Previously purchased securities downgraded below AA may be held for a reasonable and prudent period of time if the Investment Manager believes it is in the interest of the State Trust to do so. The borrowing of funds or securities for the purpose of leveraging, shorting, or other investments is prohibited. Investment in non-U.S. dollar denominated bonds is prohibited. This subparagraph 3.2.2 shall act as a standing default investment instruction for all cash in any account or subaccount that holds any Trust Assets in cash, which shall be invested in The Blackrock Fed Fund (CUSIP 09248U809). Except for actions or omissions of the Investment Manager that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, the Investment Manager and its officers, directors, or employees shall have no liability for any and all Claims.

3.2.3 Allocation of Investment Income. Any and all earnings, interest, and other investment income realized on the investment of the Trust Assets shall be allocated to each State Trust subaccount on the basis of the respective subaccount balances at the end of each month. Any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount shall be allocated to each administration subaccount on the basis of the respective administration subaccount balance at the end of each month.

3.2.4 Nothing in this Section shall be construed as authorizing the Trustee to cause the State Mitigation Trust to carry on any business or to divide the gains therefrom. The sole purpose of this Section is to authorize the investment of the Trust Assets or any portion thereof as may be reasonably prudent pending use of the proceeds for the purposes of the State Mitigation Trust.

3.3 Accounting: The Trustee shall maintain the books and records relating to the Trust Assets and income and the payment of expenses of and liabilities against the State Mitigation Trust. The detail of these books and records and the duration the Trustee shall keep such books and records shall be such as to allow the Trustee to make a full and accurate accounting of all Trust Assets, as well as to comply with applicable provisions of law and standard accounting practices, including Generally Accepted Accounting Principles (“GAAP”). The United States, by and through EPA, and each Beneficiary, shall have the right upon 14 Days’ prior written notice to inspect such books and records, as well as all supporting documentation. Except as otherwise provided herein, the Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the State Mitigation Trust, or as a condition for making any payment or distribution out of the Trust Assets.

3.3.1 Semi-Annual Reporting. Within 180 Days of the Trust Effective Date in the first year, and thereafter by February 15 (for the preceding six-month period of July 1 to December 31) and August 15 (for the preceding six-month period of January 1 to June 30) of each year, and then at least 30 Days prior to the filing of a motion to terminate pursuant to Paragraph 6.8 hereof (each a “Financial Reporting Date”), the Trustee shall file with the Court and provide each Beneficiary and the Defendants with:

3.3.1.1 A statement: (i) confirming the value of the Trust Assets; (ii) itemizing the investments then held by the State Trust (including applicable ratings on such investments); and (iii) including a cumulative and calendar year accounting of the amount the Trustee has paid out from the State Trust Account and all subaccounts to any recipient;

3.3.1.2 For each Beneficiary, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) such Beneficiary’s initial allocation of Trust Assets; (ii) any allocation adjustments pursuant to this State Trust Agreement; (iii) line item descriptions of completed disbursements on account of approved Eligible Mitigation Action; and (iv) such Beneficiary’s remaining and projected allocation. Such accounting shall also include, for each Beneficiary, a balance statement and projected annual budget of

disbursements taking into account those Eligible Mitigation Actions that have been approved as of the Financial Reporting Date;

3.3.1.3 For the Trust Administration Cost Subaccount, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) line item disbursements of Total Administration Costs; (ii) balance statements; (iii) 3-year projected annual budgets of disbursements on account of Trust Administration Costs; and (iv) line by line accounting of Trust Administration Costs recorded against each Beneficiary's allocation pursuant to subparagraph 2.1.3.1;

3.3.1.4 For the State Trust Account and all subaccounts, including, but not limited to, the Trust Administration Cost Subaccount, balance statements and 3-year projected annual budgets that itemize all assets, income, earnings, expenditures, allocations, and disbursements of Trust Assets by State Trust Account and by each subaccount;

3.3.1.5 Third-party audited financial reports disclosing and certifying the disposition of all Trust Assets from the Trust Effective Date through the calendar quarter immediately preceding the Financial Reporting Date, specifically including reconciliations of the Trustee's prior budget projections for Trust Administration Costs to actual performance;

3.3.1.6 A description of any previously unreported action taken by the State Trust in performance of its duties which, as determined by the Trustee, counsel, accountants, or other professionals retained by the Trustee, affects the State Trust in a materially adverse way;

3.3.1.7 A brief description of all actions taken in accordance with this State Trust Agreement and the Consent Decree during the previous year; and

3.3.1.8 On each Financial Reporting Date, the Trustee shall simultaneously publish on the State Trust's public-facing website all information required to be provided under Paragraph 3.3.

3.3.2 After the Termination Date, the Trustee intends to destroy all records retained pursuant to this State Trust Agreement. The Trustee shall notify the United States and the Defendants at least 90 Days prior to the destruction of the records. Upon request by the United States or the Defendants, the Trustee shall deliver any such records to EPA or the Defendants, respectively.

3.4 Limitation of the Trustee's Authority: The Trustee is not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. This provision does not prevent Wilmington Trust, N.A. from acting as the Investment Manager.

3.5 Conditions of Trustee's Obligations: The Trustee accepts appointment as the Trustee subject to the following express terms and conditions:

3.5.1 No Bond. Notwithstanding any state law to the contrary, the Trustee, including any successor Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

3.5.2 Limitation of Liability and Standard of Care for the Trustee. In no event shall the Trustee be held personally liable for any and all Claims asserted against the Trustee and/or State Mitigation Trust except for actions or omissions of the Trustee that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Trustee. The Trustee shall not be held personally liable for carrying out the express terms of this State Mitigation Trust or carrying out any directions from the Beneficiaries or the United States issued in accordance with this State Trust Agreement or in accordance with any Court Order entered in connection with or arising out of the State Mitigation Trust. The Trustee shall not be held personally liable for any failure or delay in the performance of its obligations hereunder arising from causes beyond the control of the Trustee ("Force Majeure"). The Trustee may consult with legal counsel, accounting and financial professionals, environmental professionals, and other professionals, and shall not be personally liable for any action taken or omission made by it in accordance with advice given by such professionals, except in the case of a final, non-appealable judgment of the Court determining fraud, negligence, or willful misconduct on the part of the Trustee in following such advice. The Trustee shall not be held liable for the negligence, fraud, or willful misconduct of any professional hired by it hereunder provided that the Trustee appointed and engaged the professional with due care. In the absence of willful misconduct, negligence, or fraud by the Trustee, as determined by a final, non-appealable judgment of the Court, the Trustee shall not be personally liable to persons seeking payment from or asserting any and all Claims against the State Mitigation Trust or the Trustee. The Trustee, which is a trustee of this State Trust that has been established under the Delaware Act, shall only be held to the standards of care set forth in this subparagraph 3.5.2; the standards of common law trust laws or the personal trust laws of any state shall not apply in any circumstances hereunder.

3.5.2.1 Limitation of Liability for Tax Professionals. In no event shall the Tax Professionals engaged by the Trustee to assist it with the administration of the State Mitigation Trust be held personally liable for any and all Claims asserted against them except for actions or omissions of the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Tax Professionals.

3.5.3 Indemnification. Except for actions or omissions of the Trustee, the Investment Manager, and the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee, the Investment Manager, or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification from the Trust Assets, solely as provided in this subparagraph 3.5.3, to hold

them harmless against any and all Claims brought against any of them arising out of or in connection with the acceptance or administration of their duties under this State Mitigation Trust, including any and all Claims in connection with enforcing their rights hereunder and defending themselves against any and all Claims. In asserting any indemnification claim against Trust Assets pursuant to this subparagraph 3.5.3, the Trustee, the Investment Manager, and the Tax Professionals shall first seek to recover the amount by asserting a claim against the Trustee's insurance policies purchased pursuant to subparagraph 3.1.2.8 to protect the Trustee, the Investment Manager, and the Tax Professionals hired hereunder against any and all Claims. With respect to any and all amounts that: (1) are not fully and timely paid to the Trustee, the Investment Manager, or the Tax Professionals pursuant to the insurance policies purchased pursuant to subparagraph 3.1.2.8, and (2) are not determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee or the Investment Manager or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification solely from the portion of Trust Assets in (1) the Trust Administration Cost Subaccount established pursuant to subparagraph 2.1.3; and (2) the investment earnings on the Trust Administration Cost Subaccount. Any indemnification amounts shall constitute Shared Administration Costs under subparagraph 2.1.3.1. Indemnification under this subparagraph 3.5.3 covers only the amounts not fully and timely paid or covered by insurance policies purchased pursuant to subparagraph 3.1.2.8. The Trustee, the Investment Manager, and the Tax Professionals shall reimburse the State Mitigation Trust for any amount advanced to them or paid from the Trust Administration Cost Subaccount for any Claim if any proceeds are paid on such Claim from insurance policies purchased pursuant to subparagraph 3.1.2.8. If insurance payments are denied in whole or part, the Trustee shall confer with legal counsel and consider whether to affirmatively pursue such insurance payments including, without limitation, an insurance coverage suit arising out of a wrongful denial of coverage. For the avoidance of doubt, subparagraphs 3.5.2, 3.5.2.1, and 3.5.3 do not create for the State Mitigation Trust, the Trustee, the Investment Manager, and the Tax Professionals hired hereunder any express or implied right to indemnification from any Consent Decree Party for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or the Tax Professionals, and no Consent Decree Party shall be liable for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or Tax Professionals.

3.5.4 Reliance on Documentation. The Trustee may rely on, and shall be protected in acting upon, any notice, requisition, request, consent, certificate, order, affidavit, letter, or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons. The Trustee may rely upon, with no further duty of inquiry, and shall be protected in acting upon, the certifications made by and delivered to it by the Beneficiaries, including the Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3) and each Beneficiary Eligible Mitigation Action Certification form (Appendix D-4). The Trustee shall have no duty to monitor or supervise the use of Trust Funds paid in accordance with Beneficiary Eligible Mitigation Action Certification and Funding Direction forms or any Beneficiary's compliance with an Eligible Mitigation Action.

3.5.5 Right to Demand Documentation. Notwithstanding anything else in this State Trust Agreement, in the administration of the Trust Assets, the Trustee shall have the right, but shall not be required, to demand from the relevant Beneficiary before the disbursement of any cash or in respect of any action whatsoever within the purview of this State Mitigation Trust, any showings, certificates, opinions, appraisals, or other information, or action or evidence thereof, in addition to that required by the terms hereof that the Trustee reasonably believes to be necessary or desirable.

3.5.6 Limitation on Consequential Damages. Unless the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have engaged in fraudulent or willful misconduct, the United States or any Beneficiary of the State Mitigation Trust shall not have any right to recover, and the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals shall not be liable for, any special, indirect, punitive, or consequential loss or damages, of any kind whatsoever, against the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals. When the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have been negligent, any and all Claims by the United States or any Beneficiary of the State Mitigation Trust shall be limited to direct damages.

3.5.7 No Consequential Damages. In no event shall the Trustee, the Investment Manager, the Tax Professionals, or the State Mitigation Trust be held responsible or liable for special, indirect, punitive, or consequential loss or damages of any kind whatsoever in connection with any and all Claims brought against them by any third party.

3.6 Payment of Trust Administration Costs: Subject to the limits set forth in Appendix D-1 and Appendix D-1A, the State Mitigation Trust shall pay from the Trust Administration Cost Subaccount its own reasonable and necessary costs and expenses, and shall reimburse the Trustee for the actual reasonable out-of-pocket fees, costs, and expenses to the extent incurred by the Trustee in connection with the administration of the State Trust, including payment of professionals hired in connection with the duties and responsibilities of the State Trust, payment of insurance premiums for policies purchased pursuant to subparagraph 3.1.2.8, payment of a deductible incurred under an insurance policy for the State Trust, Trustee, Investment Manager, or Tax Professionals hired hereunder purchased pursuant to subparagraph 3.1.2.8 in cases in which the State Trust, Trustee, Investment Manager, or Tax Professionals would be entitled to indemnification under subparagraph 3.5.3, and any indemnification amounts as provided in accordance with subparagraph 3.5.3. The Trustee also shall be entitled to receive reasonable compensation for services rendered on behalf of the State Mitigation Trust, in accordance with the projected annual budgets for administration of the State Mitigation Trust required under subparagraph 3.3.1 hereof, and shall be entitled to pay itself from the Trust Administration Cost Subaccount its initial fee and its annual administration fee as set forth in its fee letter dated as of the Trust Effective Date ("Trustee Fee Letter"). The Trustee shall provide a copy of the Trustee Fee Letter to each Beneficiary via the secure internet site established by the Trustee pursuant to subparagraph 3.1.2.3. The State Mitigation Trust shall pay from the Trust Administration Cost Subaccount 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs, which shall be allocated

to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B. Notwithstanding the foregoing, the total amount of allowable Trust Administration Costs shall not exceed the specific allocation established for the Trust Administration Cost Subaccount in Appendix D-1 and Appendix D-1A, plus any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount. The Trustee shall not use the Trust Administration Cost Subaccount to pay: (1) the fees and expenses of the Investment Manager; or (2) any and all Taxes due and owing with respect to the State Trust. In accordance with the terms of the Investment Management Agreement, the Investment Manager's fees and expenses shall be deducted directly from the investment earnings on the Trust Assets, and not from the corpus of the Trust Assets. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established in subparagraph 2.1.5. The Trustee shall include in its semi-annual reporting, and post on its public-facing website, all Trust Administration Costs (including the costs and descriptions of the Trustee's services rendered on behalf of the State Trust) at least 15 Days prior to the payment of any such expense; provided, however, that the requirement to post all Trust Administrative Costs at least 15 Days prior to payment shall first take effect when the website is established and ready for use, and shall not initially apply to Start-up Costs and to Shared State and Indian Tribe Administration Costs. After the Trust Administration Cost Subaccount is funded pursuant to subparagraph 2.1.3, the Trustee, after receipt of invoices from any third party service providers, shall pay as promptly as practical any and all fees, costs, and expenses incurred by the Trustee to establish the State Mitigation Trust including, but not limited to: (1) the invoices of third party service providers (e.g., legal, accounting, website developer, and hosting provider); (2) fees, costs, and expenses necessary to commence the operations of the State Trust (e.g., Intralinks, Pacer, and insurance premiums); and (3) the Trustee's acceptance fee and first quarter portion of the Trustee's annual fee for the first year. All Trust Administration Costs that are paid prior to the establishment of the website shall be posted on the website as promptly as practicable after the website is established. Such information shall remain available on the website until the Termination Date.

3.7 Termination, Resignation, and Removal of the Trustee

3.7.1 Termination of Trustee. The rights, powers, duties, and obligations of the Trustee to the State Mitigation Trust and the Beneficiaries will terminate on the Termination Date.

3.7.2 Resignation of Trustee and Successor Trustee. The Trustee may commence the resignation process at any time by providing 90 Days' notice to the United States, the Defendants, and the Beneficiaries. Resignation of the Trustee shall only be effective upon: (i) selection of a successor pursuant to the procedures set forth in the First Partial Consent Decree; and (ii) order of the Court. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the appointment of a successor trustee or as otherwise ordered by the Court, the Trustee shall transfer all State Trust records to the successor trustee, and shall take all actions necessary to assign, transfer, and pay over to the successor trustee control of all Trust Assets (including the public website maintained by the Trustee). In the event that the Trustee ceases to exist or ceases to operate its corporate trust business, the Court may, upon motion by the United States or any Beneficiary, appoint an interim Trustee until such time as a successor trustee is appointed in

accordance with the procedures set forth in the First Partial Consent Decree. Any successor Trustee appointed hereunder shall file an amendment to the Certificate of Trust as required by the Delaware Act.

IV. STATE MITIGATION TRUST BENEFICIARIES

4.0 Determination of Beneficiary Status: The States, Puerto Rico, and the District of Columbia may elect to become a Beneficiary hereunder by filing with the Court a Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3), containing each of the certifications required by subparagraphs 4.2.1 through 4.2.9, not later than 60 Days after the Trust Effective Date. At the time of filing the Certification Form with the Court, the States, Puerto Rico, and the District of Columbia shall also provide a copy of the Certification Form to the Trustee in electronic format and by mail pursuant to Paragraph 6.0 and subparagraph 6.0.1. Each governmental entity that timely files such certifications shall be a “Certifying Entity.” Each governmental entity that fails to timely file such certifications shall be an “Excluded Entity,” and shall be permanently enjoined from asserting any rights with respect to Trust Assets or any other matter relating to the implementation of this Trust. The Trustee shall be responsible for ensuring that the form of each certification complies with the requirements hereof prior to deeming any Certifying Entity to be a Beneficiary hereunder.

4.0.1 Notice of Objection. If the United States determines that a certification filed by any Certifying Entity fails to comply with the requirements of this Section, the United States may file with the Court a notice of objection within 30 Days after a Certifying Entity files its certifications with the Court. Such notice shall explain the basis of objection with specificity. Any such objections shall be resolved according to the procedures set forth in Paragraph 6.2.

4.0.2 Notice of Beneficiary Designation. Not later than 120 Days after the Trust Effective Date, the Trustee shall file with the Court, publish on its public-facing website, and serve on each Consent Decree Party and Certifying Entity lists indicating:

4.0.2.1 Which Certifying Entities filed certifications as to which no notice of objection has been filed. Upon the filing of this Notice of Beneficiary Designation, each such Certifying Entity shall be deemed a “Beneficiary” hereunder;

4.0.2.2 Which governmental entity did not timely file the certifications pursuant to Paragraph 4.0. Each such governmental entity shall be deemed an “Excluded Entity” hereunder; and

4.0.2.3 Which Certifying Entities timely filed certifications as to which a notice of objection has been filed pursuant to subparagraph 4.0.1, together with an explanation of the status of any such objection. Each such Certifying Entity shall be a “Pending Beneficiary.” Upon final resolution of each objection, the Pending Beneficiary shall either be deemed a Beneficiary or an Excluded Entity hereunder.

4.1 Beneficiary Mitigation Plan: After being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary, not later than 30 Days prior to submitting its first funding request pursuant to Paragraph 5.2, shall submit and make publicly available a “Beneficiary Mitigation Plan” that summarizes how the Beneficiary plans to use the mitigation funds allocated to it under this Trust, addressing: (i) the Beneficiary’s overall goal for the use of the funds; (ii) the categories of Eligible Mitigation Actions the Beneficiary anticipates will be appropriate to achieve the stated goals and the preliminary assessment of the percentages of funds anticipated to be used for each type of Eligible Mitigation Action; (iii) a description of how the Beneficiary will consider the potential beneficial impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction; and (iv) a general description of the expected ranges of emission benefits the Beneficiary estimates would be realized by implementation of the Eligible Mitigation Actions identified in the Beneficiary Mitigation Plan. The Beneficiary Mitigation Plan need only provide the level of detail reasonably ascertainable at the time of submission. This Plan is intended to provide the public with insight into a Beneficiary’s high-level vision for use of the mitigation funds and information about the specific uses for which funding is expected to be requested. Nothing in this provision is intended to make the Beneficiary Mitigation Plan binding on any Beneficiary, nor does it create any rights in any person to claim an entitlement of any kind. Beneficiaries may adjust their goals and specific spending plans at their discretion and, if they do so, shall provide the Trustee with updates to their Beneficiary Mitigation Plan. The Trustee has no duty to monitor or supervise any Beneficiary’s compliance with its Beneficiary Mitigation Plan. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its Final Approved DERA Workplan as its Beneficiary Mitigation Plan as to those Eligible Mitigation Actions funded through the DERA Option. The Beneficiary Mitigation Plan shall explain the process by which the Beneficiary shall seek and consider public input on its Beneficiary Mitigation Plan.

4.2 Required Certifications in Appendix D-3

4.2.1 Identification of Lead Agency and Submission to Jurisdiction. Each Certification Form (Appendix D-3) must include a designation of lead agency, certified by the Office of the Governor (or if not a state, the analogous chief executive) of the State, Puerto Rico, or the District of Columbia on whose behalf the Certification Form is submitted, indicating which agency, department, office, or division will have the delegated authority to act on behalf of and legally bind such governmental entity. The Certification Form shall also include confirmation by the Certifying Entity that: (i) it has the authority to sign the Certification Form; and (ii) it agrees, without limitation, to be bound by the terms of this State Trust Agreement, including the allocations of Trust Assets provided hereunder, and to be subject to the jurisdiction of the Court for all matters concerning the interpretation or performance of, or any disputes arising under, this State Trust Agreement. The Certifying Entity’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

4.2.2 Consent to Trustee Authority. Each Certification Form (Appendix D-3) must include an agreement by the Certifying Entity that the Trustee has the authorities specified in this State Trust Agreement, including, but not limited to, the authority: (i) to approve,

deny, request modifications, or request further information related to any request for funds hereunder; and (ii) to implement this State Trust Agreement in accordance with its terms.

4.2.3 Certification of Legal Authority. Each Certification Form (Appendix D-3) must certify that: (i) the laws of the Certifying Entity do not prohibit it from being a Beneficiary hereunder; (ii) prior to requesting any funds hereunder, the Certifying Entity shall obtain full legal authority to receive and/or direct payments of such funds; and (iii) if the Certifying Entity fails to demonstrate that it has obtained such legal authority within two years of submitting its Certification Form, it shall become an Excluded Entity hereunder and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1.

4.2.4 Certification of Legal Compliance. Each Certification Form (Appendix D-3) must include a certification and agreement that, in connection with all actions related to this State Trust, the Certifying Entity has followed and will follow all applicable law and that such Certifying Entity will assume full responsibility for its decisions in that regard.

4.2.5 Certification of Eligible Mitigation Action Accounts. Each Certification Form (Appendix D-3) shall include a certification by the Certifying Entity that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trustee for credit to the allocation of such Certifying Entity.

4.2.6 Waiver of Claims for Injunctive Relief under Environmental or Common Laws. Each Certification Form (Appendix D-3) shall include an express waiver by the Certifying Entity, on behalf of itself and all of its agencies, departments, offices, and divisions, in favor of the parties to the Consent Decree (including the Defendants) of all claims for injunctive relief to redress environmental injury caused by the Subject Vehicles, whether based on the environmental or common law within its jurisdiction. Such waiver shall be binding on all agencies, departments, offices, and divisions of such Beneficiary asserting, purporting to assert, or capable of asserting such claims. The waiver need not waive, and the Certifying Entities may expressly reserve, their rights, if any, to seek fines or penalties. California's entry in the Consent Decree shall satisfy its certification obligations under this subparagraph.

4.2.7 Publicly Available Information. Each Certification Form (Appendix D-3) must include a certification by the Certifying Entity 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 Certifying Entity, each until the Termination Date, unless the laws of the Certifying Entity require a longer record retention period. This certification shall include an explanation of the procedures by which the records may be accessed, which procedures shall be designed to support access and limit the burden for the general public, and for the Beneficiary Mitigation Plan required under Paragraph 4.1, the procedures by which public input will be solicited and considered. This certification can be made subject to applicable laws governing the publication of confidential business information and personally identifiable information.

4.2.8 Notice of Availability of Mitigation Action Funds. Each Certification Form (Appendix D-3) must certify that, not later than 30 Days after being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, the Certifying Entity will provide a copy of this 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. For the U.S. Department of the Interior and the U.S. Department of Agriculture, Beneficiaries may provide notice as required by this subparagraph to the following:

Department of the Interior:

National Park Service, Air Resources Division
VW Settlement
P.O. Box 25287
Denver, CO 80225-0287
Or via email to: vwsettlement@nps.gov.

Tim Allen or other designated representative
U.S Fish and Wildlife Service
National Wildlife Refuge System
Branch of Air Quality
Re: VW Settlement
7333 W. Jefferson Ave., Suite 375
Lakewood, CO 80235-2017
Or via email to: VW_Settlement@fws.gov

Department of Agriculture:

Linda Geiser or other designated representative
National Air Program Manager
lgeiser@fs.fed.us
(202) 756-0068

Bret Anderson or other designated representative
National Air Modeling Coordinator
baanderson02@fs.fed.us
(970) 295-5981

4.2.9 Registration of Subject Vehicles. Each Certification Form (Appendix D-3) must state, for the benefit of the parties to the Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that the Certifying Entity:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the First Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or
 - iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Certifying Entity by the Defendants.
- (d) Notwithstanding the foregoing, a Certifying Entity may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Certifying Entity's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act, 42 U.S.C. §§ 7543, 7507, and not explicitly excluded in subparagraphs 4.2.9(a)-(b).

V. DISTRIBUTION OF STATE MITIGATION TRUST ASSETS

5.0 Initial Allocation: Each State, Puerto Rico, and the District of Columbia shall have the right under this State Trust Agreement, upon becoming a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries), to request its share of Eligible Mitigation Action funds in

accordance with the weighted average allocation rates set forth in Appendix D-1B (“Initial Allocation Rates”).

5.0.1 Together with the Notice of Beneficiary Designation required to be filed pursuant to subparagraph 4.0.2, the Trustee shall also file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary, a corresponding recalculation of the Initial Allocation Rates to reallocate each Excluded Entity’s share among the Beneficiaries and Pending Beneficiaries of this State Mitigation Trust, in accordance with the weighted average allocation rates set forth in Appendix D-1B, but excluding the Excluded Entities, the Tribal Trust Allocation, and the Tribal Administration Cost Subaccount (“Final Allocation Rates”). If any Pending Beneficiary is deemed an Excluded Entity hereunder, its share shall be reallocated among the Beneficiaries and remaining Pending Beneficiaries, weighted in accordance with the Final Allocation Rates. The Trustee shall file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary a notice of reallocation in the event that the Final Allocation Rates are adjusted in accordance with this State Trust Agreement.

5.0.2 Upon being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary shall have the right under this State Trust Agreement to request Eligible Mitigation Action funds up to the total dollar amount allocated to it. Provided, however, that no Beneficiary may request payout of more than: (i) one-third of its allocation during the first year after the Settling Defendants make the Initial Deposit, or (ii) two-thirds of its allocation during the first two years after the Settling Defendants make the Initial Deposit.

5.0.3 Allocation of Appendix A Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any “National Mitigation Trust Payment” made pursuant to Section VI (Recall Rate) of Appendix A (Buyback, Lease Termination, and Vehicle Modification Recall Program) of the First Partial Consent Decree or Section X (Recall Rate) of Appendix A (Buyback, Lease Termination, Vehicle Modification, and Emissions Compliant Recall Program) of the Second Partial Consent Decree shall be allocated among all Beneficiaries (other than California) of this State Mitigation Trust and the Trust Administration Cost Subaccount, in accordance with the weighted average allocation percentages in Appendix D-1C. Any “California Mitigation Trust Payment” made pursuant to Appendix A of the First Partial Consent Decree or the Second Partial Consent Decree shall be allocated as follows: 99.86% to California and 0.14% to the Trust Administration Cost Subaccount.

5.0.4 Allocation of Appendix B Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any Mitigation Trust Payments made pursuant to Appendix B (Vehicle Recall and Emissions Modification Program) of the First Partial Consent Decree or Appendix B (Vehicle Recall and Emissions Modification Program for 3.0 Liter Subject Vehicles) of the Second Partial Consent Decree or any Consent Decree provisions related thereto shall be allocated among all Beneficiaries of this State Mitigation Trust and to the Trust Administration Cost Subaccount, weighted in accordance with the Final Allocation Rates.

5.0.5 Intentionally Reserved:

5.0.5.1 Intentionally Reserved.

5.0.5.2 Intentionally Reserved.

5.0.5.2.1 Intentionally Reserved.

5.0.5.2.2 Intentionally Reserved.

5.0.5.2.3 Intentionally Reserved

5.0.5.2.4 Intentionally Reserved.

5.0.5.2.5 Intentionally Reserved.

5.0.5.2.6 Intentionally Reserved.

5.0.5.2.7 Intentionally Reserved.

5.0.5.3 Nothing herein precludes any Beneficiary from using any share of its allocation for Eligible Mitigation Projects on Indian Land.

5.1 Eligible Mitigation Actions and Expenditures: The Trustee may only disburse funds for Eligible Mitigation Actions, and for the Eligible Mitigation Action Administrative Expenditures specified in Appendix D-2.

5.2 Funding Requests: Beneficiaries may submit requests for Eligible Mitigation Action funding at any time by filing with the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4), containing each of the certifications required by subparagraphs 5.2.1 through 5.2.13, as applicable. Each request for Eligible Mitigation Action funding must be submitted to the Trustee in electronic and hard-copy format, and include:

5.2.1 An explanation of how the funding request fits into the Beneficiary's Mitigation Plan;

5.2.2 A detailed description of the proposed Eligible Mitigation Action, including its community and air quality benefits;

5.2.3 An estimate of the NOx reductions anticipated as a result of the proposed Eligible Mitigation Action;

5.2.4 A project management plan for the proposed Eligible Mitigation Action, including a detailed budget and an implementation and expenditure timeline;

5.2.5 A certification that all vendors were or will be selected in accordance with state public contracting laws;

5.2.6 For each proposed expenditure exceeding \$25,000, detailed cost estimates from selected or potential vendors;

5.2.7 A detailed description of how the Beneficiary will oversee the proposed Eligible Mitigation Action, including, but not limited to:

5.2.7.1 Identification of the specific governmental entity responsible for reviewing and auditing expenditures of Eligible Mitigation Action funds to ensure compliance with applicable law; and

5.2.7.2 A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the 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, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;

5.2.8 A description of any cost share requirement to be placed upon the owner of each NOx source proposed to be mitigated;

5.2.9 A description of how the Beneficiary complied with subparagraph 4.2.8;

5.2.10 If applicable, a description of how the Eligible Mitigation Action mitigates the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions; and

5.2.11 A detailed plan for reporting on Eligible Mitigation Action implementation.

5.2.12 DERA Option. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its DERA proposal as support for its funding request for those Eligible Mitigation Actions funded through the DERA Option.

5.2.13 Joint Application. Two or more Beneficiaries may submit a joint request for Eligible Mitigation Action funds. Joint applicants shall specify the amount of requested funding that shall be debited against each requesting Beneficiary's allocation.

5.2.14 Publication of Funding Requests. The Trustee shall post each funding request on the State Trust's public-facing website upon receipt.

5.2.15 Reliance on Form. The Trustee may rely on, with no further duty of inquiry, and shall be protected in acting upon, any Beneficiary Eligible Mitigation Action

Certification form (Appendix D-4) reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

5.2.16 Approval of Funding Requests. The Trustee shall approve any funding request that meets the requirements of this State Trust Agreement and its Appendices. If a Beneficiary submits multiple pending Eligible Mitigation Action funding requests that exceed the allocated funds available to the Beneficiary, the Trustee shall contact the Beneficiary for direction regarding the allocation and timing of payments for each such request. Within 60 Days after receipt of each Eligible Mitigation Action funding request, the Trustee shall transmit to the requesting Beneficiary and post on the State Trust's public-facing website a written determination either: (i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information. A Beneficiary may use such written determination as proof of funding for any DERA project application that includes Trust Funds as a non-federal voluntary match, as described in Appendix D-2. The Trustee shall respond to any modified or supplemental submission within 30 Days of receipt. Each written determination approving or denying an Eligible Mitigation Action funding request shall include an explanation of the reasons underlying the determination, including whether the proposed Eligible Mitigation Action meets the requirements set forth in Appendix D-2 or Appendix D-4. The Trustee's decision to approve, deny, request modifications, or request further information related to a request shall be reviewable, upon petition of the United States or the submitting Beneficiary, by the Court.

5.2.16.1 Disbursement of Funds. The Trustee shall begin disbursing funds within 15 Days of approval of an Eligible Mitigation Action funding request according to the written instructions and schedule provided by the Beneficiary, unless such date is not a Business Day and then the payment shall be made on the next succeeding Business Day.

5.2.17 Unused Eligible Mitigation Action Funds. Upon the termination or completion of any Eligible Mitigation Action, any unused Eligible Mitigation Action funds shall be returned to the State Trust and added back to the Beneficiary's allocation.

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 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to 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 Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt.

5.4 Supplemental Funding for Eligible Beneficiaries and Final Disposition of Trust Assets

5.4.1 Estimate of Remainder Balance. On the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, deliver to the United States, by and through EPA, and to each Beneficiary, and publish on its public-facing website, an accounting of all Trust Assets that have not by that date been expended on or obligated to approved Eligible Mitigation Actions or prior Trust Administration Costs, together with an estimate of funding reasonably needed to cover the remaining Trust Administration Costs. The difference between these two amounts shall be referred to as the "Remainder Balance."

5.4.2 Application for Supplemental Funding Eligible Beneficiary Status. On the tenth anniversary of the Trust Effective Date, each Beneficiary may seek to supplement its remaining allocation by filing with the Court and delivering to the Trustee a written report demonstrating that it has by that date obligated at least eighty percent (80%) of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1 (as determined with specific reference to the reports submitted pursuant to Paragraph 5.3).

5.4.3 Publication of Remainder Balance and Supplemental Funding Eligible Beneficiary Status. Within 90 Days after the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, notify the United States, by and through EPA, and each Beneficiary, and publish on its website, a report indicating: (i) the Remainder Balance; and (ii) which of the Beneficiaries has demonstrated that it had in fact expended at least 80% of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1, each of which shall be deemed a "Supplemental Funding Eligible Beneficiary."

5.4.4 Distribution of Remainder Balance to Supplemental Funding Eligible Beneficiaries. On the later of: (i) 180 Days after the tenth anniversary of the Trust Effective Date, or (ii) the resolution of any disputes arising from the Trustee's accountings or determinations pursuant to subparagraphs 5.4.1 or 5.4.3, the Remainder Balance shall be divided among the Supplemental Funding Eligible Beneficiaries in accordance with their weighted share of the Final Allocation Rates.

5.4.5 Final Disposition of State Trust Assets. Not later than the fifteenth anniversary of the Trust Effective Date, any unused funds held by any Beneficiary shall be returned to the State Trust. After the fifteenth anniversary of the Trust Effective Date, any Trust Assets held in the State Trust Account or any subaccount (including, but not limited to, the Trust Administration Cost Subaccount) that are not needed for final Trust Administration Costs shall be deemed to have been donated by the State Trust to fund

Eligible Mitigation Actions administered by Federal Agencies that have custody, control, or management of land in the United States that is impacted by excess NOx emissions (including, but not limited to, Clean Air Act Class I and II areas) and that have the legal authority to accept such funds, in accordance with instructions to be provided by the United States. If no such Federal Agencies exist, the United States will file a motion, with notice to the Defendants and the Beneficiaries, requesting the Court to order that any Trust Assets held in the State Trust Account (or any subaccount thereof) be distributed either to a governmental unit or to another trust, the income of which is excluded from gross income under the provisions of Internal Revenue Code Section 115, 26 U.S.C. § 115.

VI. MISCELLANEOUS PROVISIONS

6.0 Correspondence with State Trust: In accordance with subparagraph 3.1.2.3, the Trustee shall establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries that will: (1) enable each Beneficiary to deliver the required documentation under this State Trust Agreement in an electronic format; (2) enable secure communications between the Trustee and each Beneficiary; and (3) provide each Beneficiary with access to its own document base. In addition, each Beneficiary will have the ability to view its own balance in its individual subaccount via the Wilmington Trust Online Portfolio product or a similar product then in use.

6.0.1 Addresses for Delivery of Physical Copies of Documentation and Notices.

State Trust or Trustee:

Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries,
Puerto Rico, and the District of Columbia
c/o Wilmington Trust, N.A. as Trustee
Wilmington Trust, National Association
Rodney Square North
1100 North Market Street
Attn: Capital Markets & Agency Services
Wilmington, DE 19890
Facsimile: 302 636-4145

EPA:

Director, Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
William J. Clinton South Building
MC 2242A
Washington, DC 20460
E-mail: VW_settlement@epa.gov

U.S. Department of Justice:

Chief, Environmental Enforcement Section
Re: DJ # 90-5-2-1-11386
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
E-mail: eescdcopy.enrd@usdoj.gov
Re: DJ # 90-5-2-1-11386

Defendants:

As to Volkswagen AG by mail:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Audi AG by mail:

Audi AG
Auto-Union-Strasse 1
85045 Ingolstadt, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.

2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America, Inc. by mail:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America Chattanooga Operations, LLC by mail:

Volkswagen Group of America Chattanooga Operations, LLC
8001 Volkswagen Dr.
Chattanooga, TN 37416
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Dr. Ing. h.c. F. Porsche AG by mail:

Dr. Ing. h.c. F. Porsche Aktiengesellschaft
Porscheplatz 1

D-70435 Stuttgart
Attention: GR/ Rechtsabteilung/ General Counsel

As to Porsche Cars North America, Inc.:

Porsche Cars North America, Inc.
1 Porsche Dr.
Atlanta, GA 30354
Attention: Secretary
With copy by email to: offsecy@porsche.us

As to one or more of the Defendants by email:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Granta Nakayama
Cari Dawson

giuffrar@sullcrom.com
nelless@sullcrom.com
gnakayama@kslaw.com
cari.dawson@alston.com

As to one or more of the Defendants by mail:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Sullivan & Cromwell LLP
125 Broad Street
New York, N.Y. 10004

Granta Nakayama
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006

Cari Dawson
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

6.1 Jurisdiction: The U.S. District Court for the Northern District of California shall be the sole and exclusive forum for the purposes of enforcing this State Mitigation Trust and resolving disputes hereunder, including the obligations of the Trustee to perform its obligations hereunder,

and each of the Consent Decree Parties, the State Mitigation Trust, the Trustee, and each Beneficiary, expressly consents to such jurisdiction.

6.2 Dispute Resolution: Unless otherwise expressly provided for herein, the dispute resolution procedures of this Paragraph shall be the exclusive mechanism to resolve any dispute between or among the entities listed in Appendix D-1 and Appendix D-1A hereto, the Consent Decree Parties, and the Trustee arising under or with respect to this State Trust Agreement.

6.2.1 Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this State Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when the disputing party sends to the counterparty a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the disputing parties cannot resolve the dispute by informal negotiations, then the disputing party may invoke formal dispute resolution procedures as set forth below.

6.2.2 Formal Dispute Resolution. The disputing party shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the counterparty a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting the disputing party's position and any supporting documentation and legal authorities relied upon by the disputing party. The counterparty shall serve its Statement of Position within 30 Days of receipt of the disputing party's Statement of Position, which shall also include, but need not be limited to, any factual data, analysis, or opinion supporting the counterparty's position and any supporting documentation and legal authorities relied upon by the counterparty. If the disputing parties are unable to consensually resolve the dispute within 30 Days after the counterparty serves its Statement of Position on the disputing party, the disputing party may file with the Court a motion for judicial review of the dispute in accordance with the following subparagraph.

6.2.3 Judicial Review. The disputing party may seek judicial review of the dispute by filing with the Court and serving on the counterparty and the United States, a motion requesting judicial resolution of the dispute. The motion must be filed within 45 Days of receipt of the counterparty's Statement of Position pursuant to the preceding subparagraph. The motion shall contain a written statement of disputing party's position on the matter in dispute, including any supporting factual data, analysis, opinion, documentation, and legal authorities, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly administration of the State Trust. The counterparty shall respond to the motion within the time period allowed by the Local Rules of the Court, and the disputing party may file a reply memorandum, to the extent permitted by the Local Rules.

6.3 Choice of Law: The validity, interpretation, and performance of this State Mitigation Trust shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of

the law of another jurisdiction. The duties, rights, protections, and immunities of the Trustee, as a trustee of a statutory trust under the Delaware Act, shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of the law of another jurisdiction. This State Trust Agreement shall not be subject to any provisions of the Uniform Trust Code as adopted by any State, now or in the future. This State Trust Agreement shall be interpreted in a manner that is consistent with the Consent Decree, provided, however, that in the event of a conflict between the Consent Decree and this State Trust Agreement, this State Trust Agreement shall control.

6.4 Waiver of Jury Trial: Each party hereto and each Beneficiary hereof hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this State Trust.

6.5 Modification: Material modifications to the State Mitigation Trust or Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) may be made only with the written consent of the United States and upon order of the Court, and only to the extent that such modification does not change or inhibit the purpose of this State Mitigation Trust. Any modification of this State Mitigation Trust that affects the rights, powers, duties, obligations, liabilities, or indemnities of the Trustee requires the written consent of the Trustee. Minor modifications or clarifying amendments to the State Mitigation Trust, Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) or Appendix D-4 (Beneficiary Eligible Mitigation Action Certification) may be made upon written agreement between the United States and the Trustee, as necessary to enable the Trustee to effectuate the provisions of this State Mitigation Trust, and shall be filed with the Court. To the extent the consent of the Defendants is required to effectuate the modification or amendment, such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, without the express written consent of the Defendants, no modification shall: (i) require the Defendants to make any payments to the State Trust other than the Mitigation Trust Payments required by the Consent Decree; or (ii) impose any greater obligation on Defendants than those set forth in the State Trust Agreement that is being modified. The Trustee shall provide to the Beneficiaries not less than 30 Days' notice of any proposed modification to the State Mitigation Trust, whether material or minor, before such modification shall become effective.

6.6 Severability: If any provision of this State Trust Agreement or application thereof to any person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this State Trust Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this State Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

6.7 Taxes: The State Trust is intended to be a qualified settlement fund ("QSF") pursuant to Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. The Trustee is intended to be the State Trust's "administrator," within the meaning of Treasury Regulation Section 1.468B-2(k)(3), 26 C.F.R. § 1.468B-2(k)(3). The Trustee shall use its best efforts to submit, within six months after the Trust Effective Date, an application and all necessary supporting documentation to the IRS to obtain a Private Letter Ruling from the IRS:

(1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust. Within ten Days after any application has been made to the IRS, the Trustee shall provide a copy of the application and accompanying documentation to the United States (pursuant to subparagraph 6.0.1) and to the Beneficiaries (pursuant to the secure internet-based communication in Paragraph 6.0). Within seven Days after receipt of any IRS Private Letter Ruling, the Trustee shall provide a copy to the United States (pursuant to subparagraph 6.0.1) and the Beneficiaries (pursuant to the secure internet-based communication established in Paragraph 6.0). If the IRS determines that the investment income earned on Trust Assets is taxable, the Trustee, the Investment Manager, the United States, and the State Beneficiaries shall meet and confer to discuss possible resolutions to this issue, and may seek a modification of this State Trust Agreement as appropriate pursuant to Paragraph 6.5. The Trustee shall be responsible for filing all required Tax Returns, ensuring compliance with income tax withholding and reporting requirements, and paying applicable Taxes with respect to the State Trust in a manner consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established pursuant to subparagraph 2.1.5. The Defendants shall provide to the Trustee and the IRS the statement described in Treasury Regulation Section 1.468B-3(e)(2), 26 C.F.R. § 1.468B-3(e)(2), no later than February 15th of the year following each calendar year in which the Settling Defendants make a transfer to the State Trust.

6.8 Termination: After all funds have been expended pursuant to subparagraph 5.4.5, final reports have been delivered pursuant to Paragraph 3.3 and subparagraph 3.3.1, and notice regarding retained documents has been provided pursuant to subparagraph 3.3.2, the Trustee may file a motion with the Court requesting an order to begin the process under the Delaware Act to terminate this State Trust. The United States and the Beneficiaries shall be given not less than 60 Days to oppose such motion. After the Court approves the motion to terminate, the Trustee shall begin the dissolution and winding up processes under the Delaware Act. On the date that the Trustee completes all the statutory requirements under the Delaware Act and files a certificate of cancellation, this State Trust shall terminate (the “Termination Date”).

**FOR THE VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF
COLUMBIA:**

WILMINGTON TRUST, N.A., AS TRUSTEE FOR THE VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION TRUST FOR STATE BENEFICIARIES, PUERTO RICO,
AND THE DISTRICT OF COLUMBIA, AND NOT IN ITS INDIVIDUAL CAPACITY

DATED: October 2, 2017 BY: _____

Name:

Title:

David A. Vanaskey, Jr.
Vice President

By their execution of this State Trust Agreement each undersigned party represents that they are authorized signer for such Company entitled to sign on behalf of each Settling Defendant and that each of the Settling Defendants have taken all necessary corporate actions required to make this a legal, valid and binding obligation of each such Settling Defendant.

FOR VOLKSWAGEN AG:

Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR AUDI AG:

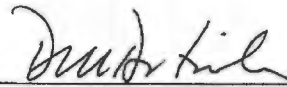
Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR VOLKSWAGEN GROUP OF AMERICA, INC.:

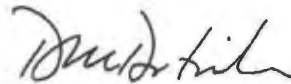
Date: *September 21, 2017*



DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

FOR VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC:

Date: *September 21, 2017*

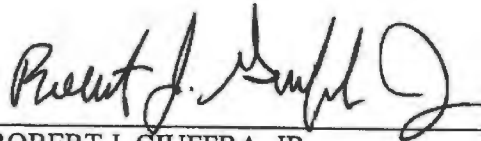


DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

COUNSEL FOR VOLKSWAGEN AG, AUDI AG, VOLKSWAGEN GROUP OF AMERICA,
INC., and VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC

September 20, 2017

Date

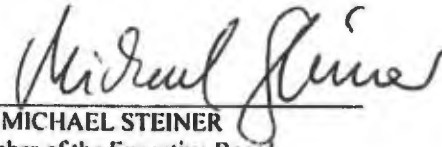


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
WILLIAM B. MONAHAN
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125 Broad Street
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Telephone: (212) 558-4000
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giuffrar@sullcrom.com
nelles@sullcrom.com
monahanw@sullcrom.com

FOR DR. ING. h.c. F. PORSCHE AG:

Date:

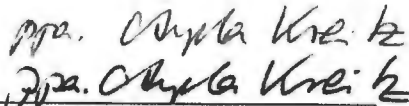
14. Sept 2017



DR. MICHAEL STEINER
Member of the Executive Board
Research and Development
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porschestrasse 911
71287 Weissach, Germany

Date:

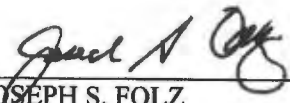
12 September 2017



ANGELA KREITZ
General Counsel & Chief Compliance Officer
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porscheplatz 1
70435 Stuttgart-Zuffenhausen, Germany


FOR PORSCHE CARS NORTH AMERICA, INC.:

Date: 9/8/17



JOSEPH S. FOLZ
Vice President, General Counsel and Secretary
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354


Date:



GLENN GARDE
Vice President, After Sales
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354

COUNSEL FOR DR. ING. h.c. F. PORSCHE AG and PORSCHE CARS NORTH AMERICA, INC.

Date: Sept. 15, 2017



GRANTA NAKAYAMA
JOSEPH A. EISERT
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006
gnakayama@kslaw.com
jeisert@kslaw.com

Date: 9-25-17



CARI DAWSON
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
cari.dawson@alston.com

APPENDIX D-1
Initial 2.0 Liter Allocation

APPENDIX D-1 - INITIAL ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 7,500,000.00	0.28%
North Dakota	\$ 7,500,000.00	0.28%
Hawaii	\$ 7,500,000.00	0.28%
South Dakota	\$ 7,500,000.00	0.28%
Alaska	\$ 7,500,000.00	0.28%
Wyoming	\$ 7,500,000.00	0.28%
District of Columbia	\$ 7,500,000.00	0.28%
Delaware	\$ 9,051,682.97	0.34%
Mississippi	\$ 9,249,413.91	0.34%
West Virginia	\$ 11,506,842.13	0.43%
Nebraska	\$ 11,528,812.23	0.43%
Montana	\$ 11,600,215.07	0.43%
Rhode Island	\$ 13,495,136.57	0.50%
Arkansas	\$ 13,951,016.23	0.52%
Kansas	\$ 14,791,372.72	0.55%
Idaho	\$ 16,246,892.13	0.60%
New Mexico	\$ 16,900,502.73	0.63%
Vermont	\$ 17,801,277.01	0.66%
Louisiana	\$ 18,009,993.00	0.67%
Kentucky	\$ 19,048,080.43	0.71%
Oklahoma	\$ 19,086,528.11	0.71%
Iowa	\$ 20,179,540.80	0.75%
Maine	\$ 20,256,436.17	0.75%
Nevada	\$ 22,255,715.66	0.82%
Alabama	\$ 24,084,726.84	0.89%
New Hampshire	\$ 29,544,297.76	1.09%
South Carolina	\$ 31,636,950.19	1.17%
Utah	\$ 32,356,471.11	1.20%
Indiana	\$ 38,920,039.77	1.44%
Missouri	\$ 39,084,815.55	1.45%
Tennessee	\$ 42,407,793.83	1.57%
Minnesota	\$ 43,638,119.67	1.62%
Connecticut	\$ 51,635,237.63	1.91%
Arizona	\$ 53,013,861.68	1.96%
Georgia	\$ 58,105,433.35	2.15%
Michigan	\$ 60,329,906.41	2.23%
Colorado	\$ 61,307,576.05	2.27%
Wisconsin	\$ 63,554,019.22	2.35%
New Jersey	\$ 65,328,105.14	2.42%
Oregon	\$ 68,239,143.96	2.53%
Massachusetts	\$ 69,074,007.92	2.56%
Maryland	\$ 71,045,824.78	2.63%
Ohio	\$ 71,419,316.56	2.65%
North Carolina	\$ 87,177,373.87	3.23%
Virginia	\$ 87,589,313.32	3.24%
Illinois	\$ 97,701,053.83	3.62%
Washington	\$ 103,957,041.03	3.85%
Pennsylvania	\$ 110,740,310.73	4.10%
New York	\$ 117,402,744.86	4.35%
Florida	\$ 152,379,150.91	5.64%
Texas	\$ 191,941,816.23	7.11%
California	\$ 381,280,175.09	14.12%
Tribal Allocation Subaccount	\$ 49,652,857.71	1.84%
Trust Administration Cost Subaccount	\$ 23,467,171.38	0.87%
Tribal Administration Cost Subaccount	\$ 4,525,885.71	0.17%
	\$ 2,700,000,000.00	100.00%

APPENDIX D-1A
Initial 3.0 Liter Allocation

APPENDIX D-1A – INITIAL 3.0 LITER ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 625,000.00	0.28%
North Dakota	\$ 625,000.00	0.28%
Hawaii	\$ 625,000.00	0.28%
Mississippi	\$ 625,000.00	0.28%
West Virginia	\$ 625,000.00	0.28%
District of Columbia	\$ 625,000.00	0.28%
South Dakota	\$ 625,000.00	0.28%
Wyoming	\$ 625,000.00	0.28%
Alaska	\$ 625,000.00	0.28%
Delaware	\$ 625,000.00	0.28%
Arkansas	\$ 696,692.86	0.31%
Nebraska	\$ 719,535.25	0.32%
Maine	\$ 796,628.31	0.35%
Kansas	\$ 870,866.08	0.39%
Rhode Island	\$ 873,721.37	0.39%
Vermont	\$ 890,853.17	0.40%
Montana	\$ 1,002,209.81	0.45%
Iowa	\$ 1,022,196.90	0.45%
New Mexico	\$ 1,082,158.17	0.48%
Idaho	\$ 1,102,145.26	0.49%
Kentucky	\$ 1,330,569.15	0.59%
New Hampshire	\$ 1,370,543.33	0.61%
Alabama	\$ 1,396,241.02	0.62%
Oklahoma	\$ 1,835,957.01	0.82%
Louisiana	\$ 1,838,812.30	0.82%
Indiana	\$ 2,015,840.82	0.90%
Missouri	\$ 2,067,236.19	0.92%
South Carolina	\$ 2,258,541.20	1.00%
Nevada	\$ 2,618,308.82	1.16%
Utah	\$ 2,821,035.03	1.25%
Tennessee	\$ 3,352,120.57	1.49%
Minnesota	\$ 3,363,541.76	1.49%
Wisconsin	\$ 3,523,438.48	1.57%
Arizona	\$ 3,646,216.32	1.62%
Ohio	\$ 3,883,206.11	1.73%
Connecticut	\$ 4,085,932.31	1.82%
Michigan	\$ 4,477,108.22	1.99%
Maryland	\$ 4,668,413.23	2.07%
Oregon	\$ 4,728,374.50	2.10%
North Carolina	\$ 4,868,284.13	2.16%
Georgia	\$ 5,519,292.21	2.45%
Massachusetts	\$ 5,990,416.48	2.66%
Virginia	\$ 6,044,667.16	2.69%
New Jersey	\$ 6,886,980.25	3.06%
Colorado	\$ 7,432,342.28	3.30%
Pennsylvania	\$ 7,829,228.79	3.48%
Washington	\$ 8,788,609.12	3.91%
New York	\$ 10,299,062.08	4.58%
Illinois	\$ 10,978,623.15	4.88%
Florida	\$ 13,899,593.63	6.18%
Texas	\$ 17,377,347.34	7.72%
California	\$ 41,356,145.05	18.38%
Tribal Allocation Subaccount	\$ 4,795,063.51	2.13%
Trust Administration Cost Subaccount	\$ 1,955,597.62	0.87%
Tribal Administration Cost Subaccount	\$ 390,303.65	0.17%
Grand Total	\$ 225,000,000.00	100.00%

APPENDIX D-1B

Weighted Average Allocation Formula for 2.0 and 3.0 Liter Allocation

Weighted Average Allocation Formula:

$$(2.0 \text{ Allocation}_{\text{Subaccount}} + 3.0 \text{ Allocation}_{\text{Subaccount}}) / (\$2,700,000,000 + \$225,000,000)$$

where Subaccount represents an individual Beneficiary subaccount or the Tribal, Administration Cost, or Tribal Administration Cost subaccount.

State Trust Allocation	Appendix D-1		Appendix D-1A		Appendix D-1B	
	2.0 Liter Allocation Amount	2.0 Liter Allocation Percentage	3.0 Liter Allocation Amount	3.0 Liter Allocation Percentage	Total Allocation Amount	Weighted Average Allocation Percentage
Puerto Rico	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
North Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
Hawaii	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
South Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
Alaska	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
Wyoming	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
District of Columbia	\$7,500,000.00	0.28%	\$625,000.00	0.28%	\$8,125,000.00	0.28%
Delaware	\$9,051,682.97	0.34%	\$625,000.00	0.28%	\$9,676,682.97	0.33%
Mississippi	\$9,249,413.91	0.34%	\$625,000.00	0.28%	\$9,874,413.91	0.34%
West Virginia	\$11,506,842.13	0.43%	\$625,000.00	0.28%	\$12,131,842.13	0.41%
Nebraska	\$11,528,812.23	0.43%	\$719,535.25	0.32%	\$12,248,347.48	0.42%
Montana	\$11,600,215.07	0.43%	\$1,002,209.81	0.45%	\$12,602,424.88	0.43%
Rhode Island	\$13,495,136.57	0.50%	\$873,721.37	0.39%	\$14,368,857.94	0.49%
Arkansas	\$13,951,016.23	0.52%	\$696,692.86	0.31%	\$14,647,709.09	0.50%
Kansas	\$14,791,372.72	0.55%	\$870,866.08	0.39%	\$15,662,238.80	0.54%
Idaho	\$16,246,892.13	0.60%	\$1,102,145.26	0.49%	\$17,349,037.39	0.59%
New Mexico	\$16,900,502.73	0.63%	\$1,082,158.17	0.48%	\$17,982,660.90	0.61%
Vermont	\$17,801,277.01	0.66%	\$890,853.17	0.40%	\$18,692,130.18	0.64%
Louisiana	\$18,009,993.00	0.67%	\$1,838,812.30	0.82%	\$19,848,805.30	0.68%
Kentucky	\$19,048,080.43	0.71%	\$1,330,569.15	0.59%	\$20,378,649.58	0.70%
Oklahoma	\$19,086,528.11	0.71%	\$1,835,957.01	0.82%	\$20,922,485.12	0.72%
Iowa	\$20,179,540.80	0.75%	\$1,022,196.90	0.45%	\$21,201,737.70	0.72%
Maine	\$20,256,436.17	0.75%	\$796,628.31	0.35%	\$21,053,064.48	0.72%
Nevada	\$22,255,715.66	0.82%	\$2,618,308.82	1.16%	\$24,874,024.48	0.85%
Alabama	\$24,084,726.84	0.89%	\$1,396,241.02	0.62%	\$25,480,967.86	0.87%
New Hampshire	\$29,544,297.76	1.09%	\$1,370,543.33	0.61%	\$30,914,841.09	1.06%
South Carolina	\$31,636,950.19	1.17%	\$2,258,541.20	1.00%	\$33,895,491.39	1.16%
Utah	\$32,356,471.11	1.20%	\$2,821,035.03	1.25%	\$35,177,506.14	1.20%
Indiana	\$38,920,039.77	1.44%	\$2,015,840.82	0.90%	\$40,935,880.59	1.40%
Missouri	\$39,084,815.55	1.45%	\$2,067,236.19	0.92%	\$41,152,051.74	1.41%
Tennessee	\$42,407,793.83	1.57%	\$3,352,120.57	1.49%	\$45,759,914.40	1.56%
Minnesota	\$43,638,119.67	1.62%	\$3,363,541.76	1.49%	\$47,001,661.43	1.61%
Connecticut	\$51,635,237.63	1.91%	\$4,085,932.31	1.82%	\$55,721,169.94	1.90%
Arizona	\$53,013,861.68	1.96%	\$3,646,216.32	1.62%	\$56,660,078.00	1.94%
Georgia	\$58,105,433.35	2.15%	\$5,519,292.21	2.45%	\$63,624,725.56	2.18%
Michigan	\$60,329,906.41	2.23%	\$4,477,108.22	1.99%	\$64,807,014.63	2.22%
Colorado	\$61,307,576.05	2.27%	\$7,432,342.28	3.30%	\$68,739,918.33	2.35%
Wisconsin	\$63,554,019.22	2.35%	\$3,523,438.48	1.57%	\$67,077,457.70	2.29%
New Jersey	\$65,328,105.14	2.42%	\$6,886,980.25	3.06%	\$72,215,085.39	2.47%
Oregon	\$68,239,143.96	2.53%	\$4,728,374.50	2.10%	\$72,967,518.46	2.49%
Massachusetts	\$69,074,007.92	2.56%	\$5,990,416.48	2.66%	\$75,064,424.40	2.57%
Maryland	\$71,045,824.78	2.63%	\$4,668,413.23	2.07%	\$75,714,238.01	2.59%
Ohio	\$71,419,316.56	2.65%	\$3,883,206.11	1.73%	\$75,302,522.67	2.57%
North Carolina	\$87,177,373.87	3.23%	\$4,868,284.13	2.16%	\$92,045,658.00	3.15%
Virginia	\$87,589,313.32	3.24%	\$6,044,667.16	2.69%	\$93,633,980.48	3.20%
Illinois	\$97,701,053.83	3.62%	\$10,978,623.15	4.88%	\$108,679,676.98	3.72%
Washington	\$103,957,041.03	3.85%	\$8,788,609.12	3.91%	\$112,745,650.15	3.85%
Pennsylvania	\$110,740,310.73	4.10%	\$7,829,228.79	3.48%	\$118,569,539.52	4.05%
New York	\$117,402,744.86	4.35%	\$10,299,062.08	4.58%	\$127,701,806.94	4.37%
Florida	\$152,379,150.91	5.64%	\$13,899,593.63	6.18%	\$166,278,744.54	5.68%
Texas	\$191,941,816.23	7.11%	\$17,377,347.34	7.72%	\$209,319,163.57	7.16%
California	\$381,280,175.09	14.12%	\$41,356,145.05	18.38%	\$422,636,320.14	14.45%
State Trust Administration Cost Subaccount	\$23,467,171.38	0.87%	\$1,955,597.62	0.87%	\$25,422,769.00	0.87%
Subtotal	\$2,645,821,256.54	97.99%	\$219,814,632.84	97.70%	\$2,865,635,889.38	97.97%
Tribal Trust Allocation	\$49,652,857.71	1.84%	\$4,795,063.51	2.13%	\$54,447,921.22	1.86%
Tribal Administration Cost Subaccount	\$4,525,885.77	0.17%	\$390,303.65	0.17%	\$4,916,189.42	0.17%
Subtotal	\$54,178,743.48	2.01%	\$5,185,367.16	2.30%	\$59,364,110.64	2.03%
Total	\$2,700,000,000.00	100.00%	\$225,000,000.00	100.00%	\$2,925,000,000.00	100.00%

APPENDIX D-1C

Weighted Average Allocation Percentage for Subparagraph 5.0.3

APPENDIX D-1C

State Trust Allocation	Weighted Average Allocation Percentage, net of CA, for subparagraph 5.0.3
Puerto Rico	0.33%
North Dakota	0.33%
Hawaii	0.33%
South Dakota	0.33%
Alaska	0.33%
Wyoming	0.33%
District of Columbia	0.33%
Delaware	0.40%
Mississippi	0.40%
West Virginia	0.50%
Nebraska	0.50%
Montana	0.52%
Rhode Island	0.59%
Arkansas	0.60%
Kansas	0.64%
Idaho	0.71%
New Mexico	0.74%
Vermont	0.77%
Louisiana	0.81%
Kentucky	0.83%
Oklahoma	0.86%
Iowa	0.87%
Maine	0.86%
Nevada	1.02%
Alabama	1.04%
New Hampshire	1.27%
South Carolina	1.39%
Utah	1.44%
Indiana	1.68%
Missouri	1.69%
Tennessee	1.87%
Minnesota	1.92%
Connecticut	2.28%
Arizona	2.32%
Georgia	2.61%
Michigan	2.65%
Colorado	2.81%
Wisconsin	2.75%
New Jersey	2.96%
Oregon	2.99%
Massachusetts	3.07%
Maryland	3.10%
Ohio	3.08%
North Carolina	3.77%
Virginia	3.83%
Illinois	4.45%
Washington	4.62%
Pennsylvania	4.86%
New York	5.23%
Florida	6.81%
Texas	8.57%
California	
State Trust Administration Cost Subaccount	1.00%
Total	100.00%

APPENDIX D-2
Eligible Mitigation Actions and Mitigation Action Expenditures

APPENDIX D-2

ELIGIBLE MITIGATION ACTIONS AND MITIGATION ACTION EXPENDITURES

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)
 - a. Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Large Trucks shall also include 2010-2012 engine model year Class 8 Local Freight or Drayage.
 - b. Eligible Large Trucks must be Scrapped.
 - c. Eligible Large Trucks may be Repowered with any new diesel or Alternate Fueled engine or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Large Trucks Mitigation Action occurs or one engine model year prior.
 - d. For Non-Government Owned Eligible Class 8 Local Freight Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
 - e. For Non-Government Owned Eligible Drayage Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 50% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new all-electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- f. For Government Owned Eligible Class 8 Large Trucks, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)

- a. Eligible Buses include 2009 engine model year or older class 4-8 school buses, shuttle buses, or transit buses. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed Eligible Mitigation Action, Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.
- b. Eligible Buses must be Scrapped.
- c. Eligible Buses may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Bus Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Buses, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Buses, and Privately Owned School Buses Under Contract with a Public School District, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

3. Freight Switchers

- a. Eligible Freight Switchers include pre-Tier 4 switcher locomotives that operate 1000 or more hours per year.
- b. Eligible Freight Switchers must be Scrapped.
- c. Eligible Freight Switchers may be Repowered with any new diesel or Alternate Fueled or All-Electric engine(s) (including Generator Sets), or may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Freight Switcher Mitigation Action occurs.
- d. For Non-Government Owned Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of :
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.

3. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 75% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.
- e. For Government Owned Eligible Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 100% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.

4. Ferries/Tugs

- a. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.
- b. Eligible Ferry and/or Tug engines that are replaced must be Scrapped.
- c. Eligible Ferries and/or Tugs may be Repowered with any new Tier 3 or Tier 4 diesel or Alternate Fueled engines, or with All-Electric engines, or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade.
- d. For Non-Government Owned Eligible Ferries and/or Tugs, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 2. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

- e. For Government Owned Eligible Ferries and/or Tugs, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 - 2. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

5. Ocean Going Vessels (OGV) Shorepower

- a. Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Components of such systems eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Marine shore power systems must comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems) and should be supplied with power sourced from the local utility grid. Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.
- b. For Non-Government Owned Marine Shorepower, Beneficiaries may only draw funds from the Trust in the amount of up to 25% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.
- c. For Government Owned Marine Shorepower, Beneficiaries may draw funds from the Trust in the amount of up to 100% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.

6. Class 4-7 Local Freight Trucks (Medium Trucks)

- a. Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks, and for Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Trucks shall also include 2010-2012 engine model year class 4-7 Local Freight trucks.
- b. Eligible Medium Trucks must be Scrapped.

- c. Eligible Medium Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Medium Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

7. Airport Ground Support Equipment

- a. Eligible Airport Ground Support Equipment includes:
 - 1. Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and
 - 2. Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment.
- b. Eligible Airport Ground Support Equipment must be Scrapped.

- c. Eligible Airport Ground Support Equipment may be Repowered with an All-Electric engine, or may be replaced with the same Airport Ground Support Equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may only draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
- e. For Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 100% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.

8. Forklifts and Port Cargo Handling Equipment

- a. Eligible Forklifts includes forklifts with greater than 8000 pounds lift capacity.
- b. Eligible Forklifts and Port Cargo Handling Equipment must be Scrapped.
- c. Eligible Forklifts and Port Cargo Handling Equipment may be Repowered with an All-Electric engine, or may be replaced with the same equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
- e. For Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:

1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
9. Light Duty Zero Emission Vehicle Supply Equipment. Each Beneficiary may use up to fifteen percent (15%) of its allocation of Trust Funds on the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle supply equipment for projects as specified below. Provided, however, that Trust Funds shall not be made available or used to purchase or rent real-estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Supply Equipment).
 - a. Light duty electric vehicle supply equipment includes Level 1, Level 2 or fast charging equipment (or analogous successor technologies) that is located in a public place, workplace, or multi-unit dwelling and is not consumer light duty electric vehicle supply equipment (i.e., not located at a private residential dwelling that is not a multi-unit dwelling).
 - b. Light duty hydrogen fuel cell vehicle supply equipment includes hydrogen dispensing equipment capable of dispensing hydrogen at a pressure of 70 megapascals (MPa) (or analogous successor technologies) that is located in a public place.
 - c. Subject to the 15% limitation above, each Beneficiary may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Government Owned Property.
 2. Up to 80% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Non-Government Owned Property.
 3. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a workplace but not to the general public.
 4. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a multi-unit dwelling but not to the general public.

5. Up to 33% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 250 kg/day that will be available to the public.
 6. Up to 25% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 100 kg/day that will be available to the public.
10. Diesel Emission Reduction Act (DERA) Option. Beneficiaries may use Trust Funds for their non-federal voluntary match, pursuant to Title VII, Subtitle G, Section 793 of the DERA Program in the Energy Policy Act of 2005 (codified at 42 U.S.C. § 16133), or Section 792 (codified at 42 U.S.C. § 16132) in the case of Tribes, thereby allowing Beneficiaries to use such Trust Funds for actions not specifically enumerated in this Appendix D-2, but otherwise eligible under DERA pursuant to all DERA guidance documents available through the EPA. Trust Funds shall not be used to meet the non-federal mandatory cost share requirements, as defined in applicable DERA program guidance, of any DERA grant.

Eligible Mitigation Action Administrative Expenditures

For any Eligible Mitigation Action, Beneficiaries may use Trust Funds for actual administrative expenditures (described below) associated with implementing such Eligible Mitigation Action, but not to exceed 15% of the total cost of such Eligible Mitigation Action. The 15% cap includes the aggregated amount of eligible administrative expenditures incurred by the Beneficiary and any third-party contractor(s).

1. Personnel including costs of employee salaries and wages, but not consultants.
2. Fringe Benefits including costs of employee fringe benefits such as health insurance, FICA, retirement, life insurance, and payroll taxes.
3. Travel including costs of Mitigation Action-related travel by program staff, but does not include consultant travel.
4. Supplies including tangible property purchased in support of the Mitigation Action that will be expensed on the Statement of Activities, such as educational publications, office supplies, etc. Identify general categories of supplies and their Mitigation Action costs.
5. Contractual including all contracted services and goods except for those charged under other categories such as supplies, construction, etc. Contracts for evaluation and consulting services and contracts with sub-recipient organizations are included.
6. Construction including costs associated with ordinary or normal rearrangement and alteration of facilities.
7. Other costs including insurance, professional services, occupancy and equipment leases, printing and publication, training, indirect costs, and accounting.

Definitions/Glossary of Terms

“Airport Ground Support Equipment” shall mean vehicles and equipment used at an airport to service aircraft between flights.

“All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

“Alternate Fueled” shall mean an engine, or a vehicle or piece of equipment that is powered by an engine, which uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., CNG, propane, diesel-electric Hybrid).

“Certified Remanufacture System or Verified Engine Upgrade” shall mean engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)” shall mean vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs. used for transporting people. See definition for School Bus below.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs. used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“CNG” shall mean Compressed Natural Gas.

“Drayage Trucks” shall mean trucks hauling cargo to and from ports and intermodal rail yards.

“Forklift” shall mean nonroad equipment used to lift and move materials short distances; generally includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

“Freight Switcher” shall mean a locomotive that moves rail cars around a rail yard as compared to a line-haul engine that moves freight long distances.

“Generator Set” shall mean a switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

“Government” shall mean a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village. The term “State” means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Gross Vehicle Weight Rating (GVWR)” shall mean the maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo.

Class 1: < 6000 lb.
Class 2: 6001-10,000 lb.
Class 3: 10,001-14,000 lb.
Class 4: 14,001-16,000 lb.
Class 5: 16,001-19,500 lb.
Class 6: 19,501-26,000 lb.
Class 7: 26,001-33,000 lb.
Class 8: > 33,001 lb.

“Hybrid” shall mean a vehicle that combines an internal combustion engine with a battery and electric motor.

“Infrastructure” shall mean the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

“Intermodal Rail Yard” shall mean a rail facility in which cargo is transferred from drayage truck to train or vice-versa.

“Port Cargo Handling Equipment” shall mean rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

“Plug-in Hybrid Electric Vehicle (PHEV)” shall mean a vehicle that is similar to a Hybrid but is equipped with a larger, more advanced battery that allows the vehicle to be plugged in and recharged in addition to refueling with gasoline. This larger battery allows the car to be driven on a combination of electric and gasoline fuels.

“Repower” shall mean to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (e.g., grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

“School Bus” shall mean a Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

“Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any Eligible Vehicle will be replaced as part of an Eligible project, Scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

“Tier 0, 1, 2, 3, 4” shall refer to corresponding EPA engine emission classifications for nonroad, locomotive, and marine engines.

“Tugs” shall mean dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

“Zero Emission Vehicle (ZEV)” shall mean a vehicle that produces no emissions from the on-board source of power (e.g., All-Electric or hydrogen fuel cell vehicles).

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT**1. Identity of Lead Agency

_____ (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies _____ (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	
Address:	
Phone:	
Fax:	
Email:	

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.

(c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.

(d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary _____

Lead Agency Authorized to Act on Behalf of the Beneficiary _____
 (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:	
Beneficiary's Project ID:	
Funding Request No.	(sequential)
Request Type: (select one or more)	<input 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 type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input type="checkbox"/> 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 <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):
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):
Estimate of Anticipated NOx Reductions (5.2.3):
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):
Describe how the Beneficiary will make documentation publicly available (5.2.7.2).
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).

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).

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: _____

[NAME]

[TITLE]

[LEAD AGENCY]

for

[BENEFICIARY]

ATTACHMENT A**FUNDING REQUEST AND DIRECTION**

(Attachment to Appendix D-4, Beneficiary Eligible Mitigation Action Certification, pursuant to Paragraph 5.2 of the Environmental Mitigation Trust Agreement)

Pursuant to the authority granted to _____ [insert Lead Agency] to act on behalf of Beneficiary _____ under the Mitigation Trust, [Lead Agency] directs the Trustee to make the following payments from its subaccount no. _____ to the following payees, for the amounts specified on the dates specified below.

LEAD AGENCY INFORMATION

Beneficiary Name: _____	Lead Agency Contact Person: _____
Lead Agency Name: _____	Lead Agency Email Address: _____
Lead Agency Address: _____	Lead Agency Fax: _____
Lead Agency Phone: _____	Lead Agency TIN: _____

Contact information entered above may correspond to Lead Agency or 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

MITIGATION ACTION INFORMATION

Action Title: _____	Funding Request No: _____
Beneficiary's Project ID: _____	

PAYMENTS REQUESTED

(attach additional pages if needed)

Amount	Requested Date	Payee	Request Type

PAYEE CONTACT AND WIRE INFORMATION

(fill out both tables below for each payee and payment identified in "Payments Requested" table on p. 1; attach additional pages if needed)

PAYEE CONTACT INFORMATION

Action Title:	_____	Beneficiary Project ID:	_____
Payee Name:	_____	Payee Contact Person:	_____
Payee Address:	_____	Payee Email Address:	_____
Payee Phone:	_____	Payee Fax:	_____
Payee TIN:	_____		

Payment Amount	Requested Date	Request Type

WIRE INFORMATION

Receiving Bank Name:	_____		
Receiving Bank Branch:	_____		
Receiving Bank Address:	_____		
Bank Swift ID:	_____	National Routing No. / Bank ABA Number (Sort Code, BLZ)	_____
Amount of Wire:	_____		
Message to Payee:	_____		
Instructions to Receiving Bank:	_____		
For Credit to:	_____		
Other Special Instructions:	_____		

[Signature Block]

[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 (Provide List of Approved Contractors as Attachment with approved funding ceilings)	\$	\$	\$	\$
3. Subrecipient Support (Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)	\$	\$	\$	\$
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)	\$	\$	\$	\$	\$

APPENDIX D-5
Form of Certificate of Trust of the
Volkswagen Diesel Emissions Environmental Mitigation Trust
for State Beneficiaries, Puerto Rico, and the District Of Columbia

APPENDIX D-5

**FORM OF CERTIFICATE OF TRUST OF THE
VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION TRUST
FOR
STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF COLUMBIA**

This Certificate of Trust of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “Trust”) is being duly executed and filed on behalf of the Trust by the undersigned, as Trustee, to form a statutory trust under the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826 (the “Act”).

1. Name. The name of the statutory trust formed by this Certificate of Trust is the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.

2. Delaware Trustee. The name and business address of the Trustee of the Trust with a principal place of business in the State of Delaware are Wilmington Trust, N.A., 1100 North Market Street, Wilmington, Delaware 19890. Attn: Corporate Trust Administration.

3. Effective Date. This Certificate of Trust shall be effective upon filing.

4. IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Trust in accordance with Section 3811(a)(1) of the Act.

WILMINGTON TRUST, N.A.,
not in its individual capacity but solely
as Trustee

By: _____
Name:
Title:

Michele D. Ross
Reed Smith LLP
1301 K Street NW
Suite 1000 – East Tower
Washington, D.C. 20005
Telephone: 202 414-9297
Fax: 202 414-9299
Email: mross@reedsmith.com

Attorneys for the Trustee of
the Volkswagen Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: VOLKSWAGEN “CLEAN
DIESEL” MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

Relates to:

*[United States v. Volkswagen AG, et al., No.
16-cv-295 (N.D. Cal.)]*

Case No. MDL 2672 CRB (JSC)

**NOTICE OF BENEFICIARY
DESIGNATION UNDER THE
VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES,
PUERTO RICO, AND THE DISTRICT OF
COLUMBIA**

Judge: Hon. Charles R. Breyer

PLEASE TAKE NOTICE THAT Wilmington Trust, N.A. as Trustee (the “Trustee”) of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), by and through its counsel Reed Smith, respectfully files the attached Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof.

Dated: January 29, 2018

Respectfully submitted,

/s/ Michele D. Ross
Michele D. Ross, partner
Reed Smith LLP

CERTIFICATE OF SERVICE

I hereby certify that, on January 29, 2018, I caused to be served true copies of Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof by electronic means by filing such documents through the Court's Electronic Case Filing System.

/s/ Michele D. Ross
Michele D. Ross
*Attorney for the Trustee of the Volkswagen
Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and
the District of Columbia*

Notice of Beneficiary Designation for the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 of the State Trust

In accordance with subparagraph 4.0.2. of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), Wilmington Trust, N.A. as Trustee of the State Trust hereby certifies as follows:

In accordance with Paragraph 4.0 of the State Trust, each at the following Certifying Entities filed its Appendix D-3 with the U.S. District Court for the Northern District of California (the “Court”) on or prior to 60 days after the Trust Effective Date:

LIST OF DESIGNATED BENEFICIARIES UNDER THE STATE TRUST

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. District of Columbia
10. Florida
11. Georgia
12. Hawaii
13. Idaho
14. Illinois
15. Indiana
16. Iowa

17. Kansas
18. Kentucky
19. Louisiana
20. Maine
21. Maryland
22. Massachusetts
23. Michigan
24. Minnesota
25. Mississippi
26. Missouri
27. Montana
28. Nebraska
29. Nevada
30. New Hampshire
31. New Jersey
32. New Mexico
33. New York
34. North Carolina
35. North Dakota
36. Ohio
37. Oklahoma
38. Oregon
39. Pennsylvania
40. Puerto Rico
41. Rhode Island

- 42. South Carolina
- 43. South Dakota
- 44. Tennessee
- 45. Texas
- 46. Utah
- 47. Vermont
- 48. Virginia
- 49. Washington
- 50. West Virginia
- 51. Wisconsin
- 52. Wyoming

In accordance with subparagraph 4.0.2.1 of the State Trust, no notices of objection to the Appendix D-3 filings by any of the Certifying Entities listed above were filed. Therefore, in accordance with the terms of the State Trust, each such Certifying Entity listed above is now designated a “Beneficiary” under the State Trust.

Wilmington Trust, N.A. as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

By: /s/David A. Vanaskey Jr.
Name: David A. Vanaskey Jr.
Title: Administrative Vice President

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT****1. Identity of Lead Agency**

Arkansas (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies the Arkansas Department of Environmental Quality (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	Stuart L. Spencer
Address:	5301 Northshore Drive, North Little Rock, AR 72118-5317
Phone:	501-682-0750
Fax:	
Email:	spencer@adeq.state.ar.us

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

- iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.
- (d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____



Name: _____

Asa Hutchinson

Title: _____

Governor

Date: _____

9/14/17

Location: _____

Arkansas

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

ARKANSAS CERTIFICATION FOR BENEFICIARY STATUS

Attachment 1 to Appendix D-3 Certification for Beneficiary Status Section 7: Publicly Available Information

In accordance with Paragraph seven (7) of the Certification for Beneficiary Status required under Appendix D-3, this attachment one (1) states the following:

1. All documents and records submitted to the Volkswagen Mitigation Trust Trustee, Wilmington Trust (“Trustee”) by the Arkansas Department of Environmental Quality (ADEQ) in support of each funding request for expenditures of the state’s portion of the Volkswagen Mitigation Fund (“Trust Fund”), pursuant to the Arkansas Volkswagen Mitigation Plan (“Mitigation Plan”), will be maintained until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust agreement. These records may be obtained by calling or emailing the contacts on the State’s Volkswagen settlement webpage: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ’s Volkswagen Settlement webpage will be the main tool used for disseminating information regarding expenditures from the State’s portion of the Trust Fund. ADEQ will provide reasonable access to requested documentation and records in compliance with the procedures of Arkansas Freedom of Information Act (“FOIA”), codified at Arkansas Code Annotated § 25-19-101, *et seq.*. However, ADEQ will provide access to all persons requesting such records, rather than solely the citizens of Arkansas, which is not required by the Arkansas Freedom of Information Act.
2. A Mitigation Plan will be made available for an initial public comment period of at least thirty (30) days before ADEQ submits the Mitigation Plan to the Trustee. During this comment period, the Mitigation Plan will be made available on the website developed by ADEQ that is dedicated to information regarding the Volkswagen settlement including ADEQ’s Mitigation Plan: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will provide contact information for use by members of the public seeking to provide comments, including an email address. After the end of the public comment period, ADEQ will review all comments. ADEQ will post comments received to the ADEQ Mitigation plan website: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will determine to what extent changes to the Mitigation Plan are warranted in response to public comments. The final Mitigation Plan will be made publicly available.
3. Any documents provided to ADEQ in support of a comment to the Mitigation Plan or to secure funding for an eligible project under the Mitigation Plan are subject to public disclosure under FOIA. Personal information is generally not exempt from disclosure under FOIA but certain personally identifiable information, such as birthdays and social security numbers are exempt from disclosure. If included in documents provided to

ADEQ, these items would require redaction prior to release of the documents pursuant to FOIA. Arkansas addresses confidential business information in the Arkansas Trade Secrets Act (Arkansas Code Annotated § 4-75-601, *et seq.*). ADEQ may deny inspection of specific information contained in public records if it is determined that the information submitted is a trade secret within the meaning of the Arkansas Trade Secrets Act and the information was submitted consistent with the ADEQ procedures for handling trade secrets, which is publicly available on the ADEQ website:

https://www.adeq.state.ar.us/air/planning/pdfs/procedures_for_handling_trade_secrets.pdf



February 28, 2018

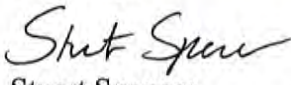
Tim Allen
U.S. Fish and Wildlife Service
National Wildlife Refuge System
Branch of Air Quality
RE: VW Settlement

Sent via email to vw_settlement@fws.gov

This letter is to notify you that the State of Arkansas has been designated a Beneficiary under the Volkswagen Environmental Mitigation Trust (Trust) in accordance with Section 4.2.8 of the Environmental Trust Agreement for State Beneficiaries. The Arkansas Department of Environmental Quality (ADEQ) has been designated by Governor Asa Hutchinson as the lead agency for the purposes of Arkansas's participation in the Trust. 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 Arkansas 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). ADEQ will review, consider, and make a written determination upon each such request in accordance with the terms of the underlying settlement agreement documents, all applicable laws and regulations, and any additional procedures and criteria that will be developed, adopted, and published by ADEQ relating to the handling of requests or applications for funding.

For further information, please visit our Volkswagen Environmental Mitigation Trust website at <https://www.adeq.state.ar.us/air/planning/vw.aspx>.

Sincerely,

*WMA
for* 

Stuart Spencer
Associate Director, Office of Air Quality

Enclosures:

Environmental Mitigation Trust Agreement for State Beneficiaries
Notice of Beneficiary Designation
Amended D-3 Certification with Attachment

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES

On October 25, 2016, the Court entered a Partial Consent Decree (“First Partial Consent Decree”) in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), among Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, the “Settling Defendants”), the United States, and the State of California. In that case, the Court also entered a Second Partial Consent Decree (Dkt. No. 3228-1) on May 17, 2017, among the Settling Defendants, Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. (collectively, the “Defendants”), the United States, and the State of California. Pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, the Defendants and Wilmington Trust, N.A. (the “Trustee”): (1) hereby enter into this Environmental Mitigation Trust Agreement for State Beneficiaries (i.e., for the 50 States, Puerto Rico, and the District of Columbia) (hereinafter, the “State Trust Agreement”) and establish the environmental mitigation trust described herein (the “State Mitigation Trust” or “State Trust”); and (2) concurrently enter into a separate Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries (i.e., for federally-recognized Indian Tribes) (hereinafter, the “Indian Tribe Trust Agreement”) and establish the environmental mitigation trust described in that agreement (“Indian Tribe Mitigation Trust” or “Indian Tribe Trust”). The Defendants and the Trustee acknowledge that the purpose of the State Mitigation Trust and the Indian Tribe Mitigation Trust is to fulfill the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree. All payments to and expenditures from the State Mitigation Trust and the Indian Tribe Mitigation Trust shall be for the sole purpose of fulfilling the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree, and for the costs and expenses of administering each trust as set forth in the State Mitigation Trust and the Indian Tribe Mitigation Trust. The State Mitigation Trust and the Indian Tribe Mitigation Trust shall be funded with Mitigation Trust Payments according to the terms of the First Partial Consent Decree and the Second Partial Consent Decree (jointly, the “Consent Decree”), and in accordance with the following allocation: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.01% to the Indian Tribe Mitigation Trust; and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.3% to the Indian Tribe Mitigation Trust.

PURPOSE AND RECITALS

Whereas, the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated (“Eligible Mitigation Actions”), and to pay for Trust Administration Costs as set forth in this State Trust Agreement;

Whereas, the funding for the Eligible Mitigation Actions provided for in the State Trust Agreement and the Indian Tribe Trust Agreement is intended to fully mitigate the total, lifetime excess NOx emissions from the Subject Vehicles where the Subject Vehicles were, are, or will be operated;

Whereas, the Defendants hereby establish this State Mitigation Trust to provide funds for Eligible Mitigation Actions and Trust Administration Costs;

Whereas, the Trustee has been selected to be the trustee under this State Trust Agreement in accordance with the requirements set forth in the First Partial Consent Decree; and

Whereas, the Trustee is willing to act as trustee in accordance with the terms of this State Trust Agreement;

Now, therefore, the Defendants and the Trustee agree as follows:

I. DEFINITIONS

1.0 Unless otherwise defined in this State Trust Agreement, all capitalized terms used herein shall have the meaning set forth in the Consent Decree.

1.1 “Beneficiary” shall mean each governmental entity among the 50 States, Puerto Rico, and District of Columbia that is determined to be a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries).

1.2 “Business Day” means, with respect to any delivery requirement, deadline, or payment under this State Trust Agreement, each Monday, Tuesday, Wednesday, Thursday, and Friday that is not a day on which the Trustee in the State of Delaware or, as to a specific Beneficiary, a day on which that Beneficiary under this State Trust is authorized or obligated by law, regulation, or executive order to close.

1.3 “Claims” shall mean any and all losses, liabilities, claims, actions, suits, or expenses, of any nature whatsoever, including legal fees and expenses.

1.4 “Consent Decree” shall mean the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), and the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.5 “Court” shall mean the United States District Court for the Northern District of California.

1.6 “Day” shall mean a calendar day unless expressly stated to be a Business Day. In computing any period of time under this State Trust Agreement, where the last day would fall on a Saturday, Sunday, or federal or Delaware holiday, the period shall run to the close of business of the next Business Day;

1.7 “Delaware Act” shall mean the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826.

1.8 “DERA” shall mean the Diesel Emission Reduction Act, Title VII, Subtitle G, of the Energy Policy Act of 2005 (codified at 42 U.S.C. §§ 16131-16139).

1.9 “Eligible Mitigation Action” shall mean any of the actions listed in Appendix D-2 to this State Trust Agreement.

1.10 “Eligible Mitigation Action Administrative Expenditure” shall mean those administrative expenditures by Beneficiaries specified in Appendix D-2 to this State Trust Agreement, and shall not include Trust Administration Costs.

1.11 “Federal Agency” shall mean any agency of the United States government.

1.12 “First Partial Consent Decree” shall mean the Partial Consent Decree entered by the Court in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), on October 25, 2016.

1.13 “Force Majeure” shall have the same meaning as in Paragraph 54 of the First Partial Consent Decree.

1.14 “Indian Land” shall mean the lands of any Indian Tribe or within Indian country.

1.15 “Indian Tribe” shall mean any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe as provided in the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Pursuant to 25 U.S.C. § 5131, the Bureau of Indian Affairs of the Department of the Interior published a current list of federally acknowledged Indian Tribes at 82 Fed. Reg. 4,915 (Jan. 17, 2017), which will be updated from time to time.

1.16 “Investment Manager” shall mean Wilmington Trust, N.A., acting solely in its role as the professional investment manager of Trust Assets in accordance with subparagraph 3.2.2 of this State Trust Agreement and the Investment Management Agreement entered into on the Trust Effective Date. In subparagraphs 2.2.4, 3.1.2.8, 3.5.3 (last sentence), 3.5.6, and 3.5.7 of the State Trust Agreement, each reference to the Investment Manager shall include the Investment Manager and its officers, directors, and employees.

1.17 “IRS” shall mean the Internal Revenue Service.

1.18 “Shared State and Indian Tribe Administration Costs” shall mean the costs, fees, and expenses of: (1) establishing and maintaining the Trustee’s public-facing website; and (2) establishing and maintaining a secure method of internet-based communication for the Trustee and Beneficiaries.

1.19 “Start-up Costs” shall mean all fees, costs, and expenses incurred in connection with establishing the State Mitigation Trust and the Indian Tribe Mitigation Trust and setting them up for operation. Start-up costs shall not include the cost of premiums for insurance policies.

1.20 “Subject Vehicles” shall mean: (i) the “2.0 Liter Subject Vehicles,” as defined in the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1); and (ii) the “3.0 Liter Subject Vehicles,” as defined in the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.21 “Tax” or “Taxes” shall mean all federal, state, and local taxes that may be imposed on the Trust by any taxing authority.

1.22 “Tax Professionals” shall mean all accountants and tax lawyers hired to assist the Trustee with the Trust’s reporting obligations, tax filings, audits, and all other tax and accounting-related activities, including efforts to obtain and, if granted, maintain the IRS Private Letter Ruling as described in subparagraphs 2.1.5.1, 2.1.5.2, and 3.1.2.7, and Paragraph 6.7 of this State Trust Agreement.

1.23 “Tax Return” or “Tax Returns” shall mean all required federal, state, and local tax returns and information returns, including any returns associated with compliance with withholding and reporting requirements.

1.24 “Termination Date” shall mean the date that the State Trust terminates pursuant to Paragraph 6.8 of this State Trust Agreement.

1.25 “Trust Administration Costs” shall mean all expenditures of Trust Assets by the Trustee.

1.26 “Trust Effective Date” shall mean the date that the United States files the fully executed final version of the State Trust Agreement with the Court.

1.27 “Trustee” shall mean Wilmington Trust, N.A., acting solely in its role as the Trustee of this State Mitigation Trust as appointed in accordance with Paragraph 3.0, or a successor trustee pursuant to subparagraph 3.7.2. In subparagraphs 2.2.4, 3.1.2.8, 3.5.2, 3.5.3, 3.5.6, and 3.5.7 of this State Trust Agreement, each reference to the Trustee shall include the Trustee and its officers, directors, and employees.

1.28 “United States” shall mean the United States of America, acting on behalf of the U.S. Environmental Protection Agency (“EPA”).

II. STATE MITIGATION TRUST

2.0 Establishment of the State Mitigation Trust

2.0.1 Irrevocable Establishment. The Defendants hereby and irrevocably establish this State Mitigation Trust on behalf of the Beneficiaries in the form of a statutory trust under the Delaware Act, which shall bear the name “Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.” In connection with the Trustee’s power hereunder, the Trustee may use this name or a variation thereof. The Trustee is hereby authorized and directed to execute and

file a Certificate of Trust for the State Mitigation Trust in the form attached hereto as Appendix D-5. The Trustee hereby accepts and agrees to hold the assets owned by the State Mitigation Trust (“Trust Assets”) for the benefit of the Beneficiaries and for the purposes described herein and in the Consent Decree.

2.0.2 Trustee. In accordance with Paragraph 3.0 below, on the Trust Effective Date, the Trustee, not individually but solely in the representative capacity of trustee, shall be appointed as the Trustee in accordance with the Consent Decree to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree.

2.0.3 Trust Purpose. It shall be the purpose of the State Mitigation Trust to timely and efficiently fund Eligible Mitigation Actions to be proposed and administered by the Beneficiaries subject to the requirements of the Consent Decree and this State Trust Agreement, and to provide funds for the administration and operation of this State Trust in accordance with this State Trust Agreement. The goal of each Eligible Mitigation Action shall be to achieve reductions of NOx emissions in the United States.

2.0.4 Creation and Use of State Trust Account. Within 15 Days following the Trust Effective Date, the Trustee shall establish a trust account (“State Trust Account”), and file with the Court a designation and identification of the State Trust Account. The purpose of the State Trust Account shall be to receive deposits from the Defendants (directly or through the Court Registry) pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, to hold them in trust, to receive income and gains from any investment of Trust Assets (collectively, “Trust Funds”), and to make disbursements to fund Eligible Mitigation Actions by Beneficiaries and to pay Trust Administration Costs, all in accordance with the Consent Decree and this State Trust Agreement. Disbursements shall be directed by each Beneficiary pursuant to a Beneficiary Eligible Mitigation Action Certification (Appendix D-4) delivered to the Trustee in accordance with Paragraph 5.2. Unless otherwise agreed by the parties to the Consent Decree (“Consent Decree Parties”), the State Trust Account shall be the only account that may be used for these purposes.

2.0.4.1 State Trust Account Divisions. The State Trust Account may be divided into such number of discrete trust subaccounts dedicated for specific purposes as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and to implement, the Consent Decree and this State Trust Agreement.

2.1 Funding of the State Mitigation Trust: The Settling Defendants shall fund the State Mitigation Trust as required by the First Partial Consent Decree, and the Defendants shall fund the State Mitigation Trust as required by the Second Partial Consent Decree. The Trustee shall allocate to the State Mitigation Trust the following amounts: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account, and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account.

2.1.1 Intentionally Reserved.

2.1.1.1 Intentionally Reserved.

2.1.1.2 Intentionally Reserved.

2.1.1.3 Intentionally Reserved.

2.1.1.4 Intentionally Reserved.

2.1.1.5 Intentionally Reserved.

2.1.2 Intentionally Reserved.

2.1.3 Funding of the Trust Administration Cost Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall fund a subaccount to pay for Trust Administration Costs ("Trust Administration Cost Subaccount") by transferring into it from the State Trust Account the funds allocated to the Trust Administration Cost Subaccount in accordance with Appendix D-1 (Initial 2.0 Liter Allocation) and Appendix D-1A (Initial 3.0 Liter Allocation). The Trustee may further subdivide the Trust Administration Cost Subaccount into such number of additional subaccounts as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and implement, the Consent Decree and this State Trust Agreement. No additional Trust Assets may be directed to the Trust Administration Cost Subaccount, or to the payment of Trust Administration Costs, other than investment earnings on the Trust Administration Cost Subaccount, absent further order of the Court.

2.1.3.1 Allocation of Trust Administration Costs. The funds in the Trust Administration Cost Subaccount shall be internally allocated in accordance with each Beneficiary's allocation rate as set forth in Appendices D-1 and D-1A. The Trustee shall debit those Trust Administration Costs associated with a particular Eligible Mitigation Action request against the Trust Administration Cost Subaccount allocation of the Beneficiary that requested the funds associated with that Eligible Mitigation Action. The Trustee shall debit all other Trust Administration Costs ("Shared Administration Costs") among all Beneficiaries, weighted in accordance with each Beneficiary's Trust Administration Cost Subaccount allocation in place at the time such costs are incurred. Pursuant to Paragraph 3.6, the State Mitigation Trust shall pay 98% of the Trustee's Start-up Costs, and shall pay 98% of the Shared State and Indian Tribe Administration Costs. These costs shall be allocated to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B.

2.1.3.2 Intentionally Reserved.

2.1.4 Intentionally Reserved.

2.1.5 Tax Payment Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall deduct an amount equal to the estimated taxes owed on earnings of the Trust Funds while on deposit in the Court Registry that have been allocated to the State Mitigation Trust pursuant to Paragraph 2.1. The amount of the deduction shall be based on applicable income tax withholding and reporting requirements, and consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. Such amount shall be deposited into a dedicated, non-interest bearing account ("Tax Payment Subaccount"). In addition, prior to the allocation of any investment income pursuant to subparagraph 3.2.3, the Trustee shall deduct an amount equal to the estimated taxes owed on such earnings and deposit that sum into the Tax Payment Subaccount. The amounts in this Tax Payment Subaccount shall be used for the express purpose of paying all applicable taxes with respect to the State Trust in a manner consistent with Paragraph 6.7. If at any time the funds on deposit in this Tax Payment Subaccount are insufficient to pay all Taxes then due and owing, the Trustee shall seek to resolve any dispute pursuant to the dispute resolution procedures of Paragraph 6.2.

2.1.5.1 Within 30 Days of receipt of a Private Letter Ruling from the IRS determining that all investment income earned on the Trust Assets is excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall allocate all amounts held in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B.

2.1.5.2 Upon receipt of a Private Letter Ruling from the IRS, which determines that all or a portion of the investment income earned on the Trust Assets is not excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall pay any additional taxes owed from the Tax Payment Subaccount. Within 30 Days of receipt of such a letter ruling, the Trustee shall amend its calculation of estimated taxes and deposits to the Tax Payment Subaccount to reflect the proportion of investment income that is determined to be taxable by the IRS.

2.1.5.3 Within 120 Days of each tax-year end, the Trustee shall reconcile the amount of taxes owed and paid from the Tax Payment Subaccount, if any, and return all remaining amounts in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B. All overpayments of estimated taxes or refunds of taxes paid by, or on behalf of, the Trust shall be allocated to the Beneficiaries consistent with the allocation rates included in Appendix D-1B.

2.1.5.4 Pursuant to the secure internet-based communication established in Paragraph 6.0, the Trustee shall provide the Beneficiaries a copy of all communications from the IRS related to the payment or non-payment of taxes within 15 Days of receipt.

2.2 Trust Limitations

2.2.1 No Consent Decree Party or Beneficiary, nor any of their components, agencies, officers, directors, agents, employees, affiliates, successors, or assigns, shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the State Mitigation Trust.

2.2.2 All Trust Assets shall be used solely for the purposes provided in the Consent Decree and this State Trust Agreement.

2.2.3 This State Mitigation Trust is irrevocable. The Defendants: (i) shall not retain any ownership or residual interest whatsoever with respect to any Trust Assets, including, but not limited to, the funds transferred by the Defendants to fund the State Trust pursuant to the terms of the Consent Decree, (ii) shall not have any liabilities or funding obligations with respect to the State Trust (to the Trustee, the Beneficiaries or otherwise) other than the funding obligations expressly set forth in the Consent Decree, and (iii) shall not have any liability or obligation to pay tax on any income or gains from any investments of Trust Assets. Nor shall the Defendants have any rights or role with respect to the management or operation of the State Trust, or the Trustee's approval of requests for Eligible Mitigation Action funding.

2.2.4 Exculpation. Neither the Trustee and its officers, directors, and employees, the Investment Manager and its officers, directors, and employees, the Tax Professionals nor the State Mitigation Trust shall have any liability whatsoever to any person or party for any liability of the Defendants; provided, however, that the State Mitigation Trust shall be liable to the Beneficiaries for funding of Eligible Mitigation Actions in accordance with the terms of this State Trust Agreement and the Consent Decree.

III. TRUSTEE RESPONSIBILITIES

3.0 Appointment: Pursuant to Paragraph 15.e. of the First Partial Consent Decree, the Court appointed Wilmington Trust, N.A., as Trustee of the Environmental Mitigation Trust. Dkt. No. 3030 at 2. Wilmington Trust, N.A., not individually but in its representative capacity as Trustee, is hereby appointed to serve as the Trustee to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree. The Trustee hereby accepts such appointment and agrees to serve, commencing on the Trust Effective Date, in such capacity to the State Mitigation Trust and for the benefit of the Beneficiaries.

3.0.1 Wilmington Trust, N.A. is acting in two separate and distinct roles under the State Mitigation Trust: (1) as the Trustee of the State Mitigation Trust; and (2) as the Investment Manager of the Trust Assets. These roles are subject to different standards of

care. Wilmington Trust, N.A., acting as Trustee, is subject to the standard of care set forth in subparagraphs 3.1.1 and 3.5.2. In its role as Investment Manager, Wilmington Trust, N.A. is subject to the standard of care set forth in subparagraph 3.2.2.

3.1 Powers of the Trustee

3.1.1 Except as set forth in this State Trust Agreement, the Trustee shall have the power to perform those acts necessary and desirable to accomplish the purposes of the State Mitigation Trust, which shall be exercised in an efficient and expeditious manner in furtherance of and in a manner consistent with the purposes of this State Trust Agreement and the Consent Decree. Subject to the limitations on liability set forth in subparagraph 3.5.2, the Trustee shall act in accordance with the current professional standards of care and with the diligence, skill, and care expected for the administration of such a Trust. The Trustee shall have only such duties, rights, powers, and privileges expressly set forth in the Consent Decree, this State Trust Agreement, and as otherwise provided by the Delaware Act. No implied duties (including fiduciary duties) shall be read into this State Trust against Wilmington Trust, N.A., acting as the Trustee.

3.1.2 Upon the Trust Effective Date, the powers of the Trustee shall include the following:

- 3.1.2.1 To receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 of this State Trust Agreement or to engage a professional investment manager (“Investment Manager”) to receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 for the benefit of the Beneficiaries. The Trustee appoints Wilmington Trust, N.A. as the Investment Manager for the State Mitigation Trust pursuant to an Investment Management Agreement entered into on the Trust Effective Date to manage the Trust Assets in accordance with Paragraph 3.2;
- 3.1.2.2 To establish and maintain a public-facing website onto which it will post all materials as required hereunder;
- 3.1.2.3 To establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries;
- 3.1.2.4 To hold title to property in the name of the Trustee in its capacity as such;
- 3.1.2.5 To incur, and pay from the Trust Administration Cost Subaccount, any and all customary and commercially reasonable charges and expenses upon or connected with the administration of this State Mitigation Trust in the discharge of its obligations hereunder, including 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs;

- 3.1.2.6 To engage and compensate professionals to assist the Trustee in accordance with this State Trust Agreement, including, but not limited to, legal, environmental, investment, accounting, tax, website, and third-party auditing professionals, or internet service providers, or insurance providers. Such third-party auditing professionals may be used by the Trustee to audit and/or review expenditures to verify that they comport with the requirements and limitations on use of Trust Funds, as set forth herein. The Trustee may initiate such an audit and/or review on its own initiative or in response to credible reports or suggestions that such review or audit is appropriate. The Trustee shall have an annual independent audit prepared and posted on the website. In its sole discretion, the United States may waive the requirement of an annual audit starting in year ten or at an earlier time in order to preserve Trust Funds;
- 3.1.2.7 To engage and compensate professionals to assist the Trustee in requesting a Private Letter Ruling from the IRS: (1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust, and to take such actions as may be reasonably necessary to secure such ruling and to ensure that the State Trust continues to comply with such ruling upon the advice of the Tax Professionals;
- 3.1.2.8 To purchase any insurance policies as the Trustee may determine to be prudent to protect the State Mitigation Trust, the Trust Assets, the Trustee and its officers, directors, and employees, Wilmington Trust, N.A., in its role as Investment Manager, and its officers, directors, and employees, and to cover Tax Professionals, if required, from any and all Claims that might be asserted against each;
- 3.1.2.9 To distribute Trust Assets for the purposes contemplated in this State Trust Agreement and the Consent Decree, including distributions of funds to Beneficiaries for approved Eligible Mitigation Actions;
- 3.1.2.10 To file documents in Court on behalf of itself and the State Trust;
- 3.1.2.11 To make all necessary state and federal filings and to provide information as required by law;
- 3.1.2.12 To vote shares or other investments;

- 3.1.2.13 To open or maintain any additional bank accounts, or close bank accounts or open securities accounts as are necessary or appropriate to manage the Trust Assets;
- 3.1.2.14 To apply, as soon as practicable after the Trust Effective Date, for an employer identification number for the State Trust pursuant to IRS Form SS-4, and in accordance with Treasury Regulation Section 1.468B-2(k)(4), 26 C.F.R. § 1.468B-2(k)(4);
- 3.1.2.15 To deduct and withhold from allocation of investment earnings to the Beneficiaries under subparagraph 3.2.3 all Taxes that the Trustee may be required to deduct and withhold under any provision of tax law, and any allocation of investment income under subparagraph 3.2.3 to a State Trust subaccount shall be reduced to the extent such withheld amounts are remitted to the appropriate taxing authority;
- 3.1.2.16 To file on behalf of the State Trust all required Tax Returns, which shall be completed in consultation with Tax Professionals, ensure compliance with withholding and reporting requirements, and pay any and all Taxes, including estimated Taxes, due and owing with respect to the State Trust from amounts in the Tax Payment Subaccount pursuant to subparagraph 2.1.5; and
- 3.1.2.17 Subject to applicable requirements of this State Trust Agreement (including the limitations on liability set forth in subparagraph 3.5.2), the Consent Decree, and other applicable law, to effect all actions and execute and deliver all contracts, instruments, agreements, or other documents that may be necessary to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree, each in accordance with its duties and the current professional standards of care, and with the diligence, skill, and care expected for the administration of such a State Trust for the benefit of the governmental entities identified in Appendix D-1 and Appendix D-1A.
- 3.1.2.18 Duty to Comply with Law. The Trustee shall not be required to take any action that would violate a law or regulation to which it is subject.
- 3.1.2.19 Relation-Back Election. If applicable, the Trustee and the Defendants shall fully cooperate in filing a relation-back election under Treasury Regulation Section 1.468B-1(j)(2), 26 C.F.R. § 1.468B-1(j)(2), to treat the State Trust as coming into existence as a settlement fund as of the earliest possible date.

3.2 Investment of Trust Assets: The Trustee shall engage the Investment Manager to invest and reinvest the principal and income of the Trust Assets in those investments that are reasonably calculated to preserve the principal value, taking into account the need for the safety and

liquidity of principal as may be required to fund Eligible Mitigation Actions and Trust Administration Costs.

3.2.1 Any investment income that is not reinvested shall be deposited into the State Trust Account for distribution among the Beneficiaries or Supplemental Funding Eligible Beneficiaries, weighted in accordance with the allocation in place at the time of such deposit.

3.2.2 In investing, reinvesting, exchanging, selling, and managing Trust Assets, the Trustee or Investment Manager must perform its duties solely in the interest of the Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent investor, acting in a like capacity and familiar with such matters, would exercise in the conduct of an enterprise of like character and with like aims. The Investment Manager shall comply with all applicable laws and shall be held to a fiduciary standard of care with respect to the investment and reinvestment of the principal and income of Trust Assets; except that the right and power of the Investment Manager to invest and reinvest the Trust Assets shall be limited to: (i) demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured; (ii) U.S. Treasury bills, bonds, and notes, including, but not limited to, long-term U.S. Treasury bills, bonds, and notes; (iii) repurchase agreements for U.S. Treasury bills, bonds, and notes; (iv) AA or AAA corporate bonds (with the rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's, or Fitch)); or (v) open-ended mutual funds owning only assets described in subparts (i) through (iv) of this subsection; *provided*, however, that the value of bonds of any single company and its affiliates owned by the State Trust directly rather than through a mutual fund shall not exceed \$10 million when purchased, but may be held, despite increase in value, so long as such amount does not exceed \$16 million. Any such investments shall be made consistently with the Uniform Prudent Investor Act. The determination of the rating of any investments made by the Investment Manager shall be made on the date of acquisition of any such investment or on the date of re-investment. The Investment Manager shall reconfirm that all investments of Trust Assets still meet the original rating requirement on a quarterly basis. If the Investment Manager determines that any particular investment no longer meets the rating requirement, the Investment Manager shall substitute that investment with an investment that meets the ratings requirement as promptly as practicable, but in no event later than the next reporting period. Previously purchased securities downgraded below AA may be held for a reasonable and prudent period of time if the Investment Manager believes it is in the interest of the State Trust to do so. The borrowing of funds or securities for the purpose of leveraging, shorting, or other investments is prohibited. Investment in non-U.S. dollar denominated bonds is prohibited. This subparagraph 3.2.2 shall act as a standing default investment instruction for all cash in any account or subaccount that holds any Trust Assets in cash, which shall be invested in The Blackrock Fed Fund (CUSIP 09248U809). Except for actions or omissions of the Investment Manager that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, the Investment Manager and its officers, directors, or employees shall have no liability for any and all Claims.

3.2.3 Allocation of Investment Income. Any and all earnings, interest, and other investment income realized on the investment of the Trust Assets shall be allocated to each State Trust subaccount on the basis of the respective subaccount balances at the end of each month. Any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount shall be allocated to each administration subaccount on the basis of the respective administration subaccount balance at the end of each month.

3.2.4 Nothing in this Section shall be construed as authorizing the Trustee to cause the State Mitigation Trust to carry on any business or to divide the gains therefrom. The sole purpose of this Section is to authorize the investment of the Trust Assets or any portion thereof as may be reasonably prudent pending use of the proceeds for the purposes of the State Mitigation Trust.

3.3 Accounting: The Trustee shall maintain the books and records relating to the Trust Assets and income and the payment of expenses of and liabilities against the State Mitigation Trust. The detail of these books and records and the duration the Trustee shall keep such books and records shall be such as to allow the Trustee to make a full and accurate accounting of all Trust Assets, as well as to comply with applicable provisions of law and standard accounting practices, including Generally Accepted Accounting Principles (“GAAP”). The United States, by and through EPA, and each Beneficiary, shall have the right upon 14 Days’ prior written notice to inspect such books and records, as well as all supporting documentation. Except as otherwise provided herein, the Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the State Mitigation Trust, or as a condition for making any payment or distribution out of the Trust Assets.

3.3.1 Semi-Annual Reporting. Within 180 Days of the Trust Effective Date in the first year, and thereafter by February 15 (for the preceding six-month period of July 1 to December 31) and August 15 (for the preceding six-month period of January 1 to June 30) of each year, and then at least 30 Days prior to the filing of a motion to terminate pursuant to Paragraph 6.8 hereof (each a “Financial Reporting Date”), the Trustee shall file with the Court and provide each Beneficiary and the Defendants with:

3.3.1.1 A statement: (i) confirming the value of the Trust Assets; (ii) itemizing the investments then held by the State Trust (including applicable ratings on such investments); and (iii) including a cumulative and calendar year accounting of the amount the Trustee has paid out from the State Trust Account and all subaccounts to any recipient;

3.3.1.2 For each Beneficiary, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) such Beneficiary’s initial allocation of Trust Assets; (ii) any allocation adjustments pursuant to this State Trust Agreement; (iii) line item descriptions of completed disbursements on account of approved Eligible Mitigation Action; and (iv) such Beneficiary’s remaining and projected allocation. Such accounting shall also include, for each Beneficiary, a balance statement and projected annual budget of

disbursements taking into account those Eligible Mitigation Actions that have been approved as of the Financial Reporting Date;

3.3.1.3 For the Trust Administration Cost Subaccount, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) line item disbursements of Total Administration Costs; (ii) balance statements; (iii) 3-year projected annual budgets of disbursements on account of Trust Administration Costs; and (iv) line by line accounting of Trust Administration Costs recorded against each Beneficiary's allocation pursuant to subparagraph 2.1.3.1;

3.3.1.4 For the State Trust Account and all subaccounts, including, but not limited to, the Trust Administration Cost Subaccount, balance statements and 3-year projected annual budgets that itemize all assets, income, earnings, expenditures, allocations, and disbursements of Trust Assets by State Trust Account and by each subaccount;

3.3.1.5 Third-party audited financial reports disclosing and certifying the disposition of all Trust Assets from the Trust Effective Date through the calendar quarter immediately preceding the Financial Reporting Date, specifically including reconciliations of the Trustee's prior budget projections for Trust Administration Costs to actual performance;

3.3.1.6 A description of any previously unreported action taken by the State Trust in performance of its duties which, as determined by the Trustee, counsel, accountants, or other professionals retained by the Trustee, affects the State Trust in a materially adverse way;

3.3.1.7 A brief description of all actions taken in accordance with this State Trust Agreement and the Consent Decree during the previous year; and

3.3.1.8 On each Financial Reporting Date, the Trustee shall simultaneously publish on the State Trust's public-facing website all information required to be provided under Paragraph 3.3.

3.3.2 After the Termination Date, the Trustee intends to destroy all records retained pursuant to this State Trust Agreement. The Trustee shall notify the United States and the Defendants at least 90 Days prior to the destruction of the records. Upon request by the United States or the Defendants, the Trustee shall deliver any such records to EPA or the Defendants, respectively.

3.4 Limitation of the Trustee's Authority: The Trustee is not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. This provision does not prevent Wilmington Trust, N.A. from acting as the Investment Manager.

3.5 Conditions of Trustee's Obligations: The Trustee accepts appointment as the Trustee subject to the following express terms and conditions:

3.5.1 No Bond. Notwithstanding any state law to the contrary, the Trustee, including any successor Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

3.5.2 Limitation of Liability and Standard of Care for the Trustee. In no event shall the Trustee be held personally liable for any and all Claims asserted against the Trustee and/or State Mitigation Trust except for actions or omissions of the Trustee that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Trustee. The Trustee shall not be held personally liable for carrying out the express terms of this State Mitigation Trust or carrying out any directions from the Beneficiaries or the United States issued in accordance with this State Trust Agreement or in accordance with any Court Order entered in connection with or arising out of the State Mitigation Trust. The Trustee shall not be held personally liable for any failure or delay in the performance of its obligations hereunder arising from causes beyond the control of the Trustee ("Force Majeure"). The Trustee may consult with legal counsel, accounting and financial professionals, environmental professionals, and other professionals, and shall not be personally liable for any action taken or omission made by it in accordance with advice given by such professionals, except in the case of a final, non-appealable judgment of the Court determining fraud, negligence, or willful misconduct on the part of the Trustee in following such advice. The Trustee shall not be held liable for the negligence, fraud, or willful misconduct of any professional hired by it hereunder provided that the Trustee appointed and engaged the professional with due care. In the absence of willful misconduct, negligence, or fraud by the Trustee, as determined by a final, non-appealable judgment of the Court, the Trustee shall not be personally liable to persons seeking payment from or asserting any and all Claims against the State Mitigation Trust or the Trustee. The Trustee, which is a trustee of this State Trust that has been established under the Delaware Act, shall only be held to the standards of care set forth in this subparagraph 3.5.2; the standards of common law trust laws or the personal trust laws of any state shall not apply in any circumstances hereunder.

3.5.2.1 Limitation of Liability for Tax Professionals. In no event shall the Tax Professionals engaged by the Trustee to assist it with the administration of the State Mitigation Trust be held personally liable for any and all Claims asserted against them except for actions or omissions of the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Tax Professionals.

3.5.3 Indemnification. Except for actions or omissions of the Trustee, the Investment Manager, and the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee, the Investment Manager, or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification from the Trust Assets, solely as provided in this subparagraph 3.5.3, to hold

them harmless against any and all Claims brought against any of them arising out of or in connection with the acceptance or administration of their duties under this State Mitigation Trust, including any and all Claims in connection with enforcing their rights hereunder and defending themselves against any and all Claims. In asserting any indemnification claim against Trust Assets pursuant to this subparagraph 3.5.3, the Trustee, the Investment Manager, and the Tax Professionals shall first seek to recover the amount by asserting a claim against the Trustee's insurance policies purchased pursuant to subparagraph 3.1.2.8 to protect the Trustee, the Investment Manager, and the Tax Professionals hired hereunder against any and all Claims. With respect to any and all amounts that: (1) are not fully and timely paid to the Trustee, the Investment Manager, or the Tax Professionals pursuant to the insurance policies purchased pursuant to subparagraph 3.1.2.8, and (2) are not determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee or the Investment Manager or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification solely from the portion of Trust Assets in (1) the Trust Administration Cost Subaccount established pursuant to subparagraph 2.1.3; and (2) the investment earnings on the Trust Administration Cost Subaccount. Any indemnification amounts shall constitute Shared Administration Costs under subparagraph 2.1.3.1. Indemnification under this subparagraph 3.5.3 covers only the amounts not fully and timely paid or covered by insurance policies purchased pursuant to subparagraph 3.1.2.8. The Trustee, the Investment Manager, and the Tax Professionals shall reimburse the State Mitigation Trust for any amount advanced to them or paid from the Trust Administration Cost Subaccount for any Claim if any proceeds are paid on such Claim from insurance policies purchased pursuant to subparagraph 3.1.2.8. If insurance payments are denied in whole or part, the Trustee shall confer with legal counsel and consider whether to affirmatively pursue such insurance payments including, without limitation, an insurance coverage suit arising out of a wrongful denial of coverage. For the avoidance of doubt, subparagraphs 3.5.2, 3.5.2.1, and 3.5.3 do not create for the State Mitigation Trust, the Trustee, the Investment Manager, and the Tax Professionals hired hereunder any express or implied right to indemnification from any Consent Decree Party for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or the Tax Professionals, and no Consent Decree Party shall be liable for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or Tax Professionals.

3.5.4 Reliance on Documentation. The Trustee may rely on, and shall be protected in acting upon, any notice, requisition, request, consent, certificate, order, affidavit, letter, or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons. The Trustee may rely upon, with no further duty of inquiry, and shall be protected in acting upon, the certifications made by and delivered to it by the Beneficiaries, including the Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3) and each Beneficiary Eligible Mitigation Action Certification form (Appendix D-4). The Trustee shall have no duty to monitor or supervise the use of Trust Funds paid in accordance with Beneficiary Eligible Mitigation Action Certification and Funding Direction forms or any Beneficiary's compliance with an Eligible Mitigation Action.

3.5.5 Right to Demand Documentation. Notwithstanding anything else in this State Trust Agreement, in the administration of the Trust Assets, the Trustee shall have the right, but shall not be required, to demand from the relevant Beneficiary before the disbursement of any cash or in respect of any action whatsoever within the purview of this State Mitigation Trust, any showings, certificates, opinions, appraisals, or other information, or action or evidence thereof, in addition to that required by the terms hereof that the Trustee reasonably believes to be necessary or desirable.

3.5.6 Limitation on Consequential Damages. Unless the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have engaged in fraudulent or willful misconduct, the United States or any Beneficiary of the State Mitigation Trust shall not have any right to recover, and the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals shall not be liable for, any special, indirect, punitive, or consequential loss or damages, of any kind whatsoever, against the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals. When the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have been negligent, any and all Claims by the United States or any Beneficiary of the State Mitigation Trust shall be limited to direct damages.

3.5.7 No Consequential Damages. In no event shall the Trustee, the Investment Manager, the Tax Professionals, or the State Mitigation Trust be held responsible or liable for special, indirect, punitive, or consequential loss or damages of any kind whatsoever in connection with any and all Claims brought against them by any third party.

3.6 Payment of Trust Administration Costs: Subject to the limits set forth in Appendix D-1 and Appendix D-1A, the State Mitigation Trust shall pay from the Trust Administration Cost Subaccount its own reasonable and necessary costs and expenses, and shall reimburse the Trustee for the actual reasonable out-of-pocket fees, costs, and expenses to the extent incurred by the Trustee in connection with the administration of the State Trust, including payment of professionals hired in connection with the duties and responsibilities of the State Trust, payment of insurance premiums for policies purchased pursuant to subparagraph 3.1.2.8, payment of a deductible incurred under an insurance policy for the State Trust, Trustee, Investment Manager, or Tax Professionals hired hereunder purchased pursuant to subparagraph 3.1.2.8 in cases in which the State Trust, Trustee, Investment Manager, or Tax Professionals would be entitled to indemnification under subparagraph 3.5.3, and any indemnification amounts as provided in accordance with subparagraph 3.5.3. The Trustee also shall be entitled to receive reasonable compensation for services rendered on behalf of the State Mitigation Trust, in accordance with the projected annual budgets for administration of the State Mitigation Trust required under subparagraph 3.3.1 hereof, and shall be entitled to pay itself from the Trust Administration Cost Subaccount its initial fee and its annual administration fee as set forth in its fee letter dated as of the Trust Effective Date ("Trustee Fee Letter"). The Trustee shall provide a copy of the Trustee Fee Letter to each Beneficiary via the secure internet site established by the Trustee pursuant to subparagraph 3.1.2.3. The State Mitigation Trust shall pay from the Trust Administration Cost Subaccount 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs, which shall be allocated

to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B. Notwithstanding the foregoing, the total amount of allowable Trust Administration Costs shall not exceed the specific allocation established for the Trust Administration Cost Subaccount in Appendix D-1 and Appendix D-1A, plus any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount. The Trustee shall not use the Trust Administration Cost Subaccount to pay: (1) the fees and expenses of the Investment Manager; or (2) any and all Taxes due and owing with respect to the State Trust. In accordance with the terms of the Investment Management Agreement, the Investment Manager's fees and expenses shall be deducted directly from the investment earnings on the Trust Assets, and not from the corpus of the Trust Assets. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established in subparagraph 2.1.5. The Trustee shall include in its semi-annual reporting, and post on its public-facing website, all Trust Administration Costs (including the costs and descriptions of the Trustee's services rendered on behalf of the State Trust) at least 15 Days prior to the payment of any such expense; provided, however, that the requirement to post all Trust Administrative Costs at least 15 Days prior to payment shall first take effect when the website is established and ready for use, and shall not initially apply to Start-up Costs and to Shared State and Indian Tribe Administration Costs. After the Trust Administration Cost Subaccount is funded pursuant to subparagraph 2.1.3, the Trustee, after receipt of invoices from any third party service providers, shall pay as promptly as practical any and all fees, costs, and expenses incurred by the Trustee to establish the State Mitigation Trust including, but not limited to: (1) the invoices of third party service providers (e.g., legal, accounting, website developer, and hosting provider); (2) fees, costs, and expenses necessary to commence the operations of the State Trust (e.g., Intralinks, Pacer, and insurance premiums); and (3) the Trustee's acceptance fee and first quarter portion of the Trustee's annual fee for the first year. All Trust Administration Costs that are paid prior to the establishment of the website shall be posted on the website as promptly as practicable after the website is established. Such information shall remain available on the website until the Termination Date.

3.7 Termination, Resignation, and Removal of the Trustee

3.7.1 Termination of Trustee. The rights, powers, duties, and obligations of the Trustee to the State Mitigation Trust and the Beneficiaries will terminate on the Termination Date.

3.7.2 Resignation of Trustee and Successor Trustee. The Trustee may commence the resignation process at any time by providing 90 Days' notice to the United States, the Defendants, and the Beneficiaries. Resignation of the Trustee shall only be effective upon: (i) selection of a successor pursuant to the procedures set forth in the First Partial Consent Decree; and (ii) order of the Court. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the appointment of a successor trustee or as otherwise ordered by the Court, the Trustee shall transfer all State Trust records to the successor trustee, and shall take all actions necessary to assign, transfer, and pay over to the successor trustee control of all Trust Assets (including the public website maintained by the Trustee). In the event that the Trustee ceases to exist or ceases to operate its corporate trust business, the Court may, upon motion by the United States or any Beneficiary, appoint an interim Trustee until such time as a successor trustee is appointed in

accordance with the procedures set forth in the First Partial Consent Decree. Any successor Trustee appointed hereunder shall file an amendment to the Certificate of Trust as required by the Delaware Act.

IV. STATE MITIGATION TRUST BENEFICIARIES

4.0 Determination of Beneficiary Status: The States, Puerto Rico, and the District of Columbia may elect to become a Beneficiary hereunder by filing with the Court a Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3), containing each of the certifications required by subparagraphs 4.2.1 through 4.2.9, not later than 60 Days after the Trust Effective Date. At the time of filing the Certification Form with the Court, the States, Puerto Rico, and the District of Columbia shall also provide a copy of the Certification Form to the Trustee in electronic format and by mail pursuant to Paragraph 6.0 and subparagraph 6.0.1. Each governmental entity that timely files such certifications shall be a “Certifying Entity.” Each governmental entity that fails to timely file such certifications shall be an “Excluded Entity,” and shall be permanently enjoined from asserting any rights with respect to Trust Assets or any other matter relating to the implementation of this Trust. The Trustee shall be responsible for ensuring that the form of each certification complies with the requirements hereof prior to deeming any Certifying Entity to be a Beneficiary hereunder.

4.0.1 Notice of Objection. If the United States determines that a certification filed by any Certifying Entity fails to comply with the requirements of this Section, the United States may file with the Court a notice of objection within 30 Days after a Certifying Entity files its certifications with the Court. Such notice shall explain the basis of objection with specificity. Any such objections shall be resolved according to the procedures set forth in Paragraph 6.2.

4.0.2 Notice of Beneficiary Designation. Not later than 120 Days after the Trust Effective Date, the Trustee shall file with the Court, publish on its public-facing website, and serve on each Consent Decree Party and Certifying Entity lists indicating:

4.0.2.1 Which Certifying Entities filed certifications as to which no notice of objection has been filed. Upon the filing of this Notice of Beneficiary Designation, each such Certifying Entity shall be deemed a “Beneficiary” hereunder;

4.0.2.2 Which governmental entity did not timely file the certifications pursuant to Paragraph 4.0. Each such governmental entity shall be deemed an “Excluded Entity” hereunder; and

4.0.2.3 Which Certifying Entities timely filed certifications as to which a notice of objection has been filed pursuant to subparagraph 4.0.1, together with an explanation of the status of any such objection. Each such Certifying Entity shall be a “Pending Beneficiary.” Upon final resolution of each objection, the Pending Beneficiary shall either be deemed a Beneficiary or an Excluded Entity hereunder.

4.1 Beneficiary Mitigation Plan: After being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary, not later than 30 Days prior to submitting its first funding request pursuant to Paragraph 5.2, shall submit and make publicly available a “Beneficiary Mitigation Plan” that summarizes how the Beneficiary plans to use the mitigation funds allocated to it under this Trust, addressing: (i) the Beneficiary’s overall goal for the use of the funds; (ii) the categories of Eligible Mitigation Actions the Beneficiary anticipates will be appropriate to achieve the stated goals and the preliminary assessment of the percentages of funds anticipated to be used for each type of Eligible Mitigation Action; (iii) a description of how the Beneficiary will consider the potential beneficial impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction; and (iv) a general description of the expected ranges of emission benefits the Beneficiary estimates would be realized by implementation of the Eligible Mitigation Actions identified in the Beneficiary Mitigation Plan. The Beneficiary Mitigation Plan need only provide the level of detail reasonably ascertainable at the time of submission. This Plan is intended to provide the public with insight into a Beneficiary’s high-level vision for use of the mitigation funds and information about the specific uses for which funding is expected to be requested. Nothing in this provision is intended to make the Beneficiary Mitigation Plan binding on any Beneficiary, nor does it create any rights in any person to claim an entitlement of any kind. Beneficiaries may adjust their goals and specific spending plans at their discretion and, if they do so, shall provide the Trustee with updates to their Beneficiary Mitigation Plan. The Trustee has no duty to monitor or supervise any Beneficiary’s compliance with its Beneficiary Mitigation Plan. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its Final Approved DERA Workplan as its Beneficiary Mitigation Plan as to those Eligible Mitigation Actions funded through the DERA Option. The Beneficiary Mitigation Plan shall explain the process by which the Beneficiary shall seek and consider public input on its Beneficiary Mitigation Plan.

4.2 Required Certifications in Appendix D-3

4.2.1 Identification of Lead Agency and Submission to Jurisdiction. Each Certification Form (Appendix D-3) must include a designation of lead agency, certified by the Office of the Governor (or if not a state, the analogous chief executive) of the State, Puerto Rico, or the District of Columbia on whose behalf the Certification Form is submitted, indicating which agency, department, office, or division will have the delegated authority to act on behalf of and legally bind such governmental entity. The Certification Form shall also include confirmation by the Certifying Entity that: (i) it has the authority to sign the Certification Form; and (ii) it agrees, without limitation, to be bound by the terms of this State Trust Agreement, including the allocations of Trust Assets provided hereunder, and to be subject to the jurisdiction of the Court for all matters concerning the interpretation or performance of, or any disputes arising under, this State Trust Agreement. The Certifying Entity’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

4.2.2 Consent to Trustee Authority. Each Certification Form (Appendix D-3) must include an agreement by the Certifying Entity that the Trustee has the authorities specified in this State Trust Agreement, including, but not limited to, the authority: (i) to approve,

deny, request modifications, or request further information related to any request for funds hereunder; and (ii) to implement this State Trust Agreement in accordance with its terms.

4.2.3 Certification of Legal Authority. Each Certification Form (Appendix D-3) must certify that: (i) the laws of the Certifying Entity do not prohibit it from being a Beneficiary hereunder; (ii) prior to requesting any funds hereunder, the Certifying Entity shall obtain full legal authority to receive and/or direct payments of such funds; and (iii) if the Certifying Entity fails to demonstrate that it has obtained such legal authority within two years of submitting its Certification Form, it shall become an Excluded Entity hereunder and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1.

4.2.4 Certification of Legal Compliance. Each Certification Form (Appendix D-3) must include a certification and agreement that, in connection with all actions related to this State Trust, the Certifying Entity has followed and will follow all applicable law and that such Certifying Entity will assume full responsibility for its decisions in that regard.

4.2.5 Certification of Eligible Mitigation Action Accounts. Each Certification Form (Appendix D-3) shall include a certification by the Certifying Entity that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trustee for credit to the allocation of such Certifying Entity.

4.2.6 Waiver of Claims for Injunctive Relief under Environmental or Common Laws. Each Certification Form (Appendix D-3) shall include an express waiver by the Certifying Entity, on behalf of itself and all of its agencies, departments, offices, and divisions, in favor of the parties to the Consent Decree (including the Defendants) of all claims for injunctive relief to redress environmental injury caused by the Subject Vehicles, whether based on the environmental or common law within its jurisdiction. Such waiver shall be binding on all agencies, departments, offices, and divisions of such Beneficiary asserting, purporting to assert, or capable of asserting such claims. The waiver need not waive, and the Certifying Entities may expressly reserve, their rights, if any, to seek fines or penalties. California's entry in the Consent Decree shall satisfy its certification obligations under this subparagraph.

4.2.7 Publicly Available Information. Each Certification Form (Appendix D-3) must include a certification by the Certifying Entity 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 Certifying Entity, each until the Termination Date, unless the laws of the Certifying Entity require a longer record retention period. This certification shall include an explanation of the procedures by which the records may be accessed, which procedures shall be designed to support access and limit the burden for the general public, and for the Beneficiary Mitigation Plan required under Paragraph 4.1, the procedures by which public input will be solicited and considered. This certification can be made subject to applicable laws governing the publication of confidential business information and personally identifiable information.

4.2.8 Notice of Availability of Mitigation Action Funds. Each Certification Form (Appendix D-3) must certify that, not later than 30 Days after being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, the Certifying Entity will provide a copy of this 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. For the U.S. Department of the Interior and the U.S. Department of Agriculture, Beneficiaries may provide notice as required by this subparagraph to the following:

Department of the Interior:

National Park Service, Air Resources Division
VW Settlement
P.O. Box 25287
Denver, CO 80225-0287
Or via email to: vwsettlement@nps.gov.

Tim Allen or other designated representative
U.S Fish and Wildlife Service
National Wildlife Refuge System
Branch of Air Quality
Re: VW Settlement
7333 W. Jefferson Ave., Suite 375
Lakewood, CO 80235-2017
Or via email to: VW_Settlement@fws.gov

Department of Agriculture:

Linda Geiser or other designated representative
National Air Program Manager
lgeiser@fs.fed.us
(202) 756-0068

Bret Anderson or other designated representative
National Air Modeling Coordinator
baanderson02@fs.fed.us
(970) 295-5981

4.2.9 Registration of Subject Vehicles. Each Certification Form (Appendix D-3) must state, for the benefit of the parties to the Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that the Certifying Entity:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the First Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or
 - iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Certifying Entity by the Defendants.
- (d) Notwithstanding the foregoing, a Certifying Entity may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Certifying Entity's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act, 42 U.S.C. §§ 7543, 7507, and not explicitly excluded in subparagraphs 4.2.9(a)-(b).

V. DISTRIBUTION OF STATE MITIGATION TRUST ASSETS

5.0 Initial Allocation: Each State, Puerto Rico, and the District of Columbia shall have the right under this State Trust Agreement, upon becoming a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries), to request its share of Eligible Mitigation Action funds in

accordance with the weighted average allocation rates set forth in Appendix D-1B (“Initial Allocation Rates”).

5.0.1 Together with the Notice of Beneficiary Designation required to be filed pursuant to subparagraph 4.0.2, the Trustee shall also file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary, a corresponding recalculation of the Initial Allocation Rates to reallocate each Excluded Entity’s share among the Beneficiaries and Pending Beneficiaries of this State Mitigation Trust, in accordance with the weighted average allocation rates set forth in Appendix D-1B, but excluding the Excluded Entities, the Tribal Trust Allocation, and the Tribal Administration Cost Subaccount (“Final Allocation Rates”). If any Pending Beneficiary is deemed an Excluded Entity hereunder, its share shall be reallocated among the Beneficiaries and remaining Pending Beneficiaries, weighted in accordance with the Final Allocation Rates. The Trustee shall file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary a notice of reallocation in the event that the Final Allocation Rates are adjusted in accordance with this State Trust Agreement.

5.0.2 Upon being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary shall have the right under this State Trust Agreement to request Eligible Mitigation Action funds up to the total dollar amount allocated to it. Provided, however, that no Beneficiary may request payout of more than: (i) one-third of its allocation during the first year after the Settling Defendants make the Initial Deposit, or (ii) two-thirds of its allocation during the first two years after the Settling Defendants make the Initial Deposit.

5.0.3 Allocation of Appendix A Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any “National Mitigation Trust Payment” made pursuant to Section VI (Recall Rate) of Appendix A (Buyback, Lease Termination, and Vehicle Modification Recall Program) of the First Partial Consent Decree or Section X (Recall Rate) of Appendix A (Buyback, Lease Termination, Vehicle Modification, and Emissions Compliant Recall Program) of the Second Partial Consent Decree shall be allocated among all Beneficiaries (other than California) of this State Mitigation Trust and the Trust Administration Cost Subaccount, in accordance with the weighted average allocation percentages in Appendix D-1C. Any “California Mitigation Trust Payment” made pursuant to Appendix A of the First Partial Consent Decree or the Second Partial Consent Decree shall be allocated as follows: 99.86% to California and 0.14% to the Trust Administration Cost Subaccount.

5.0.4 Allocation of Appendix B Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any Mitigation Trust Payments made pursuant to Appendix B (Vehicle Recall and Emissions Modification Program) of the First Partial Consent Decree or Appendix B (Vehicle Recall and Emissions Modification Program for 3.0 Liter Subject Vehicles) of the Second Partial Consent Decree or any Consent Decree provisions related thereto shall be allocated among all Beneficiaries of this State Mitigation Trust and to the Trust Administration Cost Subaccount, weighted in accordance with the Final Allocation Rates.

5.0.5 Intentionally Reserved:

5.0.5.1 Intentionally Reserved.

5.0.5.2 Intentionally Reserved.

5.0.5.2.1 Intentionally Reserved.

5.0.5.2.2 Intentionally Reserved.

5.0.5.2.3 Intentionally Reserved

5.0.5.2.4 Intentionally Reserved.

5.0.5.2.5 Intentionally Reserved.

5.0.5.2.6 Intentionally Reserved.

5.0.5.2.7 Intentionally Reserved.

5.0.5.3 Nothing herein precludes any Beneficiary from using any share of its allocation for Eligible Mitigation Projects on Indian Land.

5.1 Eligible Mitigation Actions and Expenditures: The Trustee may only disburse funds for Eligible Mitigation Actions, and for the Eligible Mitigation Action Administrative Expenditures specified in Appendix D-2.

5.2 Funding Requests: Beneficiaries may submit requests for Eligible Mitigation Action funding at any time by filing with the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4), containing each of the certifications required by subparagraphs 5.2.1 through 5.2.13, as applicable. Each request for Eligible Mitigation Action funding must be submitted to the Trustee in electronic and hard-copy format, and include:

5.2.1 An explanation of how the funding request fits into the Beneficiary's Mitigation Plan;

5.2.2 A detailed description of the proposed Eligible Mitigation Action, including its community and air quality benefits;

5.2.3 An estimate of the NOx reductions anticipated as a result of the proposed Eligible Mitigation Action;

5.2.4 A project management plan for the proposed Eligible Mitigation Action, including a detailed budget and an implementation and expenditure timeline;

5.2.5 A certification that all vendors were or will be selected in accordance with state public contracting laws;

5.2.6 For each proposed expenditure exceeding \$25,000, detailed cost estimates from selected or potential vendors;

5.2.7 A detailed description of how the Beneficiary will oversee the proposed Eligible Mitigation Action, including, but not limited to:

5.2.7.1 Identification of the specific governmental entity responsible for reviewing and auditing expenditures of Eligible Mitigation Action funds to ensure compliance with applicable law; and

5.2.7.2 A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the 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, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;

5.2.8 A description of any cost share requirement to be placed upon the owner of each NOx source proposed to be mitigated;

5.2.9 A description of how the Beneficiary complied with subparagraph 4.2.8;

5.2.10 If applicable, a description of how the Eligible Mitigation Action mitigates the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions; and

5.2.11 A detailed plan for reporting on Eligible Mitigation Action implementation.

5.2.12 DERA Option. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its DERA proposal as support for its funding request for those Eligible Mitigation Actions funded through the DERA Option.

5.2.13 Joint Application. Two or more Beneficiaries may submit a joint request for Eligible Mitigation Action funds. Joint applicants shall specify the amount of requested funding that shall be debited against each requesting Beneficiary's allocation.

5.2.14 Publication of Funding Requests. The Trustee shall post each funding request on the State Trust's public-facing website upon receipt.

5.2.15 Reliance on Form. The Trustee may rely on, with no further duty of inquiry, and shall be protected in acting upon, any Beneficiary Eligible Mitigation Action

Certification form (Appendix D-4) reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

5.2.16 Approval of Funding Requests. The Trustee shall approve any funding request that meets the requirements of this State Trust Agreement and its Appendices. If a Beneficiary submits multiple pending Eligible Mitigation Action funding requests that exceed the allocated funds available to the Beneficiary, the Trustee shall contact the Beneficiary for direction regarding the allocation and timing of payments for each such request. Within 60 Days after receipt of each Eligible Mitigation Action funding request, the Trustee shall transmit to the requesting Beneficiary and post on the State Trust's public-facing website a written determination either: (i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information. A Beneficiary may use such written determination as proof of funding for any DERA project application that includes Trust Funds as a non-federal voluntary match, as described in Appendix D-2. The Trustee shall respond to any modified or supplemental submission within 30 Days of receipt. Each written determination approving or denying an Eligible Mitigation Action funding request shall include an explanation of the reasons underlying the determination, including whether the proposed Eligible Mitigation Action meets the requirements set forth in Appendix D-2 or Appendix D-4. The Trustee's decision to approve, deny, request modifications, or request further information related to a request shall be reviewable, upon petition of the United States or the submitting Beneficiary, by the Court.

5.2.16.1 Disbursement of Funds. The Trustee shall begin disbursing funds within 15 Days of approval of an Eligible Mitigation Action funding request according to the written instructions and schedule provided by the Beneficiary, unless such date is not a Business Day and then the payment shall be made on the next succeeding Business Day.

5.2.17 Unused Eligible Mitigation Action Funds. Upon the termination or completion of any Eligible Mitigation Action, any unused Eligible Mitigation Action funds shall be returned to the State Trust and added back to the Beneficiary's allocation.

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 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to 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 Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt.

5.4 Supplemental Funding for Eligible Beneficiaries and Final Disposition of Trust Assets

5.4.1 Estimate of Remainder Balance. On the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, deliver to the United States, by and through EPA, and to each Beneficiary, and publish on its public-facing website, an accounting of all Trust Assets that have not by that date been expended on or obligated to approved Eligible Mitigation Actions or prior Trust Administration Costs, together with an estimate of funding reasonably needed to cover the remaining Trust Administration Costs. The difference between these two amounts shall be referred to as the "Remainder Balance."

5.4.2 Application for Supplemental Funding Eligible Beneficiary Status. On the tenth anniversary of the Trust Effective Date, each Beneficiary may seek to supplement its remaining allocation by filing with the Court and delivering to the Trustee a written report demonstrating that it has by that date obligated at least eighty percent (80%) of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1 (as determined with specific reference to the reports submitted pursuant to Paragraph 5.3).

5.4.3 Publication of Remainder Balance and Supplemental Funding Eligible Beneficiary Status. Within 90 Days after the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, notify the United States, by and through EPA, and each Beneficiary, and publish on its website, a report indicating: (i) the Remainder Balance; and (ii) which of the Beneficiaries has demonstrated that it had in fact expended at least 80% of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1, each of which shall be deemed a "Supplemental Funding Eligible Beneficiary."

5.4.4 Distribution of Remainder Balance to Supplemental Funding Eligible Beneficiaries. On the later of: (i) 180 Days after the tenth anniversary of the Trust Effective Date, or (ii) the resolution of any disputes arising from the Trustee's accountings or determinations pursuant to subparagraphs 5.4.1 or 5.4.3, the Remainder Balance shall be divided among the Supplemental Funding Eligible Beneficiaries in accordance with their weighted share of the Final Allocation Rates.

5.4.5 Final Disposition of State Trust Assets. Not later than the fifteenth anniversary of the Trust Effective Date, any unused funds held by any Beneficiary shall be returned to the State Trust. After the fifteenth anniversary of the Trust Effective Date, any Trust Assets held in the State Trust Account or any subaccount (including, but not limited to, the Trust Administration Cost Subaccount) that are not needed for final Trust Administration Costs shall be deemed to have been donated by the State Trust to fund

Eligible Mitigation Actions administered by Federal Agencies that have custody, control, or management of land in the United States that is impacted by excess NOx emissions (including, but not limited to, Clean Air Act Class I and II areas) and that have the legal authority to accept such funds, in accordance with instructions to be provided by the United States. If no such Federal Agencies exist, the United States will file a motion, with notice to the Defendants and the Beneficiaries, requesting the Court to order that any Trust Assets held in the State Trust Account (or any subaccount thereof) be distributed either to a governmental unit or to another trust, the income of which is excluded from gross income under the provisions of Internal Revenue Code Section 115, 26 U.S.C. § 115.

VI. MISCELLANEOUS PROVISIONS

6.0 Correspondence with State Trust: In accordance with subparagraph 3.1.2.3, the Trustee shall establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries that will: (1) enable each Beneficiary to deliver the required documentation under this State Trust Agreement in an electronic format; (2) enable secure communications between the Trustee and each Beneficiary; and (3) provide each Beneficiary with access to its own document base. In addition, each Beneficiary will have the ability to view its own balance in its individual subaccount via the Wilmington Trust Online Portfolio product or a similar product then in use.

6.0.1 Addresses for Delivery of Physical Copies of Documentation and Notices.

State Trust or Trustee:

Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries,
Puerto Rico, and the District of Columbia
c/o Wilmington Trust, N.A. as Trustee
Wilmington Trust, National Association
Rodney Square North
1100 North Market Street
Attn: Capital Markets & Agency Services
Wilmington, DE 19890
Facsimile: 302 636-4145

EPA:

Director, Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
William J. Clinton South Building
MC 2242A
Washington, DC 20460
E-mail: VW_settlement@epa.gov

U.S. Department of Justice:

Chief, Environmental Enforcement Section
Re: DJ # 90-5-2-1-11386
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
E-mail: eescdcopy.enrd@usdoj.gov
Re: DJ # 90-5-2-1-11386

Defendants:

As to Volkswagen AG by mail:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Audi AG by mail:

Audi AG
Auto-Union-Strasse 1
85045 Ingolstadt, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.

2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America, Inc. by mail:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America Chattanooga Operations, LLC by mail:

Volkswagen Group of America Chattanooga Operations, LLC
8001 Volkswagen Dr.
Chattanooga, TN 37416
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Dr. Ing. h.c. F. Porsche AG by mail:

Dr. Ing. h.c. F. Porsche Aktiengesellschaft
Porscheplatz 1

D-70435 Stuttgart
Attention: GR/ Rechtsabteilung/ General Counsel

As to Porsche Cars North America, Inc.:

Porsche Cars North America, Inc.
1 Porsche Dr.
Atlanta, GA 30354
Attention: Secretary
With copy by email to: offsecy@porsche.us

As to one or more of the Defendants by email:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Granta Nakayama
Cari Dawson

giuffrar@sullcrom.com
nelless@sullcrom.com
gnakayama@kslaw.com
cari.dawson@alston.com

As to one or more of the Defendants by mail:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Sullivan & Cromwell LLP
125 Broad Street
New York, N.Y. 10004

Granta Nakayama
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006

Cari Dawson
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

6.1 Jurisdiction: The U.S. District Court for the Northern District of California shall be the sole and exclusive forum for the purposes of enforcing this State Mitigation Trust and resolving disputes hereunder, including the obligations of the Trustee to perform its obligations hereunder,

and each of the Consent Decree Parties, the State Mitigation Trust, the Trustee, and each Beneficiary, expressly consents to such jurisdiction.

6.2 Dispute Resolution: Unless otherwise expressly provided for herein, the dispute resolution procedures of this Paragraph shall be the exclusive mechanism to resolve any dispute between or among the entities listed in Appendix D-1 and Appendix D-1A hereto, the Consent Decree Parties, and the Trustee arising under or with respect to this State Trust Agreement.

6.2.1 Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this State Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when the disputing party sends to the counterparty a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the disputing parties cannot resolve the dispute by informal negotiations, then the disputing party may invoke formal dispute resolution procedures as set forth below.

6.2.2 Formal Dispute Resolution. The disputing party shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the counterparty a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting the disputing party's position and any supporting documentation and legal authorities relied upon by the disputing party. The counterparty shall serve its Statement of Position within 30 Days of receipt of the disputing party's Statement of Position, which shall also include, but need not be limited to, any factual data, analysis, or opinion supporting the counterparty's position and any supporting documentation and legal authorities relied upon by the counterparty. If the disputing parties are unable to consensually resolve the dispute within 30 Days after the counterparty serves its Statement of Position on the disputing party, the disputing party may file with the Court a motion for judicial review of the dispute in accordance with the following subparagraph.

6.2.3 Judicial Review. The disputing party may seek judicial review of the dispute by filing with the Court and serving on the counterparty and the United States, a motion requesting judicial resolution of the dispute. The motion must be filed within 45 Days of receipt of the counterparty's Statement of Position pursuant to the preceding subparagraph. The motion shall contain a written statement of disputing party's position on the matter in dispute, including any supporting factual data, analysis, opinion, documentation, and legal authorities, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly administration of the State Trust. The counterparty shall respond to the motion within the time period allowed by the Local Rules of the Court, and the disputing party may file a reply memorandum, to the extent permitted by the Local Rules.

6.3 Choice of Law: The validity, interpretation, and performance of this State Mitigation Trust shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of

the law of another jurisdiction. The duties, rights, protections, and immunities of the Trustee, as a trustee of a statutory trust under the Delaware Act, shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of the law of another jurisdiction. This State Trust Agreement shall not be subject to any provisions of the Uniform Trust Code as adopted by any State, now or in the future. This State Trust Agreement shall be interpreted in a manner that is consistent with the Consent Decree, provided, however, that in the event of a conflict between the Consent Decree and this State Trust Agreement, this State Trust Agreement shall control.

6.4 Waiver of Jury Trial: Each party hereto and each Beneficiary hereof hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this State Trust.

6.5 Modification: Material modifications to the State Mitigation Trust or Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) may be made only with the written consent of the United States and upon order of the Court, and only to the extent that such modification does not change or inhibit the purpose of this State Mitigation Trust. Any modification of this State Mitigation Trust that affects the rights, powers, duties, obligations, liabilities, or indemnities of the Trustee requires the written consent of the Trustee. Minor modifications or clarifying amendments to the State Mitigation Trust, Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) or Appendix D-4 (Beneficiary Eligible Mitigation Action Certification) may be made upon written agreement between the United States and the Trustee, as necessary to enable the Trustee to effectuate the provisions of this State Mitigation Trust, and shall be filed with the Court. To the extent the consent of the Defendants is required to effectuate the modification or amendment, such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, without the express written consent of the Defendants, no modification shall: (i) require the Defendants to make any payments to the State Trust other than the Mitigation Trust Payments required by the Consent Decree; or (ii) impose any greater obligation on Defendants than those set forth in the State Trust Agreement that is being modified. The Trustee shall provide to the Beneficiaries not less than 30 Days' notice of any proposed modification to the State Mitigation Trust, whether material or minor, before such modification shall become effective.

6.6 Severability: If any provision of this State Trust Agreement or application thereof to any person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this State Trust Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this State Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

6.7 Taxes: The State Trust is intended to be a qualified settlement fund ("QSF") pursuant to Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. The Trustee is intended to be the State Trust's "administrator," within the meaning of Treasury Regulation Section 1.468B-2(k)(3), 26 C.F.R. § 1.468B-2(k)(3). The Trustee shall use its best efforts to submit, within six months after the Trust Effective Date, an application and all necessary supporting documentation to the IRS to obtain a Private Letter Ruling from the IRS:

(1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust. Within ten Days after any application has been made to the IRS, the Trustee shall provide a copy of the application and accompanying documentation to the United States (pursuant to subparagraph 6.0.1) and to the Beneficiaries (pursuant to the secure internet-based communication in Paragraph 6.0). Within seven Days after receipt of any IRS Private Letter Ruling, the Trustee shall provide a copy to the United States (pursuant to subparagraph 6.0.1) and the Beneficiaries (pursuant to the secure internet-based communication established in Paragraph 6.0). If the IRS determines that the investment income earned on Trust Assets is taxable, the Trustee, the Investment Manager, the United States, and the State Beneficiaries shall meet and confer to discuss possible resolutions to this issue, and may seek a modification of this State Trust Agreement as appropriate pursuant to Paragraph 6.5. The Trustee shall be responsible for filing all required Tax Returns, ensuring compliance with income tax withholding and reporting requirements, and paying applicable Taxes with respect to the State Trust in a manner consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established pursuant to subparagraph 2.1.5. The Defendants shall provide to the Trustee and the IRS the statement described in Treasury Regulation Section 1.468B-3(e)(2), 26 C.F.R. § 1.468B-3(e)(2), no later than February 15th of the year following each calendar year in which the Settling Defendants make a transfer to the State Trust.

6.8 Termination: After all funds have been expended pursuant to subparagraph 5.4.5, final reports have been delivered pursuant to Paragraph 3.3 and subparagraph 3.3.1, and notice regarding retained documents has been provided pursuant to subparagraph 3.3.2, the Trustee may file a motion with the Court requesting an order to begin the process under the Delaware Act to terminate this State Trust. The United States and the Beneficiaries shall be given not less than 60 Days to oppose such motion. After the Court approves the motion to terminate, the Trustee shall begin the dissolution and winding up processes under the Delaware Act. On the date that the Trustee completes all the statutory requirements under the Delaware Act and files a certificate of cancellation, this State Trust shall terminate (the “Termination Date”).

**FOR THE VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF
COLUMBIA:**

WILMINGTON TRUST, N.A., AS TRUSTEE FOR THE VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION TRUST FOR STATE BENEFICIARIES, PUERTO RICO,
AND THE DISTRICT OF COLUMBIA, AND NOT IN ITS INDIVIDUAL CAPACITY

DATED: October 2, 2017 BY: _____

Name:

Title:

David A. Vanaskey, Jr.
Vice President

By their execution of this State Trust Agreement each undersigned party represents that they are authorized signer for such Company entitled to sign on behalf of each Settling Defendant and that each of the Settling Defendants have taken all necessary corporate actions required to make this a legal, valid and binding obligation of each such Settling Defendant.

FOR VOLKSWAGEN AG:

Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR AUDI AG:

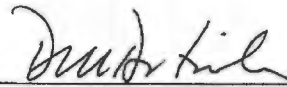
Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR VOLKSWAGEN GROUP OF AMERICA, INC.:

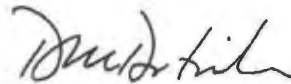
Date: *September 21, 2017*



DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

FOR VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC:

Date: *September 21, 2017*

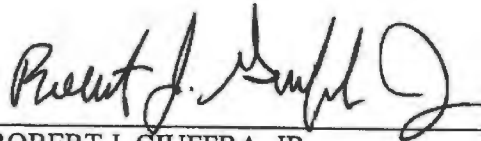


DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

COUNSEL FOR VOLKSWAGEN AG, AUDI AG, VOLKSWAGEN GROUP OF AMERICA,
INC., and VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC

September 20, 2017

Date

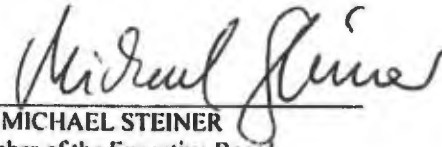


ROBERT J. GIUFFRA, JR.
SHARON L. NELLES
WILLIAM B. MONAHAN
SULLIVAN & CROMWELL LLP
125 Broad Street
New York, New York 10004
Telephone: (212) 558-4000
Facsimile: (212) 558-3358
giuffrar@sullcrom.com
nelles@sullcrom.com
monahanw@sullcrom.com

FOR DR. ING. h.c. F. PORSCHE AG:

Date:

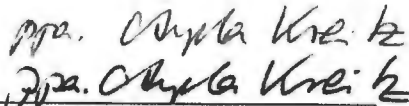
14. Sept 2017



DR. MICHAEL STEINER
Member of the Executive Board
Research and Development
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porschestrasse 911
71287 Weissach, Germany

Date:

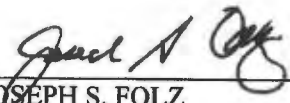
12 September 2017



ANGELA KREITZ
General Counsel & Chief Compliance Officer
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porscheplatz 1
70435 Stuttgart-Zuffenhausen, Germany


FOR PORSCHE CARS NORTH AMERICA, INC.:

Date: 9/8/17



JOSEPH S. FOLZ
Vice President, General Counsel and Secretary
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354


Date:



GLENN GARDE
Vice President, After Sales
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354

COUNSEL FOR DR. ING. h.c. F. PORSCHE AG and PORSCHE CARS NORTH AMERICA, INC.

Date: Sept. 15, 2017



GRANTA NAKAYAMA
JOSEPH A. EISERT
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006
gnakayama@kslaw.com
jeisert@kslaw.com

Date: 9-25-17



CARI DAWSON
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
cari.dawson@alston.com

APPENDIX D-1
Initial 2.0 Liter Allocation

APPENDIX D-1 - INITIAL ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 7,500,000.00	0.28%
North Dakota	\$ 7,500,000.00	0.28%
Hawaii	\$ 7,500,000.00	0.28%
South Dakota	\$ 7,500,000.00	0.28%
Alaska	\$ 7,500,000.00	0.28%
Wyoming	\$ 7,500,000.00	0.28%
District of Columbia	\$ 7,500,000.00	0.28%
Delaware	\$ 9,051,682.97	0.34%
Mississippi	\$ 9,249,413.91	0.34%
West Virginia	\$ 11,506,842.13	0.43%
Nebraska	\$ 11,528,812.23	0.43%
Montana	\$ 11,600,215.07	0.43%
Rhode Island	\$ 13,495,136.57	0.50%
Arkansas	\$ 13,951,016.23	0.52%
Kansas	\$ 14,791,372.72	0.55%
Idaho	\$ 16,246,892.13	0.60%
New Mexico	\$ 16,900,502.73	0.63%
Vermont	\$ 17,801,277.01	0.66%
Louisiana	\$ 18,009,993.00	0.67%
Kentucky	\$ 19,048,080.43	0.71%
Oklahoma	\$ 19,086,528.11	0.71%
Iowa	\$ 20,179,540.80	0.75%
Maine	\$ 20,256,436.17	0.75%
Nevada	\$ 22,255,715.66	0.82%
Alabama	\$ 24,084,726.84	0.89%
New Hampshire	\$ 29,544,297.76	1.09%
South Carolina	\$ 31,636,950.19	1.17%
Utah	\$ 32,356,471.11	1.20%
Indiana	\$ 38,920,039.77	1.44%
Missouri	\$ 39,084,815.55	1.45%
Tennessee	\$ 42,407,793.83	1.57%
Minnesota	\$ 43,638,119.67	1.62%
Connecticut	\$ 51,635,237.63	1.91%
Arizona	\$ 53,013,861.68	1.96%
Georgia	\$ 58,105,433.35	2.15%
Michigan	\$ 60,329,906.41	2.23%
Colorado	\$ 61,307,576.05	2.27%
Wisconsin	\$ 63,554,019.22	2.35%
New Jersey	\$ 65,328,105.14	2.42%
Oregon	\$ 68,239,143.96	2.53%
Massachusetts	\$ 69,074,007.92	2.56%
Maryland	\$ 71,045,824.78	2.63%
Ohio	\$ 71,419,316.56	2.65%
North Carolina	\$ 87,177,373.87	3.23%
Virginia	\$ 87,589,313.32	3.24%
Illinois	\$ 97,701,053.83	3.62%
Washington	\$ 103,957,041.03	3.85%
Pennsylvania	\$ 110,740,310.73	4.10%
New York	\$ 117,402,744.86	4.35%
Florida	\$ 152,379,150.91	5.64%
Texas	\$ 191,941,816.23	7.11%
California	\$ 381,280,175.09	14.12%
Tribal Allocation Subaccount	\$ 49,652,857.71	1.84%
Trust Administration Cost Subaccount	\$ 23,467,171.38	0.87%
Tribal Administration Cost Subaccount	\$ 4,525,885.71	0.17%
	\$ 2,700,000,000.00	100.00%

APPENDIX D-1A
Initial 3.0 Liter Allocation

APPENDIX D-1A – INITIAL 3.0 LITER ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 625,000.00	0.28%
North Dakota	\$ 625,000.00	0.28%
Hawaii	\$ 625,000.00	0.28%
Mississippi	\$ 625,000.00	0.28%
West Virginia	\$ 625,000.00	0.28%
District of Columbia	\$ 625,000.00	0.28%
South Dakota	\$ 625,000.00	0.28%
Wyoming	\$ 625,000.00	0.28%
Alaska	\$ 625,000.00	0.28%
Delaware	\$ 625,000.00	0.28%
Arkansas	\$ 696,692.86	0.31%
Nebraska	\$ 719,535.25	0.32%
Maine	\$ 796,628.31	0.35%
Kansas	\$ 870,866.08	0.39%
Rhode Island	\$ 873,721.37	0.39%
Vermont	\$ 890,853.17	0.40%
Montana	\$ 1,002,209.81	0.45%
Iowa	\$ 1,022,196.90	0.45%
New Mexico	\$ 1,082,158.17	0.48%
Idaho	\$ 1,102,145.26	0.49%
Kentucky	\$ 1,330,569.15	0.59%
New Hampshire	\$ 1,370,543.33	0.61%
Alabama	\$ 1,396,241.02	0.62%
Oklahoma	\$ 1,835,957.01	0.82%
Louisiana	\$ 1,838,812.30	0.82%
Indiana	\$ 2,015,840.82	0.90%
Missouri	\$ 2,067,236.19	0.92%
South Carolina	\$ 2,258,541.20	1.00%
Nevada	\$ 2,618,308.82	1.16%
Utah	\$ 2,821,035.03	1.25%
Tennessee	\$ 3,352,120.57	1.49%
Minnesota	\$ 3,363,541.76	1.49%
Wisconsin	\$ 3,523,438.48	1.57%
Arizona	\$ 3,646,216.32	1.62%
Ohio	\$ 3,883,206.11	1.73%
Connecticut	\$ 4,085,932.31	1.82%
Michigan	\$ 4,477,108.22	1.99%
Maryland	\$ 4,668,413.23	2.07%
Oregon	\$ 4,728,374.50	2.10%
North Carolina	\$ 4,868,284.13	2.16%
Georgia	\$ 5,519,292.21	2.45%
Massachusetts	\$ 5,990,416.48	2.66%
Virginia	\$ 6,044,667.16	2.69%
New Jersey	\$ 6,886,980.25	3.06%
Colorado	\$ 7,432,342.28	3.30%
Pennsylvania	\$ 7,829,228.79	3.48%
Washington	\$ 8,788,609.12	3.91%
New York	\$ 10,299,062.08	4.58%
Illinois	\$ 10,978,623.15	4.88%
Florida	\$ 13,899,593.63	6.18%
Texas	\$ 17,377,347.34	7.72%
California	\$ 41,356,145.05	18.38%
Tribal Allocation Subaccount	\$ 4,795,063.51	2.13%
Trust Administration Cost Subaccount	\$ 1,955,597.62	0.87%
Tribal Administration Cost Subaccount	\$ 390,303.65	0.17%
Grand Total	\$ 225,000,000.00	100.00%

APPENDIX D-1B

Weighted Average Allocation Formula for 2.0 and 3.0 Liter Allocation

Weighted Average Allocation Formula:

$$(2.0 \text{ Allocation}_{\text{Subaccount}} + 3.0 \text{ Allocation}_{\text{Subaccount}}) / (\$2,700,000,000 + \$225,000,000)$$

where Subaccount represents an individual Beneficiary subaccount or the Tribal, Administration Cost, or Tribal Administration Cost subaccount.

State Trust Allocation	Appendix D-1		Appendix D-1A	
	2.0 Liter Allocation Amount	2.0 Liter Allocation Percentage	3.0 Liter Allocation Amount	3.0 Liter Allocation Percentage
Puerto Rico	\$7,500,000.00	0.28%	\$625,000.00	0.28%
North Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Hawaii	\$7,500,000.00	0.28%	\$625,000.00	0.28%
South Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Alaska	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Wyoming	\$7,500,000.00	0.28%	\$625,000.00	0.28%
District of Columbia	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Delaware	\$9,051,682.97	0.34%	\$625,000.00	0.28%
Mississippi	\$9,249,413.91	0.34%	\$625,000.00	0.28%
West Virginia	\$11,506,842.13	0.43%	\$625,000.00	0.28%
Nebraska	\$11,528,812.23	0.43%	\$719,535.25	0.32%
Montana	\$11,600,215.07	0.43%	\$1,002,209.81	0.45%
Rhode Island	\$13,495,136.57	0.50%	\$873,721.37	0.39%
Arkansas	\$13,951,016.23	0.52%	\$696,692.86	0.31%
Kansas	\$14,791,372.72	0.55%	\$870,866.08	0.39%
Idaho	\$16,246,892.13	0.60%	\$1,102,145.26	0.49%
New Mexico	\$16,900,502.73	0.63%	\$1,082,158.17	0.48%
Vermont	\$17,801,277.01	0.66%	\$890,853.17	0.40%
Louisiana	\$18,009,993.00	0.67%	\$1,838,812.30	0.82%
Kentucky	\$19,048,080.43	0.71%	\$1,330,569.15	0.59%
Oklahoma	\$19,086,528.11	0.71%	\$1,835,957.01	0.82%
Iowa	\$20,179,540.80	0.75%	\$1,022,196.90	0.45%
Maine	\$20,256,436.17	0.75%	\$796,628.31	0.35%
Nevada	\$22,255,715.66	0.82%	\$2,618,308.82	1.16%
Alabama	\$24,084,726.84	0.89%	\$1,396,241.02	0.62%
New Hampshire	\$29,544,297.76	1.09%	\$1,370,543.33	0.61%
South Carolina	\$31,636,950.19	1.17%	\$2,258,541.20	1.00%
Utah	\$32,356,471.11	1.20%	\$2,821,035.03	1.25%
Indiana	\$38,920,039.77	1.44%	\$2,015,840.82	0.90%
Missouri	\$39,084,815.55	1.45%	\$2,067,236.19	0.92%
Tennessee	\$42,407,793.83	1.57%	\$3,352,120.57	1.49%
Minnesota	\$43,638,119.67	1.62%	\$3,363,541.76	1.49%
Connecticut	\$51,635,237.63	1.91%	\$4,085,932.31	1.82%
Arizona	\$53,013,861.68	1.96%	\$3,646,216.32	1.62%
Georgia	\$58,105,433.35	2.15%	\$5,519,292.21	2.45%
Michigan	\$60,329,906.41	2.23%	\$4,477,108.22	1.99%
Colorado	\$61,307,576.05	2.27%	\$7,432,342.28	3.30%
Wisconsin	\$63,554,019.22	2.35%	\$3,523,438.48	1.57%
New Jersey	\$65,328,105.14	2.42%	\$6,886,980.25	3.06%
Oregon	\$68,239,143.96	2.53%	\$4,728,374.50	2.10%
Massachusetts	\$69,074,007.92	2.56%	\$5,990,416.48	2.66%
Maryland	\$71,045,824.78	2.63%	\$4,668,413.23	2.07%
Ohio	\$71,419,316.56	2.65%	\$3,883,206.11	1.73%
North Carolina	\$87,177,373.87	3.23%	\$4,868,284.13	2.16%
Virginia	\$87,589,313.32	3.24%	\$6,044,667.16	2.69%
Illinois	\$97,701,053.83	3.62%	\$10,978,623.15	4.88%
Washington	\$103,957,041.03	3.85%	\$8,788,609.12	3.91%
Pennsylvania	\$110,740,310.73	4.10%	\$7,829,228.79	3.48%
New York	\$117,402,744.86	4.35%	\$10,299,062.08	4.58%
Florida	\$152,379,150.91	5.64%	\$13,899,593.63	6.18%
Texas	\$191,941,816.23	7.11%	\$17,377,347.34	7.72%
California	\$381,280,175.09	14.12%	\$41,356,145.05	18.38%
State Trust Administration Cost Subaccount	\$23,467,171.38	0.87%	\$1,955,597.62	0.87%
Subtotal	\$2,645,821,256.54	97.99%	\$219,814,632.84	97.70%

Appendix D-1B	
Total Allocation Amount	Weighted Average Allocation Percentage
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$9,676,682.97	0.33%
\$9,874,413.91	0.34%
\$12,131,842.13	0.41%
\$12,248,347.48	0.42%
\$12,602,424.88	0.43%
\$14,368,857.94	0.49%
\$14,647,709.09	0.50%
\$15,662,238.80	0.54%
\$17,349,037.39	0.59%
\$17,982,660.90	0.61%
\$18,692,130.18	0.64%
\$19,848,805.30	0.68%
\$20,378,649.58	0.70%
\$20,922,485.12	0.72%
\$21,201,737.70	0.72%
\$21,053,064.48	0.72%
\$24,874,024.48	0.85%
\$25,480,967.86	0.87%
\$30,914,841.09	1.06%
\$33,895,491.39	1.16%
\$35,177,506.14	1.20%
\$40,935,880.59	1.40%
\$41,152,051.74	1.41%
\$45,759,914.40	1.56%
\$47,001,661.43	1.61%
\$55,721,169.94	1.90%
\$56,660,078.00	1.94%
\$63,624,725.56	2.18%
\$64,807,014.63	2.22%
\$68,739,918.33	2.35%
\$67,077,457.70	2.29%
\$72,215,085.39	2.47%
\$72,967,518.46	2.49%
\$75,064,424.40	2.57%
\$75,714,238.01	2.59%
\$75,302,522.67	2.57%
\$92,045,658.00	3.15%
\$93,633,980.48	3.20%
\$108,679,676.98	3.72%
\$112,745,650.15	3.85%
\$118,569,539.52	4.05%
\$127,701,806.94	4.37%
\$166,278,744.54	5.68%
\$209,319,163.57	7.16%
\$422,636,320.14	14.45%
\$25,422,769.00	0.87%
\$2,865,635,889.38	97.97%

Tribal Trust Allocation	\$49,652,857.71	1.84%	\$4,795,063.51	2.13%
Tribal Administration Cost Subaccount	\$4,525,885.77	0.17%	\$390,303.65	0.17%
Subtotal	\$54,178,743.48	2.01%	\$5,185,367.16	2.30%

\$54,447,921.22	1.86%
\$4,916,189.42	0.17%
\$59,364,110.64	2.03%

Total	\$2,700,000,000.00	100.00%	\$225,000,000.00	100.00%
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\$2,925,000,000.00	100.00%
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APPENDIX D-1C

Weighted Average Allocation Percentage for Subparagraph 5.0.3

APPENDIX D-1C

State Trust Allocation	Weighted Average Allocation Percentage, net of CA, for subparagraph 5.0.3
Puerto Rico	0.33%
North Dakota	0.33%
Hawaii	0.33%
South Dakota	0.33%
Alaska	0.33%
Wyoming	0.33%
District of Columbia	0.33%
Delaware	0.40%
Mississippi	0.40%
West Virginia	0.50%
Nebraska	0.50%
Montana	0.52%
Rhode Island	0.59%
Arkansas	0.60%
Kansas	0.64%
Idaho	0.71%
New Mexico	0.74%
Vermont	0.77%
Louisiana	0.81%
Kentucky	0.83%
Oklahoma	0.86%
Iowa	0.87%
Maine	0.86%
Nevada	1.02%
Alabama	1.04%
New Hampshire	1.27%
South Carolina	1.39%
Utah	1.44%
Indiana	1.68%
Missouri	1.69%
Tennessee	1.87%
Minnesota	1.92%
Connecticut	2.28%
Arizona	2.32%
Georgia	2.61%
Michigan	2.65%
Colorado	2.81%
Wisconsin	2.75%
New Jersey	2.96%
Oregon	2.99%
Massachusetts	3.07%
Maryland	3.10%
Ohio	3.08%
North Carolina	3.77%
Virginia	3.83%
Illinois	4.45%
Washington	4.62%
Pennsylvania	4.86%
New York	5.23%
Florida	6.81%
Texas	8.57%
California	
State Trust Administration Cost Subaccount	1.00%
Total	100.00%

APPENDIX D-2
Eligible Mitigation Actions and Mitigation Action Expenditures

APPENDIX D-2

ELIGIBLE MITIGATION ACTIONS AND MITIGATION ACTION EXPENDITURES

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)
 - a. Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Large Trucks shall also include 2010-2012 engine model year Class 8 Local Freight or Drayage.
 - b. Eligible Large Trucks must be Scrapped.
 - c. Eligible Large Trucks may be Repowered with any new diesel or Alternate Fueled engine or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Large Trucks Mitigation Action occurs or one engine model year prior.
 - d. For Non-Government Owned Eligible Class 8 Local Freight Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
 - e. For Non-Government Owned Eligible Drayage Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 50% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new all-electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- f. For Government Owned Eligible Class 8 Large Trucks, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)

- a. Eligible Buses include 2009 engine model year or older class 4-8 school buses, shuttle buses, or transit buses. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed Eligible Mitigation Action, Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.
- b. Eligible Buses must be Scrapped.
- c. Eligible Buses may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Bus Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Buses, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Buses, and Privately Owned School Buses Under Contract with a Public School District, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

3. Freight Switchers

- a. Eligible Freight Switchers include pre-Tier 4 switcher locomotives that operate 1000 or more hours per year.
- b. Eligible Freight Switchers must be Scrapped.
- c. Eligible Freight Switchers may be Repowered with any new diesel or Alternate Fueled or All-Electric engine(s) (including Generator Sets), or may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Freight Switcher Mitigation Action occurs.
- d. For Non-Government Owned Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of :
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.

3. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 75% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.
- e. For Government Owned Eligible Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 100% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.

4. Ferries/Tugs

- a. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.
- b. Eligible Ferry and/or Tug engines that are replaced must be Scrapped.
- c. Eligible Ferries and/or Tugs may be Repowered with any new Tier 3 or Tier 4 diesel or Alternate Fueled engines, or with All-Electric engines, or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade.
- d. For Non-Government Owned Eligible Ferries and/or Tugs, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 2. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

- e. For Government Owned Eligible Ferries and/or Tugs, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 - 2. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

5. Ocean Going Vessels (OGV) Shorepower

- a. Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Components of such systems eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Marine shore power systems must comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems) and should be supplied with power sourced from the local utility grid. Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.
- b. For Non-Government Owned Marine Shorepower, Beneficiaries may only draw funds from the Trust in the amount of up to 25% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.
- c. For Government Owned Marine Shorepower, Beneficiaries may draw funds from the Trust in the amount of up to 100% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.

6. Class 4-7 Local Freight Trucks (Medium Trucks)

- a. Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks, and for Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Trucks shall also include 2010-2012 engine model year class 4-7 Local Freight trucks.
- b. Eligible Medium Trucks must be Scrapped.

- c. Eligible Medium Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Medium Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

7. Airport Ground Support Equipment

- a. Eligible Airport Ground Support Equipment includes:
 - 1. Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and
 - 2. Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment.
- b. Eligible Airport Ground Support Equipment must be Scrapped.

- c. Eligible Airport Ground Support Equipment may be Repowered with an All-Electric engine, or may be replaced with the same Airport Ground Support Equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may only draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
- e. For Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 100% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.

8. Forklifts and Port Cargo Handling Equipment

- a. Eligible Forklifts includes forklifts with greater than 8000 pounds lift capacity.
- b. Eligible Forklifts and Port Cargo Handling Equipment must be Scrapped.
- c. Eligible Forklifts and Port Cargo Handling Equipment may be Repowered with an All-Electric engine, or may be replaced with the same equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
- e. For Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:

1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
9. Light Duty Zero Emission Vehicle Supply Equipment. Each Beneficiary may use up to fifteen percent (15%) of its allocation of Trust Funds on the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle supply equipment for projects as specified below. Provided, however, that Trust Funds shall not be made available or used to purchase or rent real-estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Supply Equipment).
 - a. Light duty electric vehicle supply equipment includes Level 1, Level 2 or fast charging equipment (or analogous successor technologies) that is located in a public place, workplace, or multi-unit dwelling and is not consumer light duty electric vehicle supply equipment (i.e., not located at a private residential dwelling that is not a multi-unit dwelling).
 - b. Light duty hydrogen fuel cell vehicle supply equipment includes hydrogen dispensing equipment capable of dispensing hydrogen at a pressure of 70 megapascals (MPa) (or analogous successor technologies) that is located in a public place.
 - c. Subject to the 15% limitation above, each Beneficiary may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Government Owned Property.
 2. Up to 80% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Non-Government Owned Property.
 3. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a workplace but not to the general public.
 4. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a multi-unit dwelling but not to the general public.

5. Up to 33% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 250 kg/day that will be available to the public.
 6. Up to 25% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 100 kg/day that will be available to the public.
10. Diesel Emission Reduction Act (DERA) Option. Beneficiaries may use Trust Funds for their non-federal voluntary match, pursuant to Title VII, Subtitle G, Section 793 of the DERA Program in the Energy Policy Act of 2005 (codified at 42 U.S.C. § 16133), or Section 792 (codified at 42 U.S.C. § 16132) in the case of Tribes, thereby allowing Beneficiaries to use such Trust Funds for actions not specifically enumerated in this Appendix D-2, but otherwise eligible under DERA pursuant to all DERA guidance documents available through the EPA. Trust Funds shall not be used to meet the non-federal mandatory cost share requirements, as defined in applicable DERA program guidance, of any DERA grant.

Eligible Mitigation Action Administrative Expenditures

For any Eligible Mitigation Action, Beneficiaries may use Trust Funds for actual administrative expenditures (described below) associated with implementing such Eligible Mitigation Action, but not to exceed 15% of the total cost of such Eligible Mitigation Action. The 15% cap includes the aggregated amount of eligible administrative expenditures incurred by the Beneficiary and any third-party contractor(s).

1. Personnel including costs of employee salaries and wages, but not consultants.
2. Fringe Benefits including costs of employee fringe benefits such as health insurance, FICA, retirement, life insurance, and payroll taxes.
3. Travel including costs of Mitigation Action-related travel by program staff, but does not include consultant travel.
4. Supplies including tangible property purchased in support of the Mitigation Action that will be expensed on the Statement of Activities, such as educational publications, office supplies, etc. Identify general categories of supplies and their Mitigation Action costs.
5. Contractual including all contracted services and goods except for those charged under other categories such as supplies, construction, etc. Contracts for evaluation and consulting services and contracts with sub-recipient organizations are included.
6. Construction including costs associated with ordinary or normal rearrangement and alteration of facilities.
7. Other costs including insurance, professional services, occupancy and equipment leases, printing and publication, training, indirect costs, and accounting.

Definitions/Glossary of Terms

“Airport Ground Support Equipment” shall mean vehicles and equipment used at an airport to service aircraft between flights.

“All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

“Alternate Fueled” shall mean an engine, or a vehicle or piece of equipment that is powered by an engine, which uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., CNG, propane, diesel-electric Hybrid).

“Certified Remanufacture System or Verified Engine Upgrade” shall mean engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)” shall mean vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs. used for transporting people. See definition for School Bus below.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs. used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“CNG” shall mean Compressed Natural Gas.

“Drayage Trucks” shall mean trucks hauling cargo to and from ports and intermodal rail yards.

“Forklift” shall mean nonroad equipment used to lift and move materials short distances; generally includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

“Freight Switcher” shall mean a locomotive that moves rail cars around a rail yard as compared to a line-haul engine that moves freight long distances.

“Generator Set” shall mean a switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

“Government” shall mean a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village. The term “State” means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Gross Vehicle Weight Rating (GVWR)” shall mean the maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo.

Class 1: < 6000 lb.
Class 2: 6001-10,000 lb.
Class 3: 10,001-14,000 lb.
Class 4: 14,001-16,000 lb.
Class 5: 16,001-19,500 lb.
Class 6: 19,501-26,000 lb.
Class 7: 26,001-33,000 lb.
Class 8: > 33,001 lb.

“Hybrid” shall mean a vehicle that combines an internal combustion engine with a battery and electric motor.

“Infrastructure” shall mean the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

“Intermodal Rail Yard” shall mean a rail facility in which cargo is transferred from drayage truck to train or vice-versa.

“Port Cargo Handling Equipment” shall mean rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

“Plug-in Hybrid Electric Vehicle (PHEV)” shall mean a vehicle that is similar to a Hybrid but is equipped with a larger, more advanced battery that allows the vehicle to be plugged in and recharged in addition to refueling with gasoline. This larger battery allows the car to be driven on a combination of electric and gasoline fuels.

“Repower” shall mean to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (e.g., grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

“School Bus” shall mean a Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

“Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any Eligible Vehicle will be replaced as part of an Eligible project, Scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

“Tier 0, 1, 2, 3, 4” shall refer to corresponding EPA engine emission classifications for nonroad, locomotive, and marine engines.

“Tugs” shall mean dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

“Zero Emission Vehicle (ZEV)” shall mean a vehicle that produces no emissions from the on-board source of power (e.g., All-Electric or hydrogen fuel cell vehicles).

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT**1. Identity of Lead Agency

_____ (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies _____ (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	
Address:	
Phone:	
Fax:	
Email:	

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.

(c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.

(d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary _____

Lead Agency Authorized to Act on Behalf of the Beneficiary _____
 (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:	
Beneficiary's Project ID:	
Funding Request No.	(sequential)
Request Type: (select one or more)	<input 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 type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input type="checkbox"/> 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 <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):
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):
Estimate of Anticipated NOx Reductions (5.2.3):
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):
Describe how the Beneficiary will make documentation publicly available (5.2.7.2).
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).

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).

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: _____

[NAME]

[TITLE]

[LEAD AGENCY]

for

[BENEFICIARY]

ATTACHMENT A**FUNDING REQUEST AND DIRECTION**

(Attachment to Appendix D-4, Beneficiary Eligible Mitigation Action Certification, pursuant to Paragraph 5.2 of the Environmental Mitigation Trust Agreement)

Pursuant to the authority granted to _____ [insert Lead Agency] to act on behalf of Beneficiary _____ under the Mitigation Trust, [Lead Agency] directs the Trustee to make the following payments from its subaccount no. _____ to the following payees, for the amounts specified on the dates specified below.

LEAD AGENCY INFORMATION

Beneficiary Name: _____	Lead Agency Contact Person: _____
Lead Agency Name: _____	Lead Agency Email Address: _____
Lead Agency Address: _____	Lead Agency Fax: _____
Lead Agency Phone: _____	Lead Agency TIN: _____

Contact information entered above may correspond to Lead Agency or 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

MITIGATION ACTION INFORMATION

Action Title: _____	Funding Request No: _____
Beneficiary's Project ID: _____	

PAYMENTS REQUESTED

(attach additional pages if needed)

Amount	Requested Date	Payee	Request Type

PAYEE CONTACT AND WIRE INFORMATION

(fill out both tables below for each payee and payment identified in "Payments Requested" table on p. 1; attach additional pages if needed)

PAYEE CONTACT INFORMATION

Action Title:	_____	Beneficiary Project ID:	_____
Payee Name:	_____	Payee Contact Person:	_____
Payee Address:	_____	Payee Email Address:	_____
Payee Phone:	_____	Payee Fax:	_____
Payee TIN:	_____		

Payment Amount	Requested Date	Request Type

WIRE INFORMATION

Receiving Bank Name:	_____		
Receiving Bank Branch:	_____		
Receiving Bank Address:	_____		
Bank Swift ID:	_____	National Routing No. / Bank ABA Number (Sort Code, BLZ)	_____
Amount of Wire:	_____		
Message to Payee:	_____		
Instructions to Receiving Bank:	_____		
For Credit to:	_____		
Other Special Instructions:	_____		

[Signature Block]

[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)	\$	\$	\$	\$	\$

APPENDIX D-5
Form of Certificate of Trust of the
Volkswagen Diesel Emissions Environmental Mitigation Trust
for State Beneficiaries, Puerto Rico, and the District Of Columbia

APPENDIX D-5

**FORM OF CERTIFICATE OF TRUST OF THE
VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION TRUST
FOR
STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF COLUMBIA**

This Certificate of Trust of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “Trust”) is being duly executed and filed on behalf of the Trust by the undersigned, as Trustee, to form a statutory trust under the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826 (the “Act”).

1. Name. The name of the statutory trust formed by this Certificate of Trust is the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.
2. Delaware Trustee. The name and business address of the Trustee of the Trust with a principal place of business in the State of Delaware are Wilmington Trust, N.A., 1100 North Market Street, Wilmington, Delaware 19890. Attn: Corporate Trust Administration.
3. Effective Date. This Certificate of Trust shall be effective upon filing.
4. IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Trust in accordance with Section 3811(a)(1) of the Act.

WILMINGTON TRUST, N.A.,
not in its individual capacity but solely
as Trustee

By: _____
Name:
Title:

Michele D. Ross
Reed Smith LLP
1301 K Street NW
Suite 1000 – East Tower
Washington, D.C. 20005
Telephone: 202 414-9297
Fax: 202 414-9299
Email: mross@reedsmith.com

Attorneys for the Trustee of
the Volkswagen Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: VOLKSWAGEN “CLEAN
DIESEL” MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

Relates to:

*[United States v. Volkswagen AG, et al., No.
16-cv-295 (N.D. Cal.)]*

Case No. MDL 2672 CRB (JSC)

**NOTICE OF BENEFICIARY
DESIGNATION UNDER THE
VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES,
PUERTO RICO, AND THE DISTRICT OF
COLUMBIA**

Judge: Hon. Charles R. Breyer

PLEASE TAKE NOTICE THAT Wilmington Trust, N.A. as Trustee (the “Trustee”) of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), by and through its counsel Reed Smith, respectfully files the attached Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof.

Dated: January 29, 2018

Respectfully submitted,

/s/ Michele D. Ross
Michele D. Ross, partner
Reed Smith LLP

CERTIFICATE OF SERVICE

I hereby certify that, on January 29, 2018, I caused to be served true copies of Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof by electronic means by filing such documents through the Court's Electronic Case Filing System.

/s/ Michele D. Ross
Michele D. Ross
*Attorney for the Trustee of the Volkswagen
Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and
the District of Columbia*

Notice of Beneficiary Designation for the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 of the State Trust

In accordance with subparagraph 4.0.2. of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), Wilmington Trust, N.A. as Trustee of the State Trust hereby certifies as follows:

In accordance with Paragraph 4.0 of the State Trust, each at the following Certifying Entities filed its Appendix D-3 with the U.S. District Court for the Northern District of California (the “Court”) on or prior to 60 days after the Trust Effective Date:

LIST OF DESIGNATED BENEFICIARIES UNDER THE STATE TRUST

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. District of Columbia
10. Florida
11. Georgia
12. Hawaii
13. Idaho
14. Illinois
15. Indiana
16. Iowa

17. Kansas
18. Kentucky
19. Louisiana
20. Maine
21. Maryland
22. Massachusetts
23. Michigan
24. Minnesota
25. Mississippi
26. Missouri
27. Montana
28. Nebraska
29. Nevada
30. New Hampshire
31. New Jersey
32. New Mexico
33. New York
34. North Carolina
35. North Dakota
36. Ohio
37. Oklahoma
38. Oregon
39. Pennsylvania
40. Puerto Rico
41. Rhode Island

- 42. South Carolina
- 43. South Dakota
- 44. Tennessee
- 45. Texas
- 46. Utah
- 47. Vermont
- 48. Virginia
- 49. Washington
- 50. West Virginia
- 51. Wisconsin
- 52. Wyoming

In accordance with subparagraph 4.0.2.1 of the State Trust, no notices of objection to the Appendix D-3 filings by any of the Certifying Entities listed above were filed. Therefore, in accordance with the terms of the State Trust, each such Certifying Entity listed above is now designated a “Beneficiary” under the State Trust.

Wilmington Trust, N.A. as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

By: /s/David A. Vanaskey Jr.
Name: David A. Vanaskey Jr.
Title: Administrative Vice President

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT****1. Identity of Lead Agency**

Arkansas (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies the Arkansas Department of Environmental Quality (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	Stuart L. Spencer
Address:	5301 Northshore Drive, North Little Rock, AR 72118-5317
Phone:	501-682-0750
Fax:	
Email:	spencer@adeq.state.ar.us

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

- iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.
- (d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____



Name: _____

Asa Hutchinson

Title: _____

Governor

Date: _____

9/14/17

Location: _____

Arkansas

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

ARKANSAS CERTIFICATION FOR BENEFICIARY STATUS

Attachment 1 to Appendix D-3 Certification for Beneficiary Status Section 7: Publicly Available Information

In accordance with Paragraph seven (7) of the Certification for Beneficiary Status required under Appendix D-3, this attachment one (1) states the following:

1. All documents and records submitted to the Volkswagen Mitigation Trust Trustee, Wilmington Trust (“Trustee”) by the Arkansas Department of Environmental Quality (ADEQ) in support of each funding request for expenditures of the state’s portion of the Volkswagen Mitigation Fund (“Trust Fund”), pursuant to the Arkansas Volkswagen Mitigation Plan (“Mitigation Plan”), will be maintained until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust agreement. These records may be obtained by calling or emailing the contacts on the State’s Volkswagen settlement webpage: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ’s Volkswagen Settlement webpage will be the main tool used for disseminating information regarding expenditures from the State’s portion of the Trust Fund. ADEQ will provide reasonable access to requested documentation and records in compliance with the procedures of Arkansas Freedom of Information Act (“FOIA”), codified at Arkansas Code Annotated § 25-19-101, *et seq.*. However, ADEQ will provide access to all persons requesting such records, rather than solely the citizens of Arkansas, which is not required by the Arkansas Freedom of Information Act.
2. A Mitigation Plan will be made available for an initial public comment period of at least thirty (30) days before ADEQ submits the Mitigation Plan to the Trustee. During this comment period, the Mitigation Plan will be made available on the website developed by ADEQ that is dedicated to information regarding the Volkswagen settlement including ADEQ’s Mitigation Plan: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will provide contact information for use by members of the public seeking to provide comments, including an email address. After the end of the public comment period, ADEQ will review all comments. ADEQ will post comments received to the ADEQ Mitigation plan website: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will determine to what extent changes to the Mitigation Plan are warranted in response to public comments. The final Mitigation Plan will be made publicly available.
3. Any documents provided to ADEQ in support of a comment to the Mitigation Plan or to secure funding for an eligible project under the Mitigation Plan are subject to public disclosure under FOIA. Personal information is generally not exempt from disclosure under FOIA but certain personally identifiable information, such as birthdays and social security numbers are exempt from disclosure. If included in documents provided to

ADEQ, these items would require redaction prior to release of the documents pursuant to FOIA. Arkansas addresses confidential business information in the Arkansas Trade Secrets Act (Arkansas Code Annotated § 4-75-601, *et seq.*). ADEQ may deny inspection of specific information contained in public records if it is determined that the information submitted is a trade secret within the meaning of the Arkansas Trade Secrets Act and the information was submitted consistent with the ADEQ procedures for handling trade secrets, which is publicly available on the ADEQ website:

https://www.adeq.state.ar.us/air/planning/pdfs/procedures_for_handling_trade_secrets.pdf



February 28, 2018

National Park Service
Air Resources Division
VW Settlement

Sent via email to vwsettlement@nps.gov

This letter is to notify you that the State of Arkansas has been designated a Beneficiary under the Volkswagen Environmental Mitigation Trust (Trust) in accordance with Section 4.2.8 of the Environmental Trust Agreement for State Beneficiaries. The Arkansas Department of Environmental Quality (ADEQ) has been designated by Governor Asa Hutchinson as the lead agency for the purposes of Arkansas's participation in the Trust. 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 Arkansas 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). ADEQ will review, consider, and make a written determination upon each such request in accordance with the terms of the underlying settlement agreement documents, all applicable laws and regulations, and any additional procedures and criteria that will be developed, adopted, and published by ADEQ relating to the handling of requests or applications for funding.

For further information, please visit our Volkswagen Environmental Mitigation Trust website at <https://www.adeq.state.ar.us/air/planning/vw.aspx>.

Sincerely,

*WUM
for* 

Stuart Spencer
Associate Director, Office of Air Quality

Enclosures:

Environmental Mitigation Trust Agreement for State Beneficiaries
Notice of Beneficiary Designation
Amended D-3 Certification with Attachment

ENVIRONMENTAL MITIGATION TRUST AGREEMENT FOR STATE BENEFICIARIES

On October 25, 2016, the Court entered a Partial Consent Decree (“First Partial Consent Decree”) in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), among Volkswagen AG, Audi AG, Volkswagen Group of America, Inc., and Volkswagen Group of America Chattanooga Operations, LLC (collectively, the “Settling Defendants”), the United States, and the State of California. In that case, the Court also entered a Second Partial Consent Decree (Dkt. No. 3228-1) on May 17, 2017, among the Settling Defendants, Dr. Ing. h.c. F. Porsche AG, and Porsche Cars North America, Inc. (collectively, the “Defendants”), the United States, and the State of California. Pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, the Defendants and Wilmington Trust, N.A. (the “Trustee”): (1) hereby enter into this Environmental Mitigation Trust Agreement for State Beneficiaries (i.e., for the 50 States, Puerto Rico, and the District of Columbia) (hereinafter, the “State Trust Agreement”) and establish the environmental mitigation trust described herein (the “State Mitigation Trust” or “State Trust”); and (2) concurrently enter into a separate Environmental Mitigation Trust Agreement for Indian Tribe Beneficiaries (i.e., for federally-recognized Indian Tribes) (hereinafter, the “Indian Tribe Trust Agreement”) and establish the environmental mitigation trust described in that agreement (“Indian Tribe Mitigation Trust” or “Indian Tribe Trust”). The Defendants and the Trustee acknowledge that the purpose of the State Mitigation Trust and the Indian Tribe Mitigation Trust is to fulfill the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree. All payments to and expenditures from the State Mitigation Trust and the Indian Tribe Mitigation Trust shall be for the sole purpose of fulfilling the Settling Defendants’ environmental mitigation obligations under the First Partial Consent Decree and the Defendants’ environmental mitigation obligations under the Second Partial Consent Decree, and for the costs and expenses of administering each trust as set forth in the State Mitigation Trust and the Indian Tribe Mitigation Trust. The State Mitigation Trust and the Indian Tribe Mitigation Trust shall be funded with Mitigation Trust Payments according to the terms of the First Partial Consent Decree and the Second Partial Consent Decree (jointly, the “Consent Decree”), and in accordance with the following allocation: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.01% to the Indian Tribe Mitigation Trust; and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree shall be allocated to the State Mitigation Trust and 2.3% to the Indian Tribe Mitigation Trust.

PURPOSE AND RECITALS

Whereas, the Defendants are required to establish this State Mitigation Trust and to fund it with funds to be used for environmental mitigation projects that reduce emissions of nitrogen oxides (“NOx”) where the Subject Vehicles were, are, or will be operated (“Eligible Mitigation Actions”), and to pay for Trust Administration Costs as set forth in this State Trust Agreement;

Whereas, the funding for the Eligible Mitigation Actions provided for in the State Trust Agreement and the Indian Tribe Trust Agreement is intended to fully mitigate the total, lifetime excess NOx emissions from the Subject Vehicles where the Subject Vehicles were, are, or will be operated;

Whereas, the Defendants hereby establish this State Mitigation Trust to provide funds for Eligible Mitigation Actions and Trust Administration Costs;

Whereas, the Trustee has been selected to be the trustee under this State Trust Agreement in accordance with the requirements set forth in the First Partial Consent Decree; and

Whereas, the Trustee is willing to act as trustee in accordance with the terms of this State Trust Agreement;

Now, therefore, the Defendants and the Trustee agree as follows:

I. DEFINITIONS

1.0 Unless otherwise defined in this State Trust Agreement, all capitalized terms used herein shall have the meaning set forth in the Consent Decree.

1.1 “Beneficiary” shall mean each governmental entity among the 50 States, Puerto Rico, and District of Columbia that is determined to be a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries).

1.2 “Business Day” means, with respect to any delivery requirement, deadline, or payment under this State Trust Agreement, each Monday, Tuesday, Wednesday, Thursday, and Friday that is not a day on which the Trustee in the State of Delaware or, as to a specific Beneficiary, a day on which that Beneficiary under this State Trust is authorized or obligated by law, regulation, or executive order to close.

1.3 “Claims” shall mean any and all losses, liabilities, claims, actions, suits, or expenses, of any nature whatsoever, including legal fees and expenses.

1.4 “Consent Decree” shall mean the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), and the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.5 “Court” shall mean the United States District Court for the Northern District of California.

1.6 “Day” shall mean a calendar day unless expressly stated to be a Business Day. In computing any period of time under this State Trust Agreement, where the last day would fall on a Saturday, Sunday, or federal or Delaware holiday, the period shall run to the close of business of the next Business Day;

1.7 “Delaware Act” shall mean the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826.

1.8 “DERA” shall mean the Diesel Emission Reduction Act, Title VII, Subtitle G, of the Energy Policy Act of 2005 (codified at 42 U.S.C. §§ 16131-16139).

1.9 “Eligible Mitigation Action” shall mean any of the actions listed in Appendix D-2 to this State Trust Agreement.

1.10 “Eligible Mitigation Action Administrative Expenditure” shall mean those administrative expenditures by Beneficiaries specified in Appendix D-2 to this State Trust Agreement, and shall not include Trust Administration Costs.

1.11 “Federal Agency” shall mean any agency of the United States government.

1.12 “First Partial Consent Decree” shall mean the Partial Consent Decree entered by the Court in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1), on October 25, 2016.

1.13 “Force Majeure” shall have the same meaning as in Paragraph 54 of the First Partial Consent Decree.

1.14 “Indian Land” shall mean the lands of any Indian Tribe or within Indian country.

1.15 “Indian Tribe” shall mean any Indian or Alaska Native Tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian Tribe as provided in the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. § 5130. Pursuant to 25 U.S.C. § 5131, the Bureau of Indian Affairs of the Department of the Interior published a current list of federally acknowledged Indian Tribes at 82 Fed. Reg. 4,915 (Jan. 17, 2017), which will be updated from time to time.

1.16 “Investment Manager” shall mean Wilmington Trust, N.A., acting solely in its role as the professional investment manager of Trust Assets in accordance with subparagraph 3.2.2 of this State Trust Agreement and the Investment Management Agreement entered into on the Trust Effective Date. In subparagraphs 2.2.4, 3.1.2.8, 3.5.3 (last sentence), 3.5.6, and 3.5.7 of the State Trust Agreement, each reference to the Investment Manager shall include the Investment Manager and its officers, directors, and employees.

1.17 “IRS” shall mean the Internal Revenue Service.

1.18 “Shared State and Indian Tribe Administration Costs” shall mean the costs, fees, and expenses of: (1) establishing and maintaining the Trustee’s public-facing website; and (2) establishing and maintaining a secure method of internet-based communication for the Trustee and Beneficiaries.

1.19 “Start-up Costs” shall mean all fees, costs, and expenses incurred in connection with establishing the State Mitigation Trust and the Indian Tribe Mitigation Trust and setting them up for operation. Start-up costs shall not include the cost of premiums for insurance policies.

1.20 “Subject Vehicles” shall mean: (i) the “2.0 Liter Subject Vehicles,” as defined in the First Partial Consent Decree in *In re: Volkswagen “Clean Diesel” Marketing, Sales Practices, and Products Liability Litigation*, MDL No. 2672 CRB (JSC) (Dkt. No. 2103-1); and (ii) the “3.0 Liter Subject Vehicles,” as defined in the Second Partial Consent Decree in that case (Dkt. No. 3228-1).

1.21 “Tax” or “Taxes” shall mean all federal, state, and local taxes that may be imposed on the Trust by any taxing authority.

1.22 “Tax Professionals” shall mean all accountants and tax lawyers hired to assist the Trustee with the Trust’s reporting obligations, tax filings, audits, and all other tax and accounting-related activities, including efforts to obtain and, if granted, maintain the IRS Private Letter Ruling as described in subparagraphs 2.1.5.1, 2.1.5.2, and 3.1.2.7, and Paragraph 6.7 of this State Trust Agreement.

1.23 “Tax Return” or “Tax Returns” shall mean all required federal, state, and local tax returns and information returns, including any returns associated with compliance with withholding and reporting requirements.

1.24 “Termination Date” shall mean the date that the State Trust terminates pursuant to Paragraph 6.8 of this State Trust Agreement.

1.25 “Trust Administration Costs” shall mean all expenditures of Trust Assets by the Trustee.

1.26 “Trust Effective Date” shall mean the date that the United States files the fully executed final version of the State Trust Agreement with the Court.

1.27 “Trustee” shall mean Wilmington Trust, N.A., acting solely in its role as the Trustee of this State Mitigation Trust as appointed in accordance with Paragraph 3.0, or a successor trustee pursuant to subparagraph 3.7.2. In subparagraphs 2.2.4, 3.1.2.8, 3.5.2, 3.5.3, 3.5.6, and 3.5.7 of this State Trust Agreement, each reference to the Trustee shall include the Trustee and its officers, directors, and employees.

1.28 “United States” shall mean the United States of America, acting on behalf of the U.S. Environmental Protection Agency (“EPA”).

II. STATE MITIGATION TRUST

2.0 Establishment of the State Mitigation Trust

2.0.1 Irrevocable Establishment. The Defendants hereby and irrevocably establish this State Mitigation Trust on behalf of the Beneficiaries in the form of a statutory trust under the Delaware Act, which shall bear the name “Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.” In connection with the Trustee’s power hereunder, the Trustee may use this name or a variation thereof. The Trustee is hereby authorized and directed to execute and

file a Certificate of Trust for the State Mitigation Trust in the form attached hereto as Appendix D-5. The Trustee hereby accepts and agrees to hold the assets owned by the State Mitigation Trust (“Trust Assets”) for the benefit of the Beneficiaries and for the purposes described herein and in the Consent Decree.

2.0.2 Trustee. In accordance with Paragraph 3.0 below, on the Trust Effective Date, the Trustee, not individually but solely in the representative capacity of trustee, shall be appointed as the Trustee in accordance with the Consent Decree to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree.

2.0.3 Trust Purpose. It shall be the purpose of the State Mitigation Trust to timely and efficiently fund Eligible Mitigation Actions to be proposed and administered by the Beneficiaries subject to the requirements of the Consent Decree and this State Trust Agreement, and to provide funds for the administration and operation of this State Trust in accordance with this State Trust Agreement. The goal of each Eligible Mitigation Action shall be to achieve reductions of NOx emissions in the United States.

2.0.4 Creation and Use of State Trust Account. Within 15 Days following the Trust Effective Date, the Trustee shall establish a trust account (“State Trust Account”), and file with the Court a designation and identification of the State Trust Account. The purpose of the State Trust Account shall be to receive deposits from the Defendants (directly or through the Court Registry) pursuant to the First Partial Consent Decree and the Second Partial Consent Decree, to hold them in trust, to receive income and gains from any investment of Trust Assets (collectively, “Trust Funds”), and to make disbursements to fund Eligible Mitigation Actions by Beneficiaries and to pay Trust Administration Costs, all in accordance with the Consent Decree and this State Trust Agreement. Disbursements shall be directed by each Beneficiary pursuant to a Beneficiary Eligible Mitigation Action Certification (Appendix D-4) delivered to the Trustee in accordance with Paragraph 5.2. Unless otherwise agreed by the parties to the Consent Decree (“Consent Decree Parties”), the State Trust Account shall be the only account that may be used for these purposes.

2.0.4.1 State Trust Account Divisions. The State Trust Account may be divided into such number of discrete trust subaccounts dedicated for specific purposes as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and to implement, the Consent Decree and this State Trust Agreement.

2.1 Funding of the State Mitigation Trust: The Settling Defendants shall fund the State Mitigation Trust as required by the First Partial Consent Decree, and the Defendants shall fund the State Mitigation Trust as required by the Second Partial Consent Decree. The Trustee shall allocate to the State Mitigation Trust the following amounts: (1) 97.99% of the Mitigation Trust Payments from the First Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account, and (2) 97.7% of the Mitigation Trust Payments from the Second Partial Consent Decree plus any income earned on that amount while deposited with the Court Registry account.

2.1.1 Intentionally Reserved.

2.1.1.1 Intentionally Reserved.

2.1.1.2 Intentionally Reserved.

2.1.1.3 Intentionally Reserved.

2.1.1.4 Intentionally Reserved.

2.1.1.5 Intentionally Reserved.

2.1.2 Intentionally Reserved.

2.1.3 Funding of the Trust Administration Cost Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall fund a subaccount to pay for Trust Administration Costs ("Trust Administration Cost Subaccount") by transferring into it from the State Trust Account the funds allocated to the Trust Administration Cost Subaccount in accordance with Appendix D-1 (Initial 2.0 Liter Allocation) and Appendix D-1A (Initial 3.0 Liter Allocation). The Trustee may further subdivide the Trust Administration Cost Subaccount into such number of additional subaccounts as may be deemed necessary in the discretion of the Trustee to comply with the terms of, and implement, the Consent Decree and this State Trust Agreement. No additional Trust Assets may be directed to the Trust Administration Cost Subaccount, or to the payment of Trust Administration Costs, other than investment earnings on the Trust Administration Cost Subaccount, absent further order of the Court.

2.1.3.1 Allocation of Trust Administration Costs. The funds in the Trust Administration Cost Subaccount shall be internally allocated in accordance with each Beneficiary's allocation rate as set forth in Appendices D-1 and D-1A. The Trustee shall debit those Trust Administration Costs associated with a particular Eligible Mitigation Action request against the Trust Administration Cost Subaccount allocation of the Beneficiary that requested the funds associated with that Eligible Mitigation Action. The Trustee shall debit all other Trust Administration Costs ("Shared Administration Costs") among all Beneficiaries, weighted in accordance with each Beneficiary's Trust Administration Cost Subaccount allocation in place at the time such costs are incurred. Pursuant to Paragraph 3.6, the State Mitigation Trust shall pay 98% of the Trustee's Start-up Costs, and shall pay 98% of the Shared State and Indian Tribe Administration Costs. These costs shall be allocated to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B.

2.1.3.2 Intentionally Reserved.

2.1.4 Intentionally Reserved.

2.1.5 Tax Payment Subaccount. As soon as practicable after the Trust Effective Date, the Trustee's receipt of the Trust Funds from the Court Registry pursuant to subparagraph 2.0.4, and the funding of the State Mitigation Trust pursuant to Paragraph 2.1, the Trustee shall deduct an amount equal to the estimated taxes owed on earnings of the Trust Funds while on deposit in the Court Registry that have been allocated to the State Mitigation Trust pursuant to Paragraph 2.1. The amount of the deduction shall be based on applicable income tax withholding and reporting requirements, and consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. Such amount shall be deposited into a dedicated, non-interest bearing account ("Tax Payment Subaccount"). In addition, prior to the allocation of any investment income pursuant to subparagraph 3.2.3, the Trustee shall deduct an amount equal to the estimated taxes owed on such earnings and deposit that sum into the Tax Payment Subaccount. The amounts in this Tax Payment Subaccount shall be used for the express purpose of paying all applicable taxes with respect to the State Trust in a manner consistent with Paragraph 6.7. If at any time the funds on deposit in this Tax Payment Subaccount are insufficient to pay all Taxes then due and owing, the Trustee shall seek to resolve any dispute pursuant to the dispute resolution procedures of Paragraph 6.2.

2.1.5.1 Within 30 Days of receipt of a Private Letter Ruling from the IRS determining that all investment income earned on the Trust Assets is excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall allocate all amounts held in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B.

2.1.5.2 Upon receipt of a Private Letter Ruling from the IRS, which determines that all or a portion of the investment income earned on the Trust Assets is not excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115, the Trustee shall pay any additional taxes owed from the Tax Payment Subaccount. Within 30 Days of receipt of such a letter ruling, the Trustee shall amend its calculation of estimated taxes and deposits to the Tax Payment Subaccount to reflect the proportion of investment income that is determined to be taxable by the IRS.

2.1.5.3 Within 120 Days of each tax-year end, the Trustee shall reconcile the amount of taxes owed and paid from the Tax Payment Subaccount, if any, and return all remaining amounts in the Tax Payment Subaccount to the Beneficiaries, consistent with the allocation rates included in Appendix D-1B. All overpayments of estimated taxes or refunds of taxes paid by, or on behalf of, the Trust shall be allocated to the Beneficiaries consistent with the allocation rates included in Appendix D-1B.

2.1.5.4 Pursuant to the secure internet-based communication established in Paragraph 6.0, the Trustee shall provide the Beneficiaries a copy of all communications from the IRS related to the payment or non-payment of taxes within 15 Days of receipt.

2.2 Trust Limitations

2.2.1 No Consent Decree Party or Beneficiary, nor any of their components, agencies, officers, directors, agents, employees, affiliates, successors, or assigns, shall be deemed to be an owner, operator, trustee, partner, agent, shareholder, officer, or director of the State Mitigation Trust.

2.2.2 All Trust Assets shall be used solely for the purposes provided in the Consent Decree and this State Trust Agreement.

2.2.3 This State Mitigation Trust is irrevocable. The Defendants: (i) shall not retain any ownership or residual interest whatsoever with respect to any Trust Assets, including, but not limited to, the funds transferred by the Defendants to fund the State Trust pursuant to the terms of the Consent Decree, (ii) shall not have any liabilities or funding obligations with respect to the State Trust (to the Trustee, the Beneficiaries or otherwise) other than the funding obligations expressly set forth in the Consent Decree, and (iii) shall not have any liability or obligation to pay tax on any income or gains from any investments of Trust Assets. Nor shall the Defendants have any rights or role with respect to the management or operation of the State Trust, or the Trustee's approval of requests for Eligible Mitigation Action funding.

2.2.4 Exculpation. Neither the Trustee and its officers, directors, and employees, the Investment Manager and its officers, directors, and employees, the Tax Professionals nor the State Mitigation Trust shall have any liability whatsoever to any person or party for any liability of the Defendants; provided, however, that the State Mitigation Trust shall be liable to the Beneficiaries for funding of Eligible Mitigation Actions in accordance with the terms of this State Trust Agreement and the Consent Decree.

III. TRUSTEE RESPONSIBILITIES

3.0 Appointment: Pursuant to Paragraph 15.e. of the First Partial Consent Decree, the Court appointed Wilmington Trust, N.A., as Trustee of the Environmental Mitigation Trust. Dkt. No. 3030 at 2. Wilmington Trust, N.A., not individually but in its representative capacity as Trustee, is hereby appointed to serve as the Trustee to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree. The Trustee hereby accepts such appointment and agrees to serve, commencing on the Trust Effective Date, in such capacity to the State Mitigation Trust and for the benefit of the Beneficiaries.

3.0.1 Wilmington Trust, N.A. is acting in two separate and distinct roles under the State Mitigation Trust: (1) as the Trustee of the State Mitigation Trust; and (2) as the Investment Manager of the Trust Assets. These roles are subject to different standards of

care. Wilmington Trust, N.A., acting as Trustee, is subject to the standard of care set forth in subparagraphs 3.1.1 and 3.5.2. In its role as Investment Manager, Wilmington Trust, N.A. is subject to the standard of care set forth in subparagraph 3.2.2.

3.1 Powers of the Trustee

3.1.1 Except as set forth in this State Trust Agreement, the Trustee shall have the power to perform those acts necessary and desirable to accomplish the purposes of the State Mitigation Trust, which shall be exercised in an efficient and expeditious manner in furtherance of and in a manner consistent with the purposes of this State Trust Agreement and the Consent Decree. Subject to the limitations on liability set forth in subparagraph 3.5.2, the Trustee shall act in accordance with the current professional standards of care and with the diligence, skill, and care expected for the administration of such a Trust. The Trustee shall have only such duties, rights, powers, and privileges expressly set forth in the Consent Decree, this State Trust Agreement, and as otherwise provided by the Delaware Act. No implied duties (including fiduciary duties) shall be read into this State Trust against Wilmington Trust, N.A., acting as the Trustee.

3.1.2 Upon the Trust Effective Date, the powers of the Trustee shall include the following:

- 3.1.2.1 To receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 of this State Trust Agreement or to engage a professional investment manager (“Investment Manager”) to receive, manage, invest, reinvest, supervise, and protect the Trust Assets as provided in Paragraph 3.2 for the benefit of the Beneficiaries. The Trustee appoints Wilmington Trust, N.A. as the Investment Manager for the State Mitigation Trust pursuant to an Investment Management Agreement entered into on the Trust Effective Date to manage the Trust Assets in accordance with Paragraph 3.2;
- 3.1.2.2 To establish and maintain a public-facing website onto which it will post all materials as required hereunder;
- 3.1.2.3 To establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries;
- 3.1.2.4 To hold title to property in the name of the Trustee in its capacity as such;
- 3.1.2.5 To incur, and pay from the Trust Administration Cost Subaccount, any and all customary and commercially reasonable charges and expenses upon or connected with the administration of this State Mitigation Trust in the discharge of its obligations hereunder, including 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs;

- 3.1.2.6 To engage and compensate professionals to assist the Trustee in accordance with this State Trust Agreement, including, but not limited to, legal, environmental, investment, accounting, tax, website, and third-party auditing professionals, or internet service providers, or insurance providers. Such third-party auditing professionals may be used by the Trustee to audit and/or review expenditures to verify that they comport with the requirements and limitations on use of Trust Funds, as set forth herein. The Trustee may initiate such an audit and/or review on its own initiative or in response to credible reports or suggestions that such review or audit is appropriate. The Trustee shall have an annual independent audit prepared and posted on the website. In its sole discretion, the United States may waive the requirement of an annual audit starting in year ten or at an earlier time in order to preserve Trust Funds;
- 3.1.2.7 To engage and compensate professionals to assist the Trustee in requesting a Private Letter Ruling from the IRS: (1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust, and to take such actions as may be reasonably necessary to secure such ruling and to ensure that the State Trust continues to comply with such ruling upon the advice of the Tax Professionals;
- 3.1.2.8 To purchase any insurance policies as the Trustee may determine to be prudent to protect the State Mitigation Trust, the Trust Assets, the Trustee and its officers, directors, and employees, Wilmington Trust, N.A., in its role as Investment Manager, and its officers, directors, and employees, and to cover Tax Professionals, if required, from any and all Claims that might be asserted against each;
- 3.1.2.9 To distribute Trust Assets for the purposes contemplated in this State Trust Agreement and the Consent Decree, including distributions of funds to Beneficiaries for approved Eligible Mitigation Actions;
- 3.1.2.10 To file documents in Court on behalf of itself and the State Trust;
- 3.1.2.11 To make all necessary state and federal filings and to provide information as required by law;
- 3.1.2.12 To vote shares or other investments;

- 3.1.2.13 To open or maintain any additional bank accounts, or close bank accounts or open securities accounts as are necessary or appropriate to manage the Trust Assets;
- 3.1.2.14 To apply, as soon as practicable after the Trust Effective Date, for an employer identification number for the State Trust pursuant to IRS Form SS-4, and in accordance with Treasury Regulation Section 1.468B-2(k)(4), 26 C.F.R. § 1.468B-2(k)(4);
- 3.1.2.15 To deduct and withhold from allocation of investment earnings to the Beneficiaries under subparagraph 3.2.3 all Taxes that the Trustee may be required to deduct and withhold under any provision of tax law, and any allocation of investment income under subparagraph 3.2.3 to a State Trust subaccount shall be reduced to the extent such withheld amounts are remitted to the appropriate taxing authority;
- 3.1.2.16 To file on behalf of the State Trust all required Tax Returns, which shall be completed in consultation with Tax Professionals, ensure compliance with withholding and reporting requirements, and pay any and all Taxes, including estimated Taxes, due and owing with respect to the State Trust from amounts in the Tax Payment Subaccount pursuant to subparagraph 2.1.5; and
- 3.1.2.17 Subject to applicable requirements of this State Trust Agreement (including the limitations on liability set forth in subparagraph 3.5.2), the Consent Decree, and other applicable law, to effect all actions and execute and deliver all contracts, instruments, agreements, or other documents that may be necessary to administer the State Mitigation Trust in accordance with this State Trust Agreement and the Consent Decree, each in accordance with its duties and the current professional standards of care, and with the diligence, skill, and care expected for the administration of such a State Trust for the benefit of the governmental entities identified in Appendix D-1 and Appendix D-1A.
- 3.1.2.18 Duty to Comply with Law. The Trustee shall not be required to take any action that would violate a law or regulation to which it is subject.
- 3.1.2.19 Relation-Back Election. If applicable, the Trustee and the Defendants shall fully cooperate in filing a relation-back election under Treasury Regulation Section 1.468B-1(j)(2), 26 C.F.R. § 1.468B-1(j)(2), to treat the State Trust as coming into existence as a settlement fund as of the earliest possible date.

3.2 Investment of Trust Assets: The Trustee shall engage the Investment Manager to invest and reinvest the principal and income of the Trust Assets in those investments that are reasonably calculated to preserve the principal value, taking into account the need for the safety and

liquidity of principal as may be required to fund Eligible Mitigation Actions and Trust Administration Costs.

3.2.1 Any investment income that is not reinvested shall be deposited into the State Trust Account for distribution among the Beneficiaries or Supplemental Funding Eligible Beneficiaries, weighted in accordance with the allocation in place at the time of such deposit.

3.2.2 In investing, reinvesting, exchanging, selling, and managing Trust Assets, the Trustee or Investment Manager must perform its duties solely in the interest of the Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent investor, acting in a like capacity and familiar with such matters, would exercise in the conduct of an enterprise of like character and with like aims. The Investment Manager shall comply with all applicable laws and shall be held to a fiduciary standard of care with respect to the investment and reinvestment of the principal and income of Trust Assets; except that the right and power of the Investment Manager to invest and reinvest the Trust Assets shall be limited to: (i) demand and time deposits, such as certificates of deposit, in banks or other savings institutions whose deposits are federally insured; (ii) U.S. Treasury bills, bonds, and notes, including, but not limited to, long-term U.S. Treasury bills, bonds, and notes; (iii) repurchase agreements for U.S. Treasury bills, bonds, and notes; (iv) AA or AAA corporate bonds (with the rating awarded by at least two of the three major rating agencies (Standard & Poor's, Moody's, or Fitch)); or (v) open-ended mutual funds owning only assets described in subparts (i) through (iv) of this subsection; *provided*, however, that the value of bonds of any single company and its affiliates owned by the State Trust directly rather than through a mutual fund shall not exceed \$10 million when purchased, but may be held, despite increase in value, so long as such amount does not exceed \$16 million. Any such investments shall be made consistently with the Uniform Prudent Investor Act. The determination of the rating of any investments made by the Investment Manager shall be made on the date of acquisition of any such investment or on the date of re-investment. The Investment Manager shall reconfirm that all investments of Trust Assets still meet the original rating requirement on a quarterly basis. If the Investment Manager determines that any particular investment no longer meets the rating requirement, the Investment Manager shall substitute that investment with an investment that meets the ratings requirement as promptly as practicable, but in no event later than the next reporting period. Previously purchased securities downgraded below AA may be held for a reasonable and prudent period of time if the Investment Manager believes it is in the interest of the State Trust to do so. The borrowing of funds or securities for the purpose of leveraging, shorting, or other investments is prohibited. Investment in non-U.S. dollar denominated bonds is prohibited. This subparagraph 3.2.2 shall act as a standing default investment instruction for all cash in any account or subaccount that holds any Trust Assets in cash, which shall be invested in The Blackrock Fed Fund (CUSIP 09248U809). Except for actions or omissions of the Investment Manager that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, the Investment Manager and its officers, directors, or employees shall have no liability for any and all Claims.

3.2.3 Allocation of Investment Income. Any and all earnings, interest, and other investment income realized on the investment of the Trust Assets shall be allocated to each State Trust subaccount on the basis of the respective subaccount balances at the end of each month. Any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount shall be allocated to each administration subaccount on the basis of the respective administration subaccount balance at the end of each month.

3.2.4 Nothing in this Section shall be construed as authorizing the Trustee to cause the State Mitigation Trust to carry on any business or to divide the gains therefrom. The sole purpose of this Section is to authorize the investment of the Trust Assets or any portion thereof as may be reasonably prudent pending use of the proceeds for the purposes of the State Mitigation Trust.

3.3 Accounting: The Trustee shall maintain the books and records relating to the Trust Assets and income and the payment of expenses of and liabilities against the State Mitigation Trust. The detail of these books and records and the duration the Trustee shall keep such books and records shall be such as to allow the Trustee to make a full and accurate accounting of all Trust Assets, as well as to comply with applicable provisions of law and standard accounting practices, including Generally Accepted Accounting Principles (“GAAP”). The United States, by and through EPA, and each Beneficiary, shall have the right upon 14 Days’ prior written notice to inspect such books and records, as well as all supporting documentation. Except as otherwise provided herein, the Trustee shall not be required to file any accounting or seek approval of the Court with respect to the administration of the State Mitigation Trust, or as a condition for making any payment or distribution out of the Trust Assets.

3.3.1 Semi-Annual Reporting. Within 180 Days of the Trust Effective Date in the first year, and thereafter by February 15 (for the preceding six-month period of July 1 to December 31) and August 15 (for the preceding six-month period of January 1 to June 30) of each year, and then at least 30 Days prior to the filing of a motion to terminate pursuant to Paragraph 6.8 hereof (each a “Financial Reporting Date”), the Trustee shall file with the Court and provide each Beneficiary and the Defendants with:

3.3.1.1 A statement: (i) confirming the value of the Trust Assets; (ii) itemizing the investments then held by the State Trust (including applicable ratings on such investments); and (iii) including a cumulative and calendar year accounting of the amount the Trustee has paid out from the State Trust Account and all subaccounts to any recipient;

3.3.1.2 For each Beneficiary, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) such Beneficiary’s initial allocation of Trust Assets; (ii) any allocation adjustments pursuant to this State Trust Agreement; (iii) line item descriptions of completed disbursements on account of approved Eligible Mitigation Action; and (iv) such Beneficiary’s remaining and projected allocation. Such accounting shall also include, for each Beneficiary, a balance statement and projected annual budget of

disbursements taking into account those Eligible Mitigation Actions that have been approved as of the Financial Reporting Date;

3.3.1.3 For the Trust Administration Cost Subaccount, cumulative and calendar year accounting, as of the Financial Reporting Date, of: (i) line item disbursements of Total Administration Costs; (ii) balance statements; (iii) 3-year projected annual budgets of disbursements on account of Trust Administration Costs; and (iv) line by line accounting of Trust Administration Costs recorded against each Beneficiary's allocation pursuant to subparagraph 2.1.3.1;

3.3.1.4 For the State Trust Account and all subaccounts, including, but not limited to, the Trust Administration Cost Subaccount, balance statements and 3-year projected annual budgets that itemize all assets, income, earnings, expenditures, allocations, and disbursements of Trust Assets by State Trust Account and by each subaccount;

3.3.1.5 Third-party audited financial reports disclosing and certifying the disposition of all Trust Assets from the Trust Effective Date through the calendar quarter immediately preceding the Financial Reporting Date, specifically including reconciliations of the Trustee's prior budget projections for Trust Administration Costs to actual performance;

3.3.1.6 A description of any previously unreported action taken by the State Trust in performance of its duties which, as determined by the Trustee, counsel, accountants, or other professionals retained by the Trustee, affects the State Trust in a materially adverse way;

3.3.1.7 A brief description of all actions taken in accordance with this State Trust Agreement and the Consent Decree during the previous year; and

3.3.1.8 On each Financial Reporting Date, the Trustee shall simultaneously publish on the State Trust's public-facing website all information required to be provided under Paragraph 3.3.

3.3.2 After the Termination Date, the Trustee intends to destroy all records retained pursuant to this State Trust Agreement. The Trustee shall notify the United States and the Defendants at least 90 Days prior to the destruction of the records. Upon request by the United States or the Defendants, the Trustee shall deliver any such records to EPA or the Defendants, respectively.

3.4 Limitation of the Trustee's Authority: The Trustee is not authorized to engage in any trade or business with respect to the Trust Assets or proceeds therefrom. This provision does not prevent Wilmington Trust, N.A. from acting as the Investment Manager.

3.5 Conditions of Trustee's Obligations: The Trustee accepts appointment as the Trustee subject to the following express terms and conditions:

3.5.1 No Bond. Notwithstanding any state law to the contrary, the Trustee, including any successor Trustee, shall be exempt from giving any bond or other security in any jurisdiction.

3.5.2 Limitation of Liability and Standard of Care for the Trustee. In no event shall the Trustee be held personally liable for any and all Claims asserted against the Trustee and/or State Mitigation Trust except for actions or omissions of the Trustee that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Trustee. The Trustee shall not be held personally liable for carrying out the express terms of this State Mitigation Trust or carrying out any directions from the Beneficiaries or the United States issued in accordance with this State Trust Agreement or in accordance with any Court Order entered in connection with or arising out of the State Mitigation Trust. The Trustee shall not be held personally liable for any failure or delay in the performance of its obligations hereunder arising from causes beyond the control of the Trustee ("Force Majeure"). The Trustee may consult with legal counsel, accounting and financial professionals, environmental professionals, and other professionals, and shall not be personally liable for any action taken or omission made by it in accordance with advice given by such professionals, except in the case of a final, non-appealable judgment of the Court determining fraud, negligence, or willful misconduct on the part of the Trustee in following such advice. The Trustee shall not be held liable for the negligence, fraud, or willful misconduct of any professional hired by it hereunder provided that the Trustee appointed and engaged the professional with due care. In the absence of willful misconduct, negligence, or fraud by the Trustee, as determined by a final, non-appealable judgment of the Court, the Trustee shall not be personally liable to persons seeking payment from or asserting any and all Claims against the State Mitigation Trust or the Trustee. The Trustee, which is a trustee of this State Trust that has been established under the Delaware Act, shall only be held to the standards of care set forth in this subparagraph 3.5.2; the standards of common law trust laws or the personal trust laws of any state shall not apply in any circumstances hereunder.

3.5.2.1 Limitation of Liability for Tax Professionals. In no event shall the Tax Professionals engaged by the Trustee to assist it with the administration of the State Mitigation Trust be held personally liable for any and all Claims asserted against them except for actions or omissions of the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct by the Tax Professionals.

3.5.3 Indemnification. Except for actions or omissions of the Trustee, the Investment Manager, and the Tax Professionals that are determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee, the Investment Manager, or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification from the Trust Assets, solely as provided in this subparagraph 3.5.3, to hold

them harmless against any and all Claims brought against any of them arising out of or in connection with the acceptance or administration of their duties under this State Mitigation Trust, including any and all Claims in connection with enforcing their rights hereunder and defending themselves against any and all Claims. In asserting any indemnification claim against Trust Assets pursuant to this subparagraph 3.5.3, the Trustee, the Investment Manager, and the Tax Professionals shall first seek to recover the amount by asserting a claim against the Trustee's insurance policies purchased pursuant to subparagraph 3.1.2.8 to protect the Trustee, the Investment Manager, and the Tax Professionals hired hereunder against any and all Claims. With respect to any and all amounts that: (1) are not fully and timely paid to the Trustee, the Investment Manager, or the Tax Professionals pursuant to the insurance policies purchased pursuant to subparagraph 3.1.2.8, and (2) are not determined in a final, non-appealable judgment of the Court to be fraudulent, negligent, or willful misconduct, in each separate case, by the Trustee or the Investment Manager or the Tax Professionals, each of the Trustee, the Investment Manager, and the Tax Professionals hired hereunder are entitled to indemnification solely from the portion of Trust Assets in (1) the Trust Administration Cost Subaccount established pursuant to subparagraph 2.1.3; and (2) the investment earnings on the Trust Administration Cost Subaccount. Any indemnification amounts shall constitute Shared Administration Costs under subparagraph 2.1.3.1. Indemnification under this subparagraph 3.5.3 covers only the amounts not fully and timely paid or covered by insurance policies purchased pursuant to subparagraph 3.1.2.8. The Trustee, the Investment Manager, and the Tax Professionals shall reimburse the State Mitigation Trust for any amount advanced to them or paid from the Trust Administration Cost Subaccount for any Claim if any proceeds are paid on such Claim from insurance policies purchased pursuant to subparagraph 3.1.2.8. If insurance payments are denied in whole or part, the Trustee shall confer with legal counsel and consider whether to affirmatively pursue such insurance payments including, without limitation, an insurance coverage suit arising out of a wrongful denial of coverage. For the avoidance of doubt, subparagraphs 3.5.2, 3.5.2.1, and 3.5.3 do not create for the State Mitigation Trust, the Trustee, the Investment Manager, and the Tax Professionals hired hereunder any express or implied right to indemnification from any Consent Decree Party for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or the Tax Professionals, and no Consent Decree Party shall be liable for any and all Claims asserted against the Trustee, the State Mitigation Trust, the Investment Manager, or Tax Professionals.

3.5.4 Reliance on Documentation. The Trustee may rely on, and shall be protected in acting upon, any notice, requisition, request, consent, certificate, order, affidavit, letter, or other paper or document reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons. The Trustee may rely upon, with no further duty of inquiry, and shall be protected in acting upon, the certifications made by and delivered to it by the Beneficiaries, including the Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3) and each Beneficiary Eligible Mitigation Action Certification form (Appendix D-4). The Trustee shall have no duty to monitor or supervise the use of Trust Funds paid in accordance with Beneficiary Eligible Mitigation Action Certification and Funding Direction forms or any Beneficiary's compliance with an Eligible Mitigation Action.

3.5.5 Right to Demand Documentation. Notwithstanding anything else in this State Trust Agreement, in the administration of the Trust Assets, the Trustee shall have the right, but shall not be required, to demand from the relevant Beneficiary before the disbursement of any cash or in respect of any action whatsoever within the purview of this State Mitigation Trust, any showings, certificates, opinions, appraisals, or other information, or action or evidence thereof, in addition to that required by the terms hereof that the Trustee reasonably believes to be necessary or desirable.

3.5.6 Limitation on Consequential Damages. Unless the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have engaged in fraudulent or willful misconduct, the United States or any Beneficiary of the State Mitigation Trust shall not have any right to recover, and the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals shall not be liable for, any special, indirect, punitive, or consequential loss or damages, of any kind whatsoever, against the State Mitigation Trust, the Trustee, the Investment Manager, or the Tax Professionals. When the Trustee, the Investment Manager, or the Tax Professionals are determined in a final, non-appealable judgment of the Court to have been negligent, any and all Claims by the United States or any Beneficiary of the State Mitigation Trust shall be limited to direct damages.

3.5.7 No Consequential Damages. In no event shall the Trustee, the Investment Manager, the Tax Professionals, or the State Mitigation Trust be held responsible or liable for special, indirect, punitive, or consequential loss or damages of any kind whatsoever in connection with any and all Claims brought against them by any third party.

3.6 Payment of Trust Administration Costs: Subject to the limits set forth in Appendix D-1 and Appendix D-1A, the State Mitigation Trust shall pay from the Trust Administration Cost Subaccount its own reasonable and necessary costs and expenses, and shall reimburse the Trustee for the actual reasonable out-of-pocket fees, costs, and expenses to the extent incurred by the Trustee in connection with the administration of the State Trust, including payment of professionals hired in connection with the duties and responsibilities of the State Trust, payment of insurance premiums for policies purchased pursuant to subparagraph 3.1.2.8, payment of a deductible incurred under an insurance policy for the State Trust, Trustee, Investment Manager, or Tax Professionals hired hereunder purchased pursuant to subparagraph 3.1.2.8 in cases in which the State Trust, Trustee, Investment Manager, or Tax Professionals would be entitled to indemnification under subparagraph 3.5.3, and any indemnification amounts as provided in accordance with subparagraph 3.5.3. The Trustee also shall be entitled to receive reasonable compensation for services rendered on behalf of the State Mitigation Trust, in accordance with the projected annual budgets for administration of the State Mitigation Trust required under subparagraph 3.3.1 hereof, and shall be entitled to pay itself from the Trust Administration Cost Subaccount its initial fee and its annual administration fee as set forth in its fee letter dated as of the Trust Effective Date ("Trustee Fee Letter"). The Trustee shall provide a copy of the Trustee Fee Letter to each Beneficiary via the secure internet site established by the Trustee pursuant to subparagraph 3.1.2.3. The State Mitigation Trust shall pay from the Trust Administration Cost Subaccount 98% of Start-up Costs and 98% of Shared State and Indian Tribe Administration Costs, which shall be allocated

to each Trust Administration Cost Subaccount consistent with the weighted average allocation rates set forth in Appendix D-1B. Notwithstanding the foregoing, the total amount of allowable Trust Administration Costs shall not exceed the specific allocation established for the Trust Administration Cost Subaccount in Appendix D-1 and Appendix D-1A, plus any and all earnings, interest, and other investment income realized on the investment of the assets held in the Trust Administration Cost Subaccount. The Trustee shall not use the Trust Administration Cost Subaccount to pay: (1) the fees and expenses of the Investment Manager; or (2) any and all Taxes due and owing with respect to the State Trust. In accordance with the terms of the Investment Management Agreement, the Investment Manager's fees and expenses shall be deducted directly from the investment earnings on the Trust Assets, and not from the corpus of the Trust Assets. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established in subparagraph 2.1.5. The Trustee shall include in its semi-annual reporting, and post on its public-facing website, all Trust Administration Costs (including the costs and descriptions of the Trustee's services rendered on behalf of the State Trust) at least 15 Days prior to the payment of any such expense; provided, however, that the requirement to post all Trust Administrative Costs at least 15 Days prior to payment shall first take effect when the website is established and ready for use, and shall not initially apply to Start-up Costs and to Shared State and Indian Tribe Administration Costs. After the Trust Administration Cost Subaccount is funded pursuant to subparagraph 2.1.3, the Trustee, after receipt of invoices from any third party service providers, shall pay as promptly as practical any and all fees, costs, and expenses incurred by the Trustee to establish the State Mitigation Trust including, but not limited to: (1) the invoices of third party service providers (e.g., legal, accounting, website developer, and hosting provider); (2) fees, costs, and expenses necessary to commence the operations of the State Trust (e.g., Intralinks, Pacer, and insurance premiums); and (3) the Trustee's acceptance fee and first quarter portion of the Trustee's annual fee for the first year. All Trust Administration Costs that are paid prior to the establishment of the website shall be posted on the website as promptly as practicable after the website is established. Such information shall remain available on the website until the Termination Date.

3.7 Termination, Resignation, and Removal of the Trustee

3.7.1 Termination of Trustee. The rights, powers, duties, and obligations of the Trustee to the State Mitigation Trust and the Beneficiaries will terminate on the Termination Date.

3.7.2 Resignation of Trustee and Successor Trustee. The Trustee may commence the resignation process at any time by providing 90 Days' notice to the United States, the Defendants, and the Beneficiaries. Resignation of the Trustee shall only be effective upon: (i) selection of a successor pursuant to the procedures set forth in the First Partial Consent Decree; and (ii) order of the Court. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the appointment of a successor trustee or as otherwise ordered by the Court, the Trustee shall transfer all State Trust records to the successor trustee, and shall take all actions necessary to assign, transfer, and pay over to the successor trustee control of all Trust Assets (including the public website maintained by the Trustee). In the event that the Trustee ceases to exist or ceases to operate its corporate trust business, the Court may, upon motion by the United States or any Beneficiary, appoint an interim Trustee until such time as a successor trustee is appointed in

accordance with the procedures set forth in the First Partial Consent Decree. Any successor Trustee appointed hereunder shall file an amendment to the Certificate of Trust as required by the Delaware Act.

IV. STATE MITIGATION TRUST BENEFICIARIES

4.0 Determination of Beneficiary Status: The States, Puerto Rico, and the District of Columbia may elect to become a Beneficiary hereunder by filing with the Court a Certification for Beneficiary Status under Environmental Mitigation Trust Agreement (Appendix D-3), containing each of the certifications required by subparagraphs 4.2.1 through 4.2.9, not later than 60 Days after the Trust Effective Date. At the time of filing the Certification Form with the Court, the States, Puerto Rico, and the District of Columbia shall also provide a copy of the Certification Form to the Trustee in electronic format and by mail pursuant to Paragraph 6.0 and subparagraph 6.0.1. Each governmental entity that timely files such certifications shall be a “Certifying Entity.” Each governmental entity that fails to timely file such certifications shall be an “Excluded Entity,” and shall be permanently enjoined from asserting any rights with respect to Trust Assets or any other matter relating to the implementation of this Trust. The Trustee shall be responsible for ensuring that the form of each certification complies with the requirements hereof prior to deeming any Certifying Entity to be a Beneficiary hereunder.

4.0.1 Notice of Objection. If the United States determines that a certification filed by any Certifying Entity fails to comply with the requirements of this Section, the United States may file with the Court a notice of objection within 30 Days after a Certifying Entity files its certifications with the Court. Such notice shall explain the basis of objection with specificity. Any such objections shall be resolved according to the procedures set forth in Paragraph 6.2.

4.0.2 Notice of Beneficiary Designation. Not later than 120 Days after the Trust Effective Date, the Trustee shall file with the Court, publish on its public-facing website, and serve on each Consent Decree Party and Certifying Entity lists indicating:

4.0.2.1 Which Certifying Entities filed certifications as to which no notice of objection has been filed. Upon the filing of this Notice of Beneficiary Designation, each such Certifying Entity shall be deemed a “Beneficiary” hereunder;

4.0.2.2 Which governmental entity did not timely file the certifications pursuant to Paragraph 4.0. Each such governmental entity shall be deemed an “Excluded Entity” hereunder; and

4.0.2.3 Which Certifying Entities timely filed certifications as to which a notice of objection has been filed pursuant to subparagraph 4.0.1, together with an explanation of the status of any such objection. Each such Certifying Entity shall be a “Pending Beneficiary.” Upon final resolution of each objection, the Pending Beneficiary shall either be deemed a Beneficiary or an Excluded Entity hereunder.

4.1 Beneficiary Mitigation Plan: After being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary, not later than 30 Days prior to submitting its first funding request pursuant to Paragraph 5.2, shall submit and make publicly available a “Beneficiary Mitigation Plan” that summarizes how the Beneficiary plans to use the mitigation funds allocated to it under this Trust, addressing: (i) the Beneficiary’s overall goal for the use of the funds; (ii) the categories of Eligible Mitigation Actions the Beneficiary anticipates will be appropriate to achieve the stated goals and the preliminary assessment of the percentages of funds anticipated to be used for each type of Eligible Mitigation Action; (iii) a description of how the Beneficiary will consider the potential beneficial impact of the selected Eligible Mitigation Actions on air quality in areas that bear a disproportionate share of the air pollution burden within its jurisdiction; and (iv) a general description of the expected ranges of emission benefits the Beneficiary estimates would be realized by implementation of the Eligible Mitigation Actions identified in the Beneficiary Mitigation Plan. The Beneficiary Mitigation Plan need only provide the level of detail reasonably ascertainable at the time of submission. This Plan is intended to provide the public with insight into a Beneficiary’s high-level vision for use of the mitigation funds and information about the specific uses for which funding is expected to be requested. Nothing in this provision is intended to make the Beneficiary Mitigation Plan binding on any Beneficiary, nor does it create any rights in any person to claim an entitlement of any kind. Beneficiaries may adjust their goals and specific spending plans at their discretion and, if they do so, shall provide the Trustee with updates to their Beneficiary Mitigation Plan. The Trustee has no duty to monitor or supervise any Beneficiary’s compliance with its Beneficiary Mitigation Plan. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its Final Approved DERA Workplan as its Beneficiary Mitigation Plan as to those Eligible Mitigation Actions funded through the DERA Option. The Beneficiary Mitigation Plan shall explain the process by which the Beneficiary shall seek and consider public input on its Beneficiary Mitigation Plan.

4.2 Required Certifications in Appendix D-3

4.2.1 Identification of Lead Agency and Submission to Jurisdiction. Each Certification Form (Appendix D-3) must include a designation of lead agency, certified by the Office of the Governor (or if not a state, the analogous chief executive) of the State, Puerto Rico, or the District of Columbia on whose behalf the Certification Form is submitted, indicating which agency, department, office, or division will have the delegated authority to act on behalf of and legally bind such governmental entity. The Certification Form shall also include confirmation by the Certifying Entity that: (i) it has the authority to sign the Certification Form; and (ii) it agrees, without limitation, to be bound by the terms of this State Trust Agreement, including the allocations of Trust Assets provided hereunder, and to be subject to the jurisdiction of the Court for all matters concerning the interpretation or performance of, or any disputes arising under, this State Trust Agreement. The Certifying Entity’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

4.2.2 Consent to Trustee Authority. Each Certification Form (Appendix D-3) must include an agreement by the Certifying Entity that the Trustee has the authorities specified in this State Trust Agreement, including, but not limited to, the authority: (i) to approve,

deny, request modifications, or request further information related to any request for funds hereunder; and (ii) to implement this State Trust Agreement in accordance with its terms.

4.2.3 Certification of Legal Authority. Each Certification Form (Appendix D-3) must certify that: (i) the laws of the Certifying Entity do not prohibit it from being a Beneficiary hereunder; (ii) prior to requesting any funds hereunder, the Certifying Entity shall obtain full legal authority to receive and/or direct payments of such funds; and (iii) if the Certifying Entity fails to demonstrate that it has obtained such legal authority within two years of submitting its Certification Form, it shall become an Excluded Entity hereunder and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1.

4.2.4 Certification of Legal Compliance. Each Certification Form (Appendix D-3) must include a certification and agreement that, in connection with all actions related to this State Trust, the Certifying Entity has followed and will follow all applicable law and that such Certifying Entity will assume full responsibility for its decisions in that regard.

4.2.5 Certification of Eligible Mitigation Action Accounts. Each Certification Form (Appendix D-3) shall include a certification by the Certifying Entity that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trustee for credit to the allocation of such Certifying Entity.

4.2.6 Waiver of Claims for Injunctive Relief under Environmental or Common Laws. Each Certification Form (Appendix D-3) shall include an express waiver by the Certifying Entity, on behalf of itself and all of its agencies, departments, offices, and divisions, in favor of the parties to the Consent Decree (including the Defendants) of all claims for injunctive relief to redress environmental injury caused by the Subject Vehicles, whether based on the environmental or common law within its jurisdiction. Such waiver shall be binding on all agencies, departments, offices, and divisions of such Beneficiary asserting, purporting to assert, or capable of asserting such claims. The waiver need not waive, and the Certifying Entities may expressly reserve, their rights, if any, to seek fines or penalties. California's entry in the Consent Decree shall satisfy its certification obligations under this subparagraph.

4.2.7 Publicly Available Information. Each Certification Form (Appendix D-3) must include a certification by the Certifying Entity 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 Certifying Entity, each until the Termination Date, unless the laws of the Certifying Entity require a longer record retention period. This certification shall include an explanation of the procedures by which the records may be accessed, which procedures shall be designed to support access and limit the burden for the general public, and for the Beneficiary Mitigation Plan required under Paragraph 4.1, the procedures by which public input will be solicited and considered. This certification can be made subject to applicable laws governing the publication of confidential business information and personally identifiable information.

4.2.8 Notice of Availability of Mitigation Action Funds. Each Certification Form (Appendix D-3) must certify that, not later than 30 Days after being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, the Certifying Entity will provide a copy of this 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. For the U.S. Department of the Interior and the U.S. Department of Agriculture, Beneficiaries may provide notice as required by this subparagraph to the following:

Department of the Interior:

National Park Service, Air Resources Division
VW Settlement
P.O. Box 25287
Denver, CO 80225-0287
Or via email to: vwsettlement@nps.gov.

Tim Allen or other designated representative
U.S Fish and Wildlife Service
National Wildlife Refuge System
Branch of Air Quality
Re: VW Settlement
7333 W. Jefferson Ave., Suite 375
Lakewood, CO 80235-2017
Or via email to: VW_Settlement@fws.gov

Department of Agriculture:

Linda Geiser or other designated representative
National Air Program Manager
lgeiser@fs.fed.us
(202) 756-0068

Bret Anderson or other designated representative
National Air Modeling Coordinator
baanderson02@fs.fed.us
(970) 295-5981

4.2.9 Registration of Subject Vehicles. Each Certification Form (Appendix D-3) must state, for the benefit of the parties to the Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that the Certifying Entity:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the First Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or
 - iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall, or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Certifying Entity by the Defendants.
- (d) Notwithstanding the foregoing, a Certifying Entity may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Certifying Entity's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act, 42 U.S.C. §§ 7543, 7507, and not explicitly excluded in subparagraphs 4.2.9(a)-(b).

V. DISTRIBUTION OF STATE MITIGATION TRUST ASSETS

5.0 Initial Allocation: Each State, Puerto Rico, and the District of Columbia shall have the right under this State Trust Agreement, upon becoming a Beneficiary pursuant to Section IV (State Mitigation Trust Beneficiaries), to request its share of Eligible Mitigation Action funds in

accordance with the weighted average allocation rates set forth in Appendix D-1B (“Initial Allocation Rates”).

5.0.1 Together with the Notice of Beneficiary Designation required to be filed pursuant to subparagraph 4.0.2, the Trustee shall also file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary, a corresponding recalculation of the Initial Allocation Rates to reallocate each Excluded Entity’s share among the Beneficiaries and Pending Beneficiaries of this State Mitigation Trust, in accordance with the weighted average allocation rates set forth in Appendix D-1B, but excluding the Excluded Entities, the Tribal Trust Allocation, and the Tribal Administration Cost Subaccount (“Final Allocation Rates”). If any Pending Beneficiary is deemed an Excluded Entity hereunder, its share shall be reallocated among the Beneficiaries and remaining Pending Beneficiaries, weighted in accordance with the Final Allocation Rates. The Trustee shall file with the Court and serve upon each Consent Decree Party, Beneficiary, and Pending Beneficiary a notice of reallocation in the event that the Final Allocation Rates are adjusted in accordance with this State Trust Agreement.

5.0.2 Upon being deemed a Beneficiary pursuant to subparagraph 4.0.2.1 hereof, each Beneficiary shall have the right under this State Trust Agreement to request Eligible Mitigation Action funds up to the total dollar amount allocated to it. Provided, however, that no Beneficiary may request payout of more than: (i) one-third of its allocation during the first year after the Settling Defendants make the Initial Deposit, or (ii) two-thirds of its allocation during the first two years after the Settling Defendants make the Initial Deposit.

5.0.3 Allocation of Appendix A Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any “National Mitigation Trust Payment” made pursuant to Section VI (Recall Rate) of Appendix A (Buyback, Lease Termination, and Vehicle Modification Recall Program) of the First Partial Consent Decree or Section X (Recall Rate) of Appendix A (Buyback, Lease Termination, Vehicle Modification, and Emissions Compliant Recall Program) of the Second Partial Consent Decree shall be allocated among all Beneficiaries (other than California) of this State Mitigation Trust and the Trust Administration Cost Subaccount, in accordance with the weighted average allocation percentages in Appendix D-1C. Any “California Mitigation Trust Payment” made pursuant to Appendix A of the First Partial Consent Decree or the Second Partial Consent Decree shall be allocated as follows: 99.86% to California and 0.14% to the Trust Administration Cost Subaccount.

5.0.4 Allocation of Appendix B Mitigation Trust Payments. Ninety-Seven and Ninety-Seven/One Hundredths (97.97) percent of any Mitigation Trust Payments made pursuant to Appendix B (Vehicle Recall and Emissions Modification Program) of the First Partial Consent Decree or Appendix B (Vehicle Recall and Emissions Modification Program for 3.0 Liter Subject Vehicles) of the Second Partial Consent Decree or any Consent Decree provisions related thereto shall be allocated among all Beneficiaries of this State Mitigation Trust and to the Trust Administration Cost Subaccount, weighted in accordance with the Final Allocation Rates.

5.0.5 Intentionally Reserved:

5.0.5.1 Intentionally Reserved.

5.0.5.2 Intentionally Reserved.

5.0.5.2.1 Intentionally Reserved.

5.0.5.2.2 Intentionally Reserved.

5.0.5.2.3 Intentionally Reserved

5.0.5.2.4 Intentionally Reserved.

5.0.5.2.5 Intentionally Reserved.

5.0.5.2.6 Intentionally Reserved.

5.0.5.2.7 Intentionally Reserved.

5.0.5.3 Nothing herein precludes any Beneficiary from using any share of its allocation for Eligible Mitigation Projects on Indian Land.

5.1 Eligible Mitigation Actions and Expenditures: The Trustee may only disburse funds for Eligible Mitigation Actions, and for the Eligible Mitigation Action Administrative Expenditures specified in Appendix D-2.

5.2 Funding Requests: Beneficiaries may submit requests for Eligible Mitigation Action funding at any time by filing with the Trustee a Beneficiary Eligible Mitigation Action Certification form (Appendix D-4), containing each of the certifications required by subparagraphs 5.2.1 through 5.2.13, as applicable. Each request for Eligible Mitigation Action funding must be submitted to the Trustee in electronic and hard-copy format, and include:

5.2.1 An explanation of how the funding request fits into the Beneficiary's Mitigation Plan;

5.2.2 A detailed description of the proposed Eligible Mitigation Action, including its community and air quality benefits;

5.2.3 An estimate of the NOx reductions anticipated as a result of the proposed Eligible Mitigation Action;

5.2.4 A project management plan for the proposed Eligible Mitigation Action, including a detailed budget and an implementation and expenditure timeline;

5.2.5 A certification that all vendors were or will be selected in accordance with state public contracting laws;

5.2.6 For each proposed expenditure exceeding \$25,000, detailed cost estimates from selected or potential vendors;

5.2.7 A detailed description of how the Beneficiary will oversee the proposed Eligible Mitigation Action, including, but not limited to:

5.2.7.1 Identification of the specific governmental entity responsible for reviewing and auditing expenditures of Eligible Mitigation Action funds to ensure compliance with applicable law; and

5.2.7.2 A commitment by the Beneficiary to maintain and make publicly available all documentation submitted in support of the 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, together with an explanation of the procedures by which the Beneficiary shall make such documentation publicly available;

5.2.8 A description of any cost share requirement to be placed upon the owner of each NOx source proposed to be mitigated;

5.2.9 A description of how the Beneficiary complied with subparagraph 4.2.8;

5.2.10 If applicable, a description of how the Eligible Mitigation Action mitigates the impacts of NOx emissions on communities that have historically borne a disproportionate share of the adverse impacts of such emissions; and

5.2.11 A detailed plan for reporting on Eligible Mitigation Action implementation.

5.2.12 DERA Option. To the extent a Beneficiary intends to avail itself of the DERA Option described in Appendix D-2, that Beneficiary may use its DERA proposal as support for its funding request for those Eligible Mitigation Actions funded through the DERA Option.

5.2.13 Joint Application. Two or more Beneficiaries may submit a joint request for Eligible Mitigation Action funds. Joint applicants shall specify the amount of requested funding that shall be debited against each requesting Beneficiary's allocation.

5.2.14 Publication of Funding Requests. The Trustee shall post each funding request on the State Trust's public-facing website upon receipt.

5.2.15 Reliance on Form. The Trustee may rely on, with no further duty of inquiry, and shall be protected in acting upon, any Beneficiary Eligible Mitigation Action

Certification form (Appendix D-4) reasonably believed by it to be genuine and to have been signed or sent by the proper person or persons.

5.2.16 Approval of Funding Requests. The Trustee shall approve any funding request that meets the requirements of this State Trust Agreement and its Appendices. If a Beneficiary submits multiple pending Eligible Mitigation Action funding requests that exceed the allocated funds available to the Beneficiary, the Trustee shall contact the Beneficiary for direction regarding the allocation and timing of payments for each such request. Within 60 Days after receipt of each Eligible Mitigation Action funding request, the Trustee shall transmit to the requesting Beneficiary and post on the State Trust's public-facing website a written determination either: (i) approving the request; (ii) denying the request; (iii) requesting modifications to the request; or (iv) requesting further information. A Beneficiary may use such written determination as proof of funding for any DERA project application that includes Trust Funds as a non-federal voluntary match, as described in Appendix D-2. The Trustee shall respond to any modified or supplemental submission within 30 Days of receipt. Each written determination approving or denying an Eligible Mitigation Action funding request shall include an explanation of the reasons underlying the determination, including whether the proposed Eligible Mitigation Action meets the requirements set forth in Appendix D-2 or Appendix D-4. The Trustee's decision to approve, deny, request modifications, or request further information related to a request shall be reviewable, upon petition of the United States or the submitting Beneficiary, by the Court.

5.2.16.1 Disbursement of Funds. The Trustee shall begin disbursing funds within 15 Days of approval of an Eligible Mitigation Action funding request according to the written instructions and schedule provided by the Beneficiary, unless such date is not a Business Day and then the payment shall be made on the next succeeding Business Day.

5.2.17 Unused Eligible Mitigation Action Funds. Upon the termination or completion of any Eligible Mitigation Action, any unused Eligible Mitigation Action funds shall be returned to the State Trust and added back to the Beneficiary's allocation.

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 30 (for the preceding six-month period of July 1 to December 31) and July 30 (for the preceding six-month period of January 1 to June 30) of each year, each Beneficiary shall submit to 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 Paragraph as to those Eligible Mitigation Actions funded through the DERA Option. The Trustee shall post each semiannual report on the State Trust's public-facing website upon receipt.

5.4 Supplemental Funding for Eligible Beneficiaries and Final Disposition of Trust Assets

5.4.1 Estimate of Remainder Balance. On the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, deliver to the United States, by and through EPA, and to each Beneficiary, and publish on its public-facing website, an accounting of all Trust Assets that have not by that date been expended on or obligated to approved Eligible Mitigation Actions or prior Trust Administration Costs, together with an estimate of funding reasonably needed to cover the remaining Trust Administration Costs. The difference between these two amounts shall be referred to as the "Remainder Balance."

5.4.2 Application for Supplemental Funding Eligible Beneficiary Status. On the tenth anniversary of the Trust Effective Date, each Beneficiary may seek to supplement its remaining allocation by filing with the Court and delivering to the Trustee a written report demonstrating that it has by that date obligated at least eighty percent (80%) of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1 (as determined with specific reference to the reports submitted pursuant to Paragraph 5.3).

5.4.3 Publication of Remainder Balance and Supplemental Funding Eligible Beneficiary Status. Within 90 Days after the tenth anniversary of the Trust Effective Date, the Trustee shall file with the Court, notify the United States, by and through EPA, and each Beneficiary, and publish on its website, a report indicating: (i) the Remainder Balance; and (ii) which of the Beneficiaries has demonstrated that it had in fact expended at least 80% of the funds allocated to it pursuant to the Final Allocation Rates calculated pursuant to subparagraph 5.0.1, each of which shall be deemed a "Supplemental Funding Eligible Beneficiary."

5.4.4 Distribution of Remainder Balance to Supplemental Funding Eligible Beneficiaries. On the later of: (i) 180 Days after the tenth anniversary of the Trust Effective Date, or (ii) the resolution of any disputes arising from the Trustee's accountings or determinations pursuant to subparagraphs 5.4.1 or 5.4.3, the Remainder Balance shall be divided among the Supplemental Funding Eligible Beneficiaries in accordance with their weighted share of the Final Allocation Rates.

5.4.5 Final Disposition of State Trust Assets. Not later than the fifteenth anniversary of the Trust Effective Date, any unused funds held by any Beneficiary shall be returned to the State Trust. After the fifteenth anniversary of the Trust Effective Date, any Trust Assets held in the State Trust Account or any subaccount (including, but not limited to, the Trust Administration Cost Subaccount) that are not needed for final Trust Administration Costs shall be deemed to have been donated by the State Trust to fund

Eligible Mitigation Actions administered by Federal Agencies that have custody, control, or management of land in the United States that is impacted by excess NOx emissions (including, but not limited to, Clean Air Act Class I and II areas) and that have the legal authority to accept such funds, in accordance with instructions to be provided by the United States. If no such Federal Agencies exist, the United States will file a motion, with notice to the Defendants and the Beneficiaries, requesting the Court to order that any Trust Assets held in the State Trust Account (or any subaccount thereof) be distributed either to a governmental unit or to another trust, the income of which is excluded from gross income under the provisions of Internal Revenue Code Section 115, 26 U.S.C. § 115.

VI. MISCELLANEOUS PROVISIONS

6.0 Correspondence with State Trust: In accordance with subparagraph 3.1.2.3, the Trustee shall establish and maintain a secure method of internet-based communications for the use of the Trustee and the Beneficiaries that will: (1) enable each Beneficiary to deliver the required documentation under this State Trust Agreement in an electronic format; (2) enable secure communications between the Trustee and each Beneficiary; and (3) provide each Beneficiary with access to its own document base. In addition, each Beneficiary will have the ability to view its own balance in its individual subaccount via the Wilmington Trust Online Portfolio product or a similar product then in use.

6.0.1 Addresses for Delivery of Physical Copies of Documentation and Notices.

State Trust or Trustee:

Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries,
Puerto Rico, and the District of Columbia
c/o Wilmington Trust, N.A. as Trustee
Wilmington Trust, National Association
Rodney Square North
1100 North Market Street
Attn: Capital Markets & Agency Services
Wilmington, DE 19890
Facsimile: 302 636-4145

EPA:

Director, Air Enforcement Division
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
William J. Clinton South Building
MC 2242A
Washington, DC 20460
E-mail: VW_settlement@epa.gov

U.S. Department of Justice:

Chief, Environmental Enforcement Section
Re: DJ # 90-5-2-1-11386
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, DC 20044-7611
E-mail: eescdcopy.enrd@usdoj.gov
Re: DJ # 90-5-2-1-11386

Defendants:

As to Volkswagen AG by mail:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Audi AG by mail:

Audi AG
Auto-Union-Strasse 1
85045 Ingolstadt, Germany
Attention: Company Secretary

With copies to each of the following:

Volkswagen AG
Berliner Ring 2
38440 Wolfsburg, Germany
Attention: Group General Counsel

Volkswagen Group of America, Inc.

2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America, Inc. by mail:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Volkswagen Group of America Chattanooga Operations, LLC by mail:

Volkswagen Group of America Chattanooga Operations, LLC
8001 Volkswagen Dr.
Chattanooga, TN 37416
Attention: Company Secretary

With copies to each of the following:

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: President

Volkswagen Group of America, Inc.
2200 Ferdinand Porsche Dr.
Herndon, VA 20171
Attention: U.S. General Counsel

As to Dr. Ing. h.c. F. Porsche AG by mail:

Dr. Ing. h.c. F. Porsche Aktiengesellschaft
Porscheplatz 1

D-70435 Stuttgart
Attention: GR/ Rechtsabteilung/ General Counsel

As to Porsche Cars North America, Inc.:

Porsche Cars North America, Inc.
1 Porsche Dr.
Atlanta, GA 30354
Attention: Secretary
With copy by email to: offsecy@porsche.us

As to one or more of the Defendants by email:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Granta Nakayama
Cari Dawson

giuffrar@sullcrom.com
nelless@sullcrom.com
gnakayama@kslaw.com
cari.dawson@alston.com

As to one or more of the Defendants by mail:

Robert J. Giuffra, Jr.
Sharon L. Nelles
Sullivan & Cromwell LLP
125 Broad Street
New York, N.Y. 10004

Granta Nakayama
King & Spalding LLP
1700 Pennsylvania Ave., N.W., Suite 200
Washington, DC 20006

Cari Dawson
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424

6.1 Jurisdiction: The U.S. District Court for the Northern District of California shall be the sole and exclusive forum for the purposes of enforcing this State Mitigation Trust and resolving disputes hereunder, including the obligations of the Trustee to perform its obligations hereunder,

and each of the Consent Decree Parties, the State Mitigation Trust, the Trustee, and each Beneficiary, expressly consents to such jurisdiction.

6.2 Dispute Resolution: Unless otherwise expressly provided for herein, the dispute resolution procedures of this Paragraph shall be the exclusive mechanism to resolve any dispute between or among the entities listed in Appendix D-1 and Appendix D-1A hereto, the Consent Decree Parties, and the Trustee arising under or with respect to this State Trust Agreement.

6.2.1 Informal Dispute Resolution. Any dispute subject to Dispute Resolution under this State Trust Agreement shall first be the subject of informal negotiations. The dispute shall be considered to have arisen when the disputing party sends to the counterparty a written Notice of Dispute. Such Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations shall not exceed 30 Days from the date the dispute arises, unless that period is modified by written agreement. If the disputing parties cannot resolve the dispute by informal negotiations, then the disputing party may invoke formal dispute resolution procedures as set forth below.

6.2.2 Formal Dispute Resolution. The disputing party shall invoke formal dispute resolution procedures, within the time period provided in the preceding subparagraph, by serving on the counterparty a written Statement of Position regarding the matter in dispute. The Statement of Position shall include, but need not be limited to, any factual data, analysis, or opinion supporting the disputing party's position and any supporting documentation and legal authorities relied upon by the disputing party. The counterparty shall serve its Statement of Position within 30 Days of receipt of the disputing party's Statement of Position, which shall also include, but need not be limited to, any factual data, analysis, or opinion supporting the counterparty's position and any supporting documentation and legal authorities relied upon by the counterparty. If the disputing parties are unable to consensually resolve the dispute within 30 Days after the counterparty serves its Statement of Position on the disputing party, the disputing party may file with the Court a motion for judicial review of the dispute in accordance with the following subparagraph.

6.2.3 Judicial Review. The disputing party may seek judicial review of the dispute by filing with the Court and serving on the counterparty and the United States, a motion requesting judicial resolution of the dispute. The motion must be filed within 45 Days of receipt of the counterparty's Statement of Position pursuant to the preceding subparagraph. The motion shall contain a written statement of disputing party's position on the matter in dispute, including any supporting factual data, analysis, opinion, documentation, and legal authorities, and shall set forth the relief requested and any schedule within which the dispute must be resolved for orderly administration of the State Trust. The counterparty shall respond to the motion within the time period allowed by the Local Rules of the Court, and the disputing party may file a reply memorandum, to the extent permitted by the Local Rules.

6.3 Choice of Law: The validity, interpretation, and performance of this State Mitigation Trust shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of

the law of another jurisdiction. The duties, rights, protections, and immunities of the Trustee, as a trustee of a statutory trust under the Delaware Act, shall be governed by the laws of the State of Delaware and the United States, without giving effect to the rules governing the conflicts of law that would require the application of the law of another jurisdiction. This State Trust Agreement shall not be subject to any provisions of the Uniform Trust Code as adopted by any State, now or in the future. This State Trust Agreement shall be interpreted in a manner that is consistent with the Consent Decree, provided, however, that in the event of a conflict between the Consent Decree and this State Trust Agreement, this State Trust Agreement shall control.

6.4 Waiver of Jury Trial: Each party hereto and each Beneficiary hereof hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this State Trust.

6.5 Modification: Material modifications to the State Mitigation Trust or Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) may be made only with the written consent of the United States and upon order of the Court, and only to the extent that such modification does not change or inhibit the purpose of this State Mitigation Trust. Any modification of this State Mitigation Trust that affects the rights, powers, duties, obligations, liabilities, or indemnities of the Trustee requires the written consent of the Trustee. Minor modifications or clarifying amendments to the State Mitigation Trust, Appendix D-2 (Eligible Mitigation Actions and Mitigation Action Expenditures) or Appendix D-4 (Beneficiary Eligible Mitigation Action Certification) may be made upon written agreement between the United States and the Trustee, as necessary to enable the Trustee to effectuate the provisions of this State Mitigation Trust, and shall be filed with the Court. To the extent the consent of the Defendants is required to effectuate the modification or amendment, such consent shall not be unreasonably withheld. Notwithstanding the foregoing sentence, without the express written consent of the Defendants, no modification shall: (i) require the Defendants to make any payments to the State Trust other than the Mitigation Trust Payments required by the Consent Decree; or (ii) impose any greater obligation on Defendants than those set forth in the State Trust Agreement that is being modified. The Trustee shall provide to the Beneficiaries not less than 30 Days' notice of any proposed modification to the State Mitigation Trust, whether material or minor, before such modification shall become effective.

6.6 Severability: If any provision of this State Trust Agreement or application thereof to any person or circumstance shall be finally determined by the Court to be invalid or unenforceable to any extent, the remainder of this State Trust Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this State Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

6.7 Taxes: The State Trust is intended to be a qualified settlement fund ("QSF") pursuant to Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. The Trustee is intended to be the State Trust's "administrator," within the meaning of Treasury Regulation Section 1.468B-2(k)(3), 26 C.F.R. § 1.468B-2(k)(3). The Trustee shall use its best efforts to submit, within six months after the Trust Effective Date, an application and all necessary supporting documentation to the IRS to obtain a Private Letter Ruling from the IRS:

(1) that the State Mitigation Trust will be treated as a Qualified Settlement Fund under 26 C.F.R. § 1.468B-1; (2) that all investment income earned on the Trust Assets will be excludible from gross income under Section 115 of the Internal Revenue Code, 26 U.S.C. § 115; and (3) on any federal tax matter that the Tax Professionals reasonably believe is necessary to support the rulings in (1) and (2) or otherwise prudent to clarify an uncertain application of federal tax law to the State Mitigation Trust. Within ten Days after any application has been made to the IRS, the Trustee shall provide a copy of the application and accompanying documentation to the United States (pursuant to subparagraph 6.0.1) and to the Beneficiaries (pursuant to the secure internet-based communication in Paragraph 6.0). Within seven Days after receipt of any IRS Private Letter Ruling, the Trustee shall provide a copy to the United States (pursuant to subparagraph 6.0.1) and the Beneficiaries (pursuant to the secure internet-based communication established in Paragraph 6.0). If the IRS determines that the investment income earned on Trust Assets is taxable, the Trustee, the Investment Manager, the United States, and the State Beneficiaries shall meet and confer to discuss possible resolutions to this issue, and may seek a modification of this State Trust Agreement as appropriate pursuant to Paragraph 6.5. The Trustee shall be responsible for filing all required Tax Returns, ensuring compliance with income tax withholding and reporting requirements, and paying applicable Taxes with respect to the State Trust in a manner consistent with Section 468B of the Internal Revenue Code, 26 U.S.C. § 468B, and related Treasury Regulations. All Taxes shall be paid from amounts on deposit in the Tax Payment Subaccount established pursuant to subparagraph 2.1.5. The Defendants shall provide to the Trustee and the IRS the statement described in Treasury Regulation Section 1.468B-3(e)(2), 26 C.F.R. § 1.468B-3(e)(2), no later than February 15th of the year following each calendar year in which the Settling Defendants make a transfer to the State Trust.

6.8 Termination: After all funds have been expended pursuant to subparagraph 5.4.5, final reports have been delivered pursuant to Paragraph 3.3 and subparagraph 3.3.1, and notice regarding retained documents has been provided pursuant to subparagraph 3.3.2, the Trustee may file a motion with the Court requesting an order to begin the process under the Delaware Act to terminate this State Trust. The United States and the Beneficiaries shall be given not less than 60 Days to oppose such motion. After the Court approves the motion to terminate, the Trustee shall begin the dissolution and winding up processes under the Delaware Act. On the date that the Trustee completes all the statutory requirements under the Delaware Act and files a certificate of cancellation, this State Trust shall terminate (the “Termination Date”).

**FOR THE VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF
COLUMBIA:**

WILMINGTON TRUST, N.A., AS TRUSTEE FOR THE VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION TRUST FOR STATE BENEFICIARIES, PUERTO RICO,
AND THE DISTRICT OF COLUMBIA, AND NOT IN ITS INDIVIDUAL CAPACITY

DATED: October 2, 2017 BY: _____

Name:

Title:

David A. Vanaskey, Jr.
Vice President

By their execution of this State Trust Agreement each undersigned party represents that they are authorized signer for such Company entitled to sign on behalf of each Settling Defendant and that each of the Settling Defendants have taken all necessary corporate actions required to make this a legal, valid and binding obligation of each such Settling Defendant.

FOR VOLKSWAGEN AG:

Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR AUDI AG:

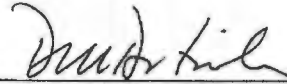
Date: September 25, 2017



MANFRED DOESS
VOLKSWAGEN AG
P.O. Box 1849
D-38436 Wolfsburg, Germany

FOR VOLKSWAGEN GROUP OF AMERICA, INC.:

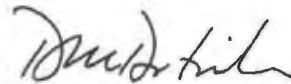
Date: *September 21, 2017*



DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

FOR VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC:

Date: *September 21, 2017*

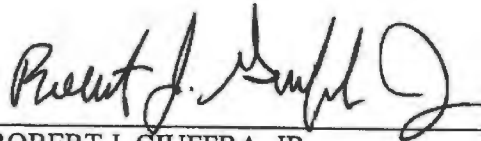


DAVID DETWEILER
VOLKSWAGEN GROUP OF AMERICA, INC.
2200 Ferdinand Porsche Drive
Herndon, Virginia 20171

COUNSEL FOR VOLKSWAGEN AG, AUDI AG, VOLKSWAGEN GROUP OF AMERICA,
INC., and VOLKSWAGEN GROUP OF AMERICA CHATTANOOGA OPERATIONS, LLC

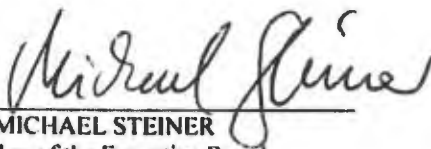
September 20, 2017

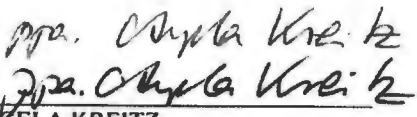
Date



ROBERT J. GIUFFRA, JR.
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125 Broad Street
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giuffrar@sullcrom.com
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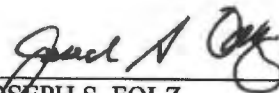
FOR DR. ING. h.c. F. PORSCHE AG:

Date: 14. Sept 2017 
DR. MICHAEL STEINER
Member of the Executive Board
Research and Development
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porschestrasse 911
71287 Weissach, Germany

Date: 12 September 2017 
ANGELA KREITZ
General Counsel & Chief Compliance Officer
DR. ING. h.c.f. PORSCHE
AKTIENGESELLSCHAFT
Porscheplatz 1
70435 Stuttgart-Zuffenhausen, Germany


FOR PORSCHE CARS NORTH AMERICA, INC.:

Date: 9/8/17



JOSEPH S. FOLZ
Vice President, General Counsel and Secretary
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354


Date:



GLENN GARDE
Vice President, After Sales
PORSCHE CARS NORTH AMERICA, INC.
1 Porsche Drive
Atlanta, GA 30354

COUNSEL FOR DR. ING. h.c. F. PORSCHE AG and PORSCHE CARS NORTH AMERICA, INC.

Date: Sept. 15, 2017



GRANTA NAKAYAMA
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gnakayama@kslaw.com
jeisert@kslaw.com

Date: 9-25-17



CARI DAWSON
Alston & Bird LLP
One Atlantic Center
1201 West Peachtree Street
Atlanta, Georgia 30309-3424
cari.dawson@alston.com

APPENDIX D-1
Initial 2.0 Liter Allocation

APPENDIX D-1 - INITIAL ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 7,500,000.00	0.28%
North Dakota	\$ 7,500,000.00	0.28%
Hawaii	\$ 7,500,000.00	0.28%
South Dakota	\$ 7,500,000.00	0.28%
Alaska	\$ 7,500,000.00	0.28%
Wyoming	\$ 7,500,000.00	0.28%
District of Columbia	\$ 7,500,000.00	0.28%
Delaware	\$ 9,051,682.97	0.34%
Mississippi	\$ 9,249,413.91	0.34%
West Virginia	\$ 11,506,842.13	0.43%
Nebraska	\$ 11,528,812.23	0.43%
Montana	\$ 11,600,215.07	0.43%
Rhode Island	\$ 13,495,136.57	0.50%
Arkansas	\$ 13,951,016.23	0.52%
Kansas	\$ 14,791,372.72	0.55%
Idaho	\$ 16,246,892.13	0.60%
New Mexico	\$ 16,900,502.73	0.63%
Vermont	\$ 17,801,277.01	0.66%
Louisiana	\$ 18,009,993.00	0.67%
Kentucky	\$ 19,048,080.43	0.71%
Oklahoma	\$ 19,086,528.11	0.71%
Iowa	\$ 20,179,540.80	0.75%
Maine	\$ 20,256,436.17	0.75%
Nevada	\$ 22,255,715.66	0.82%
Alabama	\$ 24,084,726.84	0.89%
New Hampshire	\$ 29,544,297.76	1.09%
South Carolina	\$ 31,636,950.19	1.17%
Utah	\$ 32,356,471.11	1.20%
Indiana	\$ 38,920,039.77	1.44%
Missouri	\$ 39,084,815.55	1.45%
Tennessee	\$ 42,407,793.83	1.57%
Minnesota	\$ 43,638,119.67	1.62%
Connecticut	\$ 51,635,237.63	1.91%
Arizona	\$ 53,013,861.68	1.96%
Georgia	\$ 58,105,433.35	2.15%
Michigan	\$ 60,329,906.41	2.23%
Colorado	\$ 61,307,576.05	2.27%
Wisconsin	\$ 63,554,019.22	2.35%
New Jersey	\$ 65,328,105.14	2.42%
Oregon	\$ 68,239,143.96	2.53%
Massachusetts	\$ 69,074,007.92	2.56%
Maryland	\$ 71,045,824.78	2.63%
Ohio	\$ 71,419,316.56	2.65%
North Carolina	\$ 87,177,373.87	3.23%
Virginia	\$ 87,589,313.32	3.24%
Illinois	\$ 97,701,053.83	3.62%
Washington	\$ 103,957,041.03	3.85%
Pennsylvania	\$ 110,740,310.73	4.10%
New York	\$ 117,402,744.86	4.35%
Florida	\$ 152,379,150.91	5.64%
Texas	\$ 191,941,816.23	7.11%
California	\$ 381,280,175.09	14.12%
Tribal Allocation Subaccount	\$ 49,652,857.71	1.84%
Trust Administration Cost Subaccount	\$ 23,467,171.38	0.87%
Tribal Administration Cost Subaccount	\$ 4,525,885.71	0.17%
	\$ 2,700,000,000.00	100.00%

APPENDIX D-1A
Initial 3.0 Liter Allocation

APPENDIX D-1A – INITIAL 3.0 LITER ALLOCATION

INITIAL SUBACCOUNTS	INITIAL ALLOCATIONS (\$)	INITIAL ALLOCATIONS (%)
Puerto Rico	\$ 625,000.00	0.28%
North Dakota	\$ 625,000.00	0.28%
Hawaii	\$ 625,000.00	0.28%
Mississippi	\$ 625,000.00	0.28%
West Virginia	\$ 625,000.00	0.28%
District of Columbia	\$ 625,000.00	0.28%
South Dakota	\$ 625,000.00	0.28%
Wyoming	\$ 625,000.00	0.28%
Alaska	\$ 625,000.00	0.28%
Delaware	\$ 625,000.00	0.28%
Arkansas	\$ 696,692.86	0.31%
Nebraska	\$ 719,535.25	0.32%
Maine	\$ 796,628.31	0.35%
Kansas	\$ 870,866.08	0.39%
Rhode Island	\$ 873,721.37	0.39%
Vermont	\$ 890,853.17	0.40%
Montana	\$ 1,002,209.81	0.45%
Iowa	\$ 1,022,196.90	0.45%
New Mexico	\$ 1,082,158.17	0.48%
Idaho	\$ 1,102,145.26	0.49%
Kentucky	\$ 1,330,569.15	0.59%
New Hampshire	\$ 1,370,543.33	0.61%
Alabama	\$ 1,396,241.02	0.62%
Oklahoma	\$ 1,835,957.01	0.82%
Louisiana	\$ 1,838,812.30	0.82%
Indiana	\$ 2,015,840.82	0.90%
Missouri	\$ 2,067,236.19	0.92%
South Carolina	\$ 2,258,541.20	1.00%
Nevada	\$ 2,618,308.82	1.16%
Utah	\$ 2,821,035.03	1.25%
Tennessee	\$ 3,352,120.57	1.49%
Minnesota	\$ 3,363,541.76	1.49%
Wisconsin	\$ 3,523,438.48	1.57%
Arizona	\$ 3,646,216.32	1.62%
Ohio	\$ 3,883,206.11	1.73%
Connecticut	\$ 4,085,932.31	1.82%
Michigan	\$ 4,477,108.22	1.99%
Maryland	\$ 4,668,413.23	2.07%
Oregon	\$ 4,728,374.50	2.10%
North Carolina	\$ 4,868,284.13	2.16%
Georgia	\$ 5,519,292.21	2.45%
Massachusetts	\$ 5,990,416.48	2.66%
Virginia	\$ 6,044,667.16	2.69%
New Jersey	\$ 6,886,980.25	3.06%
Colorado	\$ 7,432,342.28	3.30%
Pennsylvania	\$ 7,829,228.79	3.48%
Washington	\$ 8,788,609.12	3.91%
New York	\$ 10,299,062.08	4.58%
Illinois	\$ 10,978,623.15	4.88%
Florida	\$ 13,899,593.63	6.18%
Texas	\$ 17,377,347.34	7.72%
California	\$ 41,356,145.05	18.38%
Tribal Allocation Subaccount	\$ 4,795,063.51	2.13%
Trust Administration Cost Subaccount	\$ 1,955,597.62	0.87%
Tribal Administration Cost Subaccount	\$ 390,303.65	0.17%
Grand Total	\$ 225,000,000.00	100.00%

APPENDIX D-1B

Weighted Average Allocation Formula for 2.0 and 3.0 Liter Allocation

Weighted Average Allocation Formula:

$$(2.0 \text{ Allocation}_{\text{Subaccount}} + 3.0 \text{ Allocation}_{\text{Subaccount}}) / (\$2,700,000,000 + \$225,000,000)$$

where Subaccount represents an individual Beneficiary subaccount or the Tribal, Administration Cost, or Tribal Administration Cost subaccount.

State Trust Allocation	Appendix D-1		Appendix D-1A	
	2.0 Liter Allocation Amount	2.0 Liter Allocation Percentage	3.0 Liter Allocation Amount	3.0 Liter Allocation Percentage
Puerto Rico	\$7,500,000.00	0.28%	\$625,000.00	0.28%
North Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Hawaii	\$7,500,000.00	0.28%	\$625,000.00	0.28%
South Dakota	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Alaska	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Wyoming	\$7,500,000.00	0.28%	\$625,000.00	0.28%
District of Columbia	\$7,500,000.00	0.28%	\$625,000.00	0.28%
Delaware	\$9,051,682.97	0.34%	\$625,000.00	0.28%
Mississippi	\$9,249,413.91	0.34%	\$625,000.00	0.28%
West Virginia	\$11,506,842.13	0.43%	\$625,000.00	0.28%
Nebraska	\$11,528,812.23	0.43%	\$719,535.25	0.32%
Montana	\$11,600,215.07	0.43%	\$1,002,209.81	0.45%
Rhode Island	\$13,495,136.57	0.50%	\$873,721.37	0.39%
Arkansas	\$13,951,016.23	0.52%	\$696,692.86	0.31%
Kansas	\$14,791,372.72	0.55%	\$870,866.08	0.39%
Idaho	\$16,246,892.13	0.60%	\$1,102,145.26	0.49%
New Mexico	\$16,900,502.73	0.63%	\$1,082,158.17	0.48%
Vermont	\$17,801,277.01	0.66%	\$890,853.17	0.40%
Louisiana	\$18,009,993.00	0.67%	\$1,838,812.30	0.82%
Kentucky	\$19,048,080.43	0.71%	\$1,330,569.15	0.59%
Oklahoma	\$19,086,528.11	0.71%	\$1,835,957.01	0.82%
Iowa	\$20,179,540.80	0.75%	\$1,022,196.90	0.45%
Maine	\$20,256,436.17	0.75%	\$796,628.31	0.35%
Nevada	\$22,255,715.66	0.82%	\$2,618,308.82	1.16%
Alabama	\$24,084,726.84	0.89%	\$1,396,241.02	0.62%
New Hampshire	\$29,544,297.76	1.09%	\$1,370,543.33	0.61%
South Carolina	\$31,636,950.19	1.17%	\$2,258,541.20	1.00%
Utah	\$32,356,471.11	1.20%	\$2,821,035.03	1.25%
Indiana	\$38,920,039.77	1.44%	\$2,015,840.82	0.90%
Missouri	\$39,084,815.55	1.45%	\$2,067,236.19	0.92%
Tennessee	\$42,407,793.83	1.57%	\$3,352,120.57	1.49%
Minnesota	\$43,638,119.67	1.62%	\$3,363,541.76	1.49%
Connecticut	\$51,635,237.63	1.91%	\$4,085,932.31	1.82%
Arizona	\$53,013,861.68	1.96%	\$3,646,216.32	1.62%
Georgia	\$58,105,433.35	2.15%	\$5,519,292.21	2.45%
Michigan	\$60,329,906.41	2.23%	\$4,477,108.22	1.99%
Colorado	\$61,307,576.05	2.27%	\$7,432,342.28	3.30%
Wisconsin	\$63,554,019.22	2.35%	\$3,523,438.48	1.57%
New Jersey	\$65,328,105.14	2.42%	\$6,886,980.25	3.06%
Oregon	\$68,239,143.96	2.53%	\$4,728,374.50	2.10%
Massachusetts	\$69,074,007.92	2.56%	\$5,990,416.48	2.66%
Maryland	\$71,045,824.78	2.63%	\$4,668,413.23	2.07%
Ohio	\$71,419,316.56	2.65%	\$3,883,206.11	1.73%
North Carolina	\$87,177,373.87	3.23%	\$4,868,284.13	2.16%
Virginia	\$87,589,313.32	3.24%	\$6,044,667.16	2.69%
Illinois	\$97,701,053.83	3.62%	\$10,978,623.15	4.88%
Washington	\$103,957,041.03	3.85%	\$8,788,609.12	3.91%
Pennsylvania	\$110,740,310.73	4.10%	\$7,829,228.79	3.48%
New York	\$117,402,744.86	4.35%	\$10,299,062.08	4.58%
Florida	\$152,379,150.91	5.64%	\$13,899,593.63	6.18%
Texas	\$191,941,816.23	7.11%	\$17,377,347.34	7.72%
California	\$381,280,175.09	14.12%	\$41,356,145.05	18.38%
State Trust Administration Cost Subaccount	\$23,467,171.38	0.87%	\$1,955,597.62	0.87%
Subtotal	\$2,645,821,256.54	97.99%	\$219,814,632.84	97.70%

Appendix D-1B	
Total Allocation Amount	Weighted Average Allocation Percentage
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$8,125,000.00	0.28%
\$9,676,682.97	0.33%
\$9,874,413.91	0.34%
\$12,131,842.13	0.41%
\$12,248,347.48	0.42%
\$12,602,424.88	0.43%
\$14,368,857.94	0.49%
\$14,647,709.09	0.50%
\$15,662,238.80	0.54%
\$17,349,037.39	0.59%
\$17,982,660.90	0.61%
\$18,692,130.18	0.64%
\$19,848,805.30	0.68%
\$20,378,649.58	0.70%
\$20,922,485.12	0.72%
\$21,201,737.70	0.72%
\$21,053,064.48	0.72%
\$24,874,024.48	0.85%
\$25,480,967.86	0.87%
\$30,914,841.09	1.06%
\$33,895,491.39	1.16%
\$35,177,506.14	1.20%
\$40,935,880.59	1.40%
\$41,152,051.74	1.41%
\$45,759,914.40	1.56%
\$47,001,661.43	1.61%
\$55,721,169.94	1.90%
\$56,660,078.00	1.94%
\$63,624,725.56	2.18%
\$64,807,014.63	2.22%
\$68,739,918.33	2.35%
\$67,077,457.70	2.29%
\$72,215,085.39	2.47%
\$72,967,518.46	2.49%
\$75,064,424.40	2.57%
\$75,714,238.01	2.59%
\$75,302,522.67	2.57%
\$92,045,658.00	3.15%
\$93,633,980.48	3.20%
\$108,679,676.98	3.72%
\$112,745,650.15	3.85%
\$118,569,539.52	4.05%
\$127,701,806.94	4.37%
\$166,278,744.54	5.68%
\$209,319,163.57	7.16%
\$422,636,320.14	14.45%
\$25,422,769.00	0.87%
\$2,865,635,889.38	97.97%

Tribal Trust Allocation	\$49,652,857.71	1.84%	\$4,795,063.51	2.13%
Tribal Administration Cost Subaccount	\$4,525,885.77	0.17%	\$390,303.65	0.17%
Subtotal	\$54,178,743.48	2.01%	\$5,185,367.16	2.30%

\$54,447,921.22	1.86%
\$4,916,189.42	0.17%
\$59,364,110.64	2.03%

Total	\$2,700,000,000.00	100.00%	\$225,000,000.00	100.00%
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\$2,925,000,000.00	100.00%
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APPENDIX D-1C

Weighted Average Allocation Percentage for Subparagraph 5.0.3

APPENDIX D-1C

State Trust Allocation	Weighted Average Allocation Percentage, net of CA, for subparagraph 5.0.3
Puerto Rico	0.33%
North Dakota	0.33%
Hawaii	0.33%
South Dakota	0.33%
Alaska	0.33%
Wyoming	0.33%
District of Columbia	0.33%
Delaware	0.40%
Mississippi	0.40%
West Virginia	0.50%
Nebraska	0.50%
Montana	0.52%
Rhode Island	0.59%
Arkansas	0.60%
Kansas	0.64%
Idaho	0.71%
New Mexico	0.74%
Vermont	0.77%
Louisiana	0.81%
Kentucky	0.83%
Oklahoma	0.86%
Iowa	0.87%
Maine	0.86%
Nevada	1.02%
Alabama	1.04%
New Hampshire	1.27%
South Carolina	1.39%
Utah	1.44%
Indiana	1.68%
Missouri	1.69%
Tennessee	1.87%
Minnesota	1.92%
Connecticut	2.28%
Arizona	2.32%
Georgia	2.61%
Michigan	2.65%
Colorado	2.81%
Wisconsin	2.75%
New Jersey	2.96%
Oregon	2.99%
Massachusetts	3.07%
Maryland	3.10%
Ohio	3.08%
North Carolina	3.77%
Virginia	3.83%
Illinois	4.45%
Washington	4.62%
Pennsylvania	4.86%
New York	5.23%
Florida	6.81%
Texas	8.57%
California	
State Trust Administration Cost Subaccount	1.00%
Total	100.00%

APPENDIX D-2
Eligible Mitigation Actions and Mitigation Action Expenditures

APPENDIX D-2

ELIGIBLE MITIGATION ACTIONS AND MITIGATION ACTION EXPENDITURES

1. Class 8 Local Freight Trucks and Port Drayage Trucks (Eligible Large Trucks)
 - a. Eligible Large Trucks include 1992-2009 engine model year Class 8 Local Freight or Drayage. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Large Trucks shall also include 2010-2012 engine model year Class 8 Local Freight or Drayage.
 - b. Eligible Large Trucks must be Scrapped.
 - c. Eligible Large Trucks may be Repowered with any new diesel or Alternate Fueled engine or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Large Trucks Mitigation Action occurs or one engine model year prior.
 - d. For Non-Government Owned Eligible Class 8 Local Freight Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
 - e. For Non-Government Owned Eligible Drayage Trucks, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 50% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new all-electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- f. For Government Owned Eligible Class 8 Large Trucks, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

2. Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Eligible Buses)

- a. Eligible Buses include 2009 engine model year or older class 4-8 school buses, shuttle buses, or transit buses. For Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year buses at the time of the proposed Eligible Mitigation Action, Eligible Buses shall also include 2010-2012 engine model year class 4-8 school buses, shuttle buses, or transit buses.
- b. Eligible Buses must be Scrapped.
- c. Eligible Buses may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Bus Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Buses, Beneficiaries may draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.

3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Buses, and Privately Owned School Buses Under Contract with a Public School District, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

3. Freight Switchers

- a. Eligible Freight Switchers include pre-Tier 4 switcher locomotives that operate 1000 or more hours per year.
- b. Eligible Freight Switchers must be Scrapped.
- c. Eligible Freight Switchers may be Repowered with any new diesel or Alternate Fueled or All-Electric engine(s) (including Generator Sets), or may be replaced with any new diesel or Alternate Fueled or All-Electric (including Generator Sets) Freight Switcher, that is certified to meet the applicable EPA emissions standards (or other more stringent equivalent State standard) as published in the CFR for the engine model year in which the Eligible Freight Switcher Mitigation Action occurs.
- d. For Non-Government Owned Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of :
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.

3. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 75% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.
- e. For Government Owned Eligible Freight Switchers, Beneficiaries may draw funds from the Trust in the amount of:
1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s) or Generator Sets, including the costs of installation of such engine(s).
 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) Freight Switcher.
 3. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).
 4. Up to 100% of the cost of a new All-Electric Freight Switcher, including charging infrastructure associated with the new All-Electric Freight Switcher.

4. Ferries/Tugs

- a. Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 marine engines.
- b. Eligible Ferry and/or Tug engines that are replaced must be Scrapped.
- c. Eligible Ferries and/or Tugs may be Repowered with any new Tier 3 or Tier 4 diesel or Alternate Fueled engines, or with All-Electric engines, or may be upgraded with an EPA Certified Remanufacture System or an EPA Verified Engine Upgrade.
- d. For Non-Government Owned Eligible Ferries and/or Tugs, Beneficiaries may only draw funds from the Trust in the amount of:
 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 2. Up to 75% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

- e. For Government Owned Eligible Ferries and/or Tugs, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine(s), including the costs of installation of such engine(s).
 - 2. Up to 100% of the cost of a Repower with a new All-Electric engine(s), including the costs of installation of such engine(s), and charging infrastructure associated with the new All-Electric engine(s).

5. Ocean Going Vessels (OGV) Shorepower

- a. Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth. Components of such systems eligible for reimbursement are limited to cables, cable management systems, shore power coupler systems, distribution control systems, and power distribution. Marine shore power systems must comply with international shore power design standards (ISO/IEC/IEEE 80005-1-2012 High Voltage Shore Connection Systems or the IEC/PAS 80005-3:2014 Low Voltage Shore Connection Systems) and should be supplied with power sourced from the local utility grid. Eligible Marine Shorepower includes equipment for vessels that operate within the Great Lakes.
- b. For Non-Government Owned Marine Shorepower, Beneficiaries may only draw funds from the Trust in the amount of up to 25% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.
- c. For Government Owned Marine Shorepower, Beneficiaries may draw funds from the Trust in the amount of up to 100% for the costs associated with the shore-side system, including cables, cable management systems, shore power coupler systems, distribution control systems, installation, and power distribution components.

6. Class 4-7 Local Freight Trucks (Medium Trucks)

- a. Eligible Medium Trucks include 1992-2009 engine model year class 4-7 Local Freight trucks, and for Beneficiaries that have State regulations that already require upgrades to 1992-2009 engine model year trucks at the time of the proposed Eligible Mitigation Action, Eligible Trucks shall also include 2010-2012 engine model year class 4-7 Local Freight trucks.
- b. Eligible Medium Trucks must be Scrapped.

- c. Eligible Medium Trucks may be Repowered with any new diesel or Alternate Fueled or All-Electric engine, or may be replaced with any new diesel or Alternate Fueled or All-Electric vehicle, with the engine model year in which the Eligible Medium Trucks Mitigation Action occurs or one engine model year prior.
- d. For Non-Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 40% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 25% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 75% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 75% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.
- e. For Government Owned Eligible Medium Trucks, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) engine, including the costs of installation of such engine.
 - 2. Up to 100% of the cost of a new diesel or Alternate Fueled (e.g., CNG, propane, Hybrid) vehicle.
 - 3. Up to 100% of the cost of a Repower with a new All-Electric engine, including the costs of installation of such engine, and charging infrastructure associated with the new All-Electric engine.
 - 4. Up to 100% of the cost of a new All-Electric vehicle, including charging infrastructure associated with the new All-Electric vehicle.

7. Airport Ground Support Equipment

- a. Eligible Airport Ground Support Equipment includes:
 - 1. Tier 0, Tier 1, or Tier 2 diesel powered airport ground support equipment; and
 - 2. Uncertified, or certified to 3 g/bhp-hr or higher emissions, spark ignition engine powered airport ground support equipment.
- b. Eligible Airport Ground Support Equipment must be Scrapped.

- c. Eligible Airport Ground Support Equipment may be Repowered with an All-Electric engine, or may be replaced with the same Airport Ground Support Equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may only draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.
- e. For Government Owned Eligible Airport Ground Support Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 100% of the cost of a new All-Electric Airport Ground Support Equipment, including charging infrastructure associated with such new All-Electric Airport Ground Support Equipment.

8. Forklifts and Port Cargo Handling Equipment

- a. Eligible Forklifts includes forklifts with greater than 8000 pounds lift capacity.
- b. Eligible Forklifts and Port Cargo Handling Equipment must be Scrapped.
- c. Eligible Forklifts and Port Cargo Handling Equipment may be Repowered with an All-Electric engine, or may be replaced with the same equipment in an All-Electric form.
- d. For Non-Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:
 - 1. Up to 75% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 - 2. Up to 75% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
- e. For Government Owned Eligible Forklifts and Port Cargo Handling Equipment, Beneficiaries may draw funds from the Trust in the amount of:

1. Up to 100% of the cost of a Repower with a new All-Electric engine, including costs of installation of such engine, and charging infrastructure associated with such new All-Electric engine.
 2. Up to 100% of the cost of a new All-Electric Forklift or Port Cargo Handling Equipment, including charging infrastructure associated with such new All-Electric Forklift or Port Cargo Handling Equipment.
9. Light Duty Zero Emission Vehicle Supply Equipment. Each Beneficiary may use up to fifteen percent (15%) of its allocation of Trust Funds on the costs necessary for, and directly connected to, the acquisition, installation, operation and maintenance of new light duty zero emission vehicle supply equipment for projects as specified below. Provided, however, that Trust Funds shall not be made available or used to purchase or rent real-estate, other capital costs (e.g., construction of buildings, parking facilities, etc.) or general maintenance (i.e., maintenance other than of the Supply Equipment).
 - a. Light duty electric vehicle supply equipment includes Level 1, Level 2 or fast charging equipment (or analogous successor technologies) that is located in a public place, workplace, or multi-unit dwelling and is not consumer light duty electric vehicle supply equipment (i.e., not located at a private residential dwelling that is not a multi-unit dwelling).
 - b. Light duty hydrogen fuel cell vehicle supply equipment includes hydrogen dispensing equipment capable of dispensing hydrogen at a pressure of 70 megapascals (MPa) (or analogous successor technologies) that is located in a public place.
 - c. Subject to the 15% limitation above, each Beneficiary may draw funds from the Trust in the amount of:
 1. Up to 100% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Government Owned Property.
 2. Up to 80% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that will be available to the public at a Non-Government Owned Property.
 3. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a workplace but not to the general public.
 4. Up to 60% of the cost to purchase, install and maintain eligible light duty electric vehicle supply equipment that is available at a multi-unit dwelling but not to the general public.

5. Up to 33% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 250 kg/day that will be available to the public.
 6. Up to 25% of the cost to purchase, install and maintain eligible light duty hydrogen fuel cell vehicle supply equipment capable of dispensing at least 100 kg/day that will be available to the public.
10. Diesel Emission Reduction Act (DERA) Option. Beneficiaries may use Trust Funds for their non-federal voluntary match, pursuant to Title VII, Subtitle G, Section 793 of the DERA Program in the Energy Policy Act of 2005 (codified at 42 U.S.C. § 16133), or Section 792 (codified at 42 U.S.C. § 16132) in the case of Tribes, thereby allowing Beneficiaries to use such Trust Funds for actions not specifically enumerated in this Appendix D-2, but otherwise eligible under DERA pursuant to all DERA guidance documents available through the EPA. Trust Funds shall not be used to meet the non-federal mandatory cost share requirements, as defined in applicable DERA program guidance, of any DERA grant.

Eligible Mitigation Action Administrative Expenditures

For any Eligible Mitigation Action, Beneficiaries may use Trust Funds for actual administrative expenditures (described below) associated with implementing such Eligible Mitigation Action, but not to exceed 15% of the total cost of such Eligible Mitigation Action. The 15% cap includes the aggregated amount of eligible administrative expenditures incurred by the Beneficiary and any third-party contractor(s).

1. Personnel including costs of employee salaries and wages, but not consultants.
2. Fringe Benefits including costs of employee fringe benefits such as health insurance, FICA, retirement, life insurance, and payroll taxes.
3. Travel including costs of Mitigation Action-related travel by program staff, but does not include consultant travel.
4. Supplies including tangible property purchased in support of the Mitigation Action that will be expensed on the Statement of Activities, such as educational publications, office supplies, etc. Identify general categories of supplies and their Mitigation Action costs.
5. Contractual including all contracted services and goods except for those charged under other categories such as supplies, construction, etc. Contracts for evaluation and consulting services and contracts with sub-recipient organizations are included.
6. Construction including costs associated with ordinary or normal rearrangement and alteration of facilities.
7. Other costs including insurance, professional services, occupancy and equipment leases, printing and publication, training, indirect costs, and accounting.

Definitions/Glossary of Terms

“Airport Ground Support Equipment” shall mean vehicles and equipment used at an airport to service aircraft between flights.

“All-Electric” shall mean powered exclusively by electricity provided by a battery, fuel cell, or the grid.

“Alternate Fueled” shall mean an engine, or a vehicle or piece of equipment that is powered by an engine, which uses a fuel different from or in addition to gasoline fuel or diesel fuel (e.g., CNG, propane, diesel-electric Hybrid).

“Certified Remanufacture System or Verified Engine Upgrade” shall mean engine upgrades certified or verified by EPA or CARB to achieve a reduction in emissions.

“Class 4-7 Local Freight Trucks (Medium Trucks)” shall mean trucks, including commercial trucks, used to deliver cargo and freight (e.g., courier services, delivery trucks, box trucks moving freight, waste haulers, dump trucks, concrete mixers) with a Gross Vehicle Weight Rating (GVWR) between 14,001 and 33,000 lbs.

“Class 4-8 School Bus, Shuttle Bus, or Transit Bus (Buses)” shall mean vehicles with a Gross Vehicle Weight Rating (GVWR) greater than 14,001 lbs. used for transporting people. See definition for School Bus below.

“Class 8 Local Freight, and Port Drayage Trucks (Eligible Large Trucks)” shall mean trucks with a Gross Vehicle Weight Rating (GVWR) greater than 33,000 lbs. used for port drayage and/or freight/cargo delivery (including waste haulers, dump trucks, concrete mixers).

“CNG” shall mean Compressed Natural Gas.

“Drayage Trucks” shall mean trucks hauling cargo to and from ports and intermodal rail yards.

“Forklift” shall mean nonroad equipment used to lift and move materials short distances; generally includes tines to lift objects. Eligible types of forklifts include reach stackers, side loaders, and top loaders.

“Freight Switcher” shall mean a locomotive that moves rail cars around a rail yard as compared to a line-haul engine that moves freight long distances.

“Generator Set” shall mean a switcher locomotive equipped with multiple engines that can turn off one or more engines to reduce emissions and save fuel depending on the load it is moving.

“Government” shall mean a State or local government agency (including a school district, municipality, city, county, special district, transit district, joint powers authority, or port authority, owning fleets purchased with government funds), and a tribal government or native village. The term “State” means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

“Gross Vehicle Weight Rating (GVWR)” shall mean the maximum weight of the vehicle, as specified by the manufacturer. GVWR includes total vehicle weight plus fluids, passengers, and cargo.

Class 1: < 6000 lb.
Class 2: 6001-10,000 lb.
Class 3: 10,001-14,000 lb.
Class 4: 14,001-16,000 lb.
Class 5: 16,001-19,500 lb.
Class 6: 19,501-26,000 lb.
Class 7: 26,001-33,000 lb.
Class 8: > 33,001 lb.

“Hybrid” shall mean a vehicle that combines an internal combustion engine with a battery and electric motor.

“Infrastructure” shall mean the equipment used to enable the use of electric powered vehicles (e.g., electric vehicle charging station).

“Intermodal Rail Yard” shall mean a rail facility in which cargo is transferred from drayage truck to train or vice-versa.

“Port Cargo Handling Equipment” shall mean rubber-tired gantry cranes, straddle carriers, shuttle carriers, and terminal tractors, including yard hostlers and yard tractors that operate within ports.

“Plug-in Hybrid Electric Vehicle (PHEV)” shall mean a vehicle that is similar to a Hybrid but is equipped with a larger, more advanced battery that allows the vehicle to be plugged in and recharged in addition to refueling with gasoline. This larger battery allows the car to be driven on a combination of electric and gasoline fuels.

“Repower” shall mean to replace an existing engine with a newer, cleaner engine or power source that is certified by EPA and, if applicable, CARB, to meet a more stringent set of engine emission standards. Repower includes, but is not limited to, diesel engine replacement with an engine certified for use with diesel or a clean alternate fuel, diesel engine replacement with an electric power source (e.g., grid, battery), diesel engine replacement with a fuel cell, diesel engine replacement with an electric generator(s) (genset), diesel engine upgrades in Ferries/Tugs with an EPA Certified Remanufacture System, and/or diesel engine upgrades in Ferries/Tugs with an EPA Verified Engine Upgrade. All-Electric and fuel cell Repowers do not require EPA or CARB certification.

“School Bus” shall mean a Class 4-8 bus sold or introduced into interstate commerce for purposes that include carrying students to and from school or related events. May be Type A-D.

“Scrapped” shall mean to render inoperable and available for recycle, and, at a minimum, to specifically cut a 3-inch hole in the engine block for all engines. If any Eligible Vehicle will be replaced as part of an Eligible project, Scrapped shall also include the disabling of the chassis by cutting the vehicle’s frame rails completely in half.

“Tier 0, 1, 2, 3, 4” shall refer to corresponding EPA engine emission classifications for nonroad, locomotive, and marine engines.

“Tugs” shall mean dedicated vessels that push or pull other vessels in ports, harbors, and inland waterways (e.g., tugboats and towboats).

“Zero Emission Vehicle (ZEV)” shall mean a vehicle that produces no emissions from the on-board source of power (e.g., All-Electric or hydrogen fuel cell vehicles).

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT**1. Identity of Lead Agency

_____ (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies _____ (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	
Address:	
Phone:	
Fax:	
Email:	

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.

(c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.

(d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

APPENDIX D-4
Beneficiary Eligible Mitigation Action Certification

BENEFICIARY ELIGIBLE MITIGATION ACTION CERTIFICATION

Beneficiary _____

Lead Agency Authorized to Act on Behalf of the Beneficiary _____
 (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:	
Beneficiary's Project ID:	
Funding Request No.	(sequential)
Request Type: (select one or more)	<input 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 type="checkbox"/> Other (specify): _____
Funding Request & Direction (Attachment A)	<input type="checkbox"/> 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 <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):
Detailed Description of Mitigation Action Item Including Community and Air Quality Benefits (5.2.2):
Estimate of Anticipated NOx Reductions (5.2.3):
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):
Describe how the Beneficiary will make documentation publicly available (5.2.7.2).
Describe any cost share requirement to be placed on each NOx source proposed to be mitigated (5.2.8).
Describe how the Beneficiary complied with subparagraph 4.2.8, related to notice to U.S. Government Agencies (5.2.9).

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 _____, 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: _____

[NAME]

[TITLE]

[LEAD AGENCY]

for

[BENEFICIARY]

ATTACHMENT A**FUNDING REQUEST AND DIRECTION**

(Attachment to Appendix D-4, Beneficiary Eligible Mitigation Action Certification, pursuant to Paragraph 5.2 of the Environmental Mitigation Trust Agreement)

Pursuant to the authority granted to _____ [insert Lead Agency] to act on behalf of Beneficiary _____ under the Mitigation Trust, [Lead Agency] directs the Trustee to make the following payments from its subaccount no. _____ to the following payees, for the amounts specified on the dates specified below.

LEAD AGENCY INFORMATION

Beneficiary Name: _____	Lead Agency Contact Person: _____
Lead Agency Name: _____	Lead Agency Email Address: _____
Lead Agency Address: _____	Lead Agency Fax: _____
Lead Agency Phone: _____	Lead Agency TIN: _____

Contact information entered above may correspond to Lead Agency or 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

MITIGATION ACTION INFORMATION

Action Title: _____	Funding Request No: _____
Beneficiary's Project ID: _____	

PAYMENTS REQUESTED

(attach additional pages if needed)

Amount	Requested Date	Payee	Request Type

PAYEE CONTACT AND WIRE INFORMATION

(fill out both tables below for each payee and payment identified in "Payments Requested" table on p. 1; attach additional pages if needed)

PAYEE CONTACT INFORMATION

Action Title:	_____	Beneficiary Project ID:	_____
Payee Name:	_____	Payee Contact Person:	_____
Payee Address:	_____	Payee Email Address:	_____
Payee Phone:	_____	Payee Fax:	_____
Payee TIN:	_____		

Payment Amount	Requested Date	Request Type

WIRE INFORMATION

Receiving Bank Name:	_____		
Receiving Bank Branch:	_____		
Receiving Bank Address:	_____		
Bank Swift ID:	_____	National Routing No. / Bank ABA Number (Sort Code, BLZ)	_____
Amount of Wire:	_____		
Message to Payee:	_____		
Instructions to Receiving Bank:	_____		
For Credit to:	_____		
Other Special Instructions:	_____		

[Signature Block]

[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 (Provide List of Approved Contractors as Attachment with approved funding ceilings)	\$	\$	\$	\$
3. Subrecipient Support (Provide List of Approved Subrecipients or Grant Awardees as Attachment with approved funding ceilings)	\$	\$	\$	\$
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)	\$	\$	\$	\$	\$

APPENDIX D-5
Form of Certificate of Trust of the
Volkswagen Diesel Emissions Environmental Mitigation Trust
for State Beneficiaries, Puerto Rico, and the District Of Columbia

APPENDIX D-5

**FORM OF CERTIFICATE OF TRUST OF THE
VOLKSWAGEN DIESEL EMISSIONS ENVIRONMENTAL MITIGATION TRUST
FOR
STATE BENEFICIARIES, PUERTO RICO, AND THE DISTRICT OF COLUMBIA**

This Certificate of Trust of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “Trust”) is being duly executed and filed on behalf of the Trust by the undersigned, as Trustee, to form a statutory trust under the Delaware Statutory Trust Act, Del. Code Ann. tit.12, §§ 3801-3826 (the “Act”).

1. Name. The name of the statutory trust formed by this Certificate of Trust is the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia.

2. Delaware Trustee. The name and business address of the Trustee of the Trust with a principal place of business in the State of Delaware are Wilmington Trust, N.A., 1100 North Market Street, Wilmington, Delaware 19890. Attn: Corporate Trust Administration.

3. Effective Date. This Certificate of Trust shall be effective upon filing.

4. IN WITNESS WHEREOF, the undersigned has duly executed this Certificate of Trust in accordance with Section 3811(a)(1) of the Act.

WILMINGTON TRUST, N.A.,
not in its individual capacity but solely
as Trustee

By: _____
Name:
Title:

Michele D. Ross
Reed Smith LLP
1301 K Street NW
Suite 1000 – East Tower
Washington, D.C. 20005
Telephone: 202 414-9297
Fax: 202 414-9299
Email: mross@reedsmith.com

Attorneys for the Trustee of
the Volkswagen Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

**IN RE: VOLKSWAGEN “CLEAN
DIESEL” MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION**

Relates to:

*[United States v. Volkswagen AG, et al., No.
16-cv-295 (N.D. Cal.)]*

Case No. MDL 2672 CRB (JSC)

**NOTICE OF BENEFICIARY
DESIGNATION UNDER THE
VOLKSWAGEN DIESEL EMISSIONS
ENVIRONMENTAL MITIGATION
TRUST FOR STATE BENEFICIARIES,
PUERTO RICO, AND THE DISTRICT OF
COLUMBIA**

Judge: Hon. Charles R. Breyer

PLEASE TAKE NOTICE THAT Wilmington Trust, N.A. as Trustee (the “Trustee”) of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), by and through its counsel Reed Smith, respectfully files the attached Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof.

Dated: January 29, 2018

Respectfully submitted,

/s/ Michele D. Ross
Michele D. Ross, partner
Reed Smith LLP

CERTIFICATE OF SERVICE

I hereby certify that, on January 29, 2018, I caused to be served true copies of Notice of Beneficiary Designation under the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 thereof by electronic means by filing such documents through the Court's Electronic Case Filing System.

/s/ Michele D. Ross
Michele D. Ross
*Attorney for the Trustee of the Volkswagen
Diesel Emissions Environmental Mitigation
Trust for State Beneficiaries, Puerto Rico, and
the District of Columbia*

Notice of Beneficiary Designation for the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia in accordance with subparagraph 4.0.2 of the State Trust

In accordance with subparagraph 4.0.2. of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia (the “State Trust”), Wilmington Trust, N.A. as Trustee of the State Trust hereby certifies as follows:

In accordance with Paragraph 4.0 of the State Trust, each at the following Certifying Entities filed its Appendix D-3 with the U.S. District Court for the Northern District of California (the “Court”) on or prior to 60 days after the Trust Effective Date:

LIST OF DESIGNATED BENEFICIARIES UNDER THE STATE TRUST

1. Alabama
2. Alaska
3. Arizona
4. Arkansas
5. California
6. Colorado
7. Connecticut
8. Delaware
9. District of Columbia
10. Florida
11. Georgia
12. Hawaii
13. Idaho
14. Illinois
15. Indiana
16. Iowa

17. Kansas
18. Kentucky
19. Louisiana
20. Maine
21. Maryland
22. Massachusetts
23. Michigan
24. Minnesota
25. Mississippi
26. Missouri
27. Montana
28. Nebraska
29. Nevada
30. New Hampshire
31. New Jersey
32. New Mexico
33. New York
34. North Carolina
35. North Dakota
36. Ohio
37. Oklahoma
38. Oregon
39. Pennsylvania
40. Puerto Rico
41. Rhode Island

- 42. South Carolina
- 43. South Dakota
- 44. Tennessee
- 45. Texas
- 46. Utah
- 47. Vermont
- 48. Virginia
- 49. Washington
- 50. West Virginia
- 51. Wisconsin
- 52. Wyoming

In accordance with subparagraph 4.0.2.1 of the State Trust, no notices of objection to the Appendix D-3 filings by any of the Certifying Entities listed above were filed. Therefore, in accordance with the terms of the State Trust, each such Certifying Entity listed above is now designated a “Beneficiary” under the State Trust.

Wilmington Trust, N.A. as Trustee of the Volkswagen Diesel Emissions Environmental Mitigation Trust for State Beneficiaries, Puerto Rico, and the District of Columbia

By: /s/David A. Vanaskey Jr.
Name: David A. Vanaskey Jr.
Title: Administrative Vice President

APPENDIX D-3
Certification for Beneficiary Status
Under Environmental Mitigation Trust Agreement

APPENDIX D-3**CERTIFICATION FOR BENEFICIARY STATUS
UNDER ENVIRONMENTAL MITIGATION TRUST AGREEMENT****1. Identity of Lead Agency**

Arkansas (“Beneficiary”), by and through the Office of the Governor (or, if not a State, the analogous Chief Executive) of the Appendix D-1 and Appendix D-1A entity on whose behalf the Certification Form is submitted: (i) hereby identifies the Arkansas Department of Environmental Quality (“Lead Agency”) as the Lead Agency for purposes of the Beneficiary’s participation in the Environmental Mitigation Trust (“Trust”) as a Beneficiary; and (ii) hereby certifies that the Lead Agency has the delegated authority to act on behalf of and legally bind the Beneficiary for purposes of the Trust.

BENEFICIARY’S LEAD AGENCY CONTACT INFORMATION:

Contact:	Stuart L. Spencer
Address:	5301 Northshore Drive, North Little Rock, AR 72118-5317
Phone:	501-682-0750
Fax:	
Email:	spencer@adeq.state.ar.us

2. Submission to Jurisdiction

The Beneficiary expressly consents to the jurisdiction of the U.S. District Court for the Northern District of California for all matters concerning the interpretation or performance of, or any disputes arising under, the Trust and the Environmental Mitigation Trust Agreement (“Trust Agreement”). The Beneficiary’s agreement to federal jurisdiction for this purpose shall not be construed as consent to federal court jurisdiction for any other purpose.

3. Agreement to be Bound by the Trust Agreement and Consent to Trustee Authority

The Beneficiary agrees, without limitation, to be bound by the terms of the Trust Agreement, including the allocations of the Trust Assets set forth in Appendix D-1 and Appendix D-1A to the Trust Agreement, as such allocation may be adjusted in accordance with the Trust Agreement. The Beneficiary further agrees that the Trustee has the authorities set forth in the Trust Agreement, including, but not limited to, the authority: (i) to approve, deny, request modifications, or request further information related to any request for funds pursuant to the Trust Agreement; and (ii) to implement the Trust Agreement in accordance with its terms.

4. Certification of Legal Authority

The Beneficiary certifies that: (i) it has the authority to sign and be bound by this Certification Form; (ii) the Beneficiary’s laws do not prohibit it from being a Trust Beneficiary; (iii) either (a)

the Beneficiary's laws do not prohibit it from receiving or directing payment of funds from the Trust, or (b) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust, then prior to requesting any funds from the Trust, the Beneficiary shall obtain full legal authority to receive and/or direct payments of such funds within two years of submitting this Certification Form; and (iv) if the Beneficiary does not have the authority to receive or direct payment of funds from the Trust and fails to demonstrate that it has obtained such legal authority within two years of submitting this Certification Form, it shall become an Excluded Entity under the Trust Agreement and its initial allocation shall be redistributed among the Beneficiaries pursuant to subparagraph 5.0.1 of the Trust Agreement.

5. Certification of Legal Compliance and Disposition of Unused Funds

The Beneficiary certifies and agrees that, in connection with all actions related to the Trust and the Trust Agreement, the Beneficiary has followed and will follow all applicable law and will assume full responsibility for its decisions in that regard. The Beneficiary further certifies that all funds received on account of any Eligible Mitigation Action request that are not used for the Eligible Mitigation Action shall be returned to the Trust for credit to the Beneficiary's allocation.

6. Waiver of Claims for Injunctive Relief under Environmental or Common Laws

Upon becoming a Beneficiary, the Beneficiary, on behalf of itself and all of its agencies, departments, offices, and divisions, hereby expressly waives, in favor of the parties (including the Settling Defendants) to the Partial Consent Decree (Dkt. No. 2103-1) and the parties (including the Defendants) to the Second Partial Consent Decree (Dkt. No. 3228-1), all claims for injunctive relief to redress environmental injury caused by the 2.0 Liter Subject Vehicles and the 3.0 Liter Subject Vehicles (jointly, "Subject Vehicles"), whether based on the environmental or common law within its jurisdiction. This waiver is binding on all agencies, departments, offices, and divisions of the Beneficiary asserting, purporting to assert, or capable of asserting such claims. This waiver does not waive, and the Beneficiary expressly reserves, its rights, if any, to seek fines or penalties.

7. Publicly Available Information

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) the procedures by which the records may be accessed, which shall be designed to support access and limit burden for the general public; (ii) for the Beneficiary Mitigation Plan required under Paragraph 4.1 of the Trust Agreement, the procedures by which public input will be solicited and considered; and (iii) a description of 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.

8. Notice of Availability of Mitigation Action Funds

The Beneficiary certifies that, not later than 30 Days after being deemed a Beneficiary pursuant to the Trust Agreement, the Beneficiary will provide a copy of the 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 Beneficiary and has by then notified the Beneficiary of its interest hereunder, explaining that the Beneficiary 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 Beneficiary will review, consider, and make a written determination upon each such request.

9. Registration of Subject Vehicles

The Beneficiary certifies, for the benefit of the Parties (including the Settling Defendants) to the Partial Consent Decree and the Parties to the Second Partial Consent Decree (including the Defendants) and the owners from time-to-time of Subject Vehicles, that upon becoming a Beneficiary, the Beneficiary:

- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (b) Shall not deny registration to any Subject Vehicle that has been modified in accordance with an Approved Emissions Modification or an Emissions Compliant Recall based solely on:
 - i. The fact that the vehicle has been modified in accordance with the Approved Emissions Modification or the Emissions Compliant Recall; or
 - ii. Emissions resulting from the modification (including, but not limited to, the anticipated emissions described in Appendix B to the Partial Consent Decree and Appendix B to the Second Partial Consent Decree); or
 - iii. Other emissions-related vehicle characteristics that result from the modification; or

- iv. The availability of an Approved Emissions Modification, an Emissions Compliant Recall or the Buyback, Lease Termination, and Owner/Lessee Payment Program.
- (c) May identify Subject Vehicles as having been modified, or not modified, in accordance with the Approved Emissions Modification or the Emissions Compliant Recall on the basis of VIN-specific information provided to the Beneficiary by the Defendants.
- (d) Notwithstanding the foregoing, the Beneficiary may deny registration to any Subject Vehicle on the basis that the Subject Vehicle fails to meet EPA's or the Beneficiary's failure criteria for the onboard diagnostic ("OBD") inspection; or on other grounds authorized or required under applicable federal regulations (including an approved State Implementation Plan) or under Section 209 or 177 of the Clean Air Act and not explicitly excluded in subparagraphs 9(a)-(b).

10. Reliance on Certification

The Beneficiary acknowledges that the Trustee is entitled to rely conclusively on, without further duty of inquiry, and shall be protected in relying upon, this Appendix D-3 Certification, or a subsequent communication from the Lead Agency designating new or additional authorized individuals, as setting forth the Lead Agency and the authorized individuals who may direct the Trustee with respect to all of the Beneficiary's rights and duties under the Trust Agreement. The Beneficiary and its delegated Lead Agency, including all authorized individuals, agree to comply with all security procedures, standard payment and signatory authorization protocols, as well as procedures for designating new or additional authorized individuals, as set forth by the Trustee.

FOR THE GOVERNOR (or, if not a State, the analogous Chief Executive):

Signature: _____



Name: _____

Asa Hutchinson

Title: _____

Governor

Date: _____

9/14/17

Location: _____

Arkansas

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: _____

Name: _____

Title: _____

Date: _____

Location: _____

ARKANSAS CERTIFICATION FOR BENEFICIARY STATUS

Attachment 1 to Appendix D-3 Certification for Beneficiary Status Section 7: Publicly Available Information

In accordance with Paragraph seven (7) of the Certification for Beneficiary Status required under Appendix D-3, this attachment one (1) states the following:

1. All documents and records submitted to the Volkswagen Mitigation Trust Trustee, Wilmington Trust (“Trustee”) by the Arkansas Department of Environmental Quality (ADEQ) in support of each funding request for expenditures of the state’s portion of the Volkswagen Mitigation Fund (“Trust Fund”), pursuant to the Arkansas Volkswagen Mitigation Plan (“Mitigation Plan”), will be maintained until the Termination Date of the Trust pursuant to Paragraph 6.8 of the Trust agreement. These records may be obtained by calling or emailing the contacts on the State’s Volkswagen settlement webpage: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ’s Volkswagen Settlement webpage will be the main tool used for disseminating information regarding expenditures from the State’s portion of the Trust Fund. ADEQ will provide reasonable access to requested documentation and records in compliance with the procedures of Arkansas Freedom of Information Act (“FOIA”), codified at Arkansas Code Annotated § 25-19-101, *et seq.*. However, ADEQ will provide access to all persons requesting such records, rather than solely the citizens of Arkansas, which is not required by the Arkansas Freedom of Information Act.
2. A Mitigation Plan will be made available for an initial public comment period of at least thirty (30) days before ADEQ submits the Mitigation Plan to the Trustee. During this comment period, the Mitigation Plan will be made available on the website developed by ADEQ that is dedicated to information regarding the Volkswagen settlement including ADEQ’s Mitigation Plan: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will provide contact information for use by members of the public seeking to provide comments, including an email address. After the end of the public comment period, ADEQ will review all comments. ADEQ will post comments received to the ADEQ Mitigation plan website: <https://www.adeq.state.ar.us/air/planning/vw.aspx>. ADEQ will determine to what extent changes to the Mitigation Plan are warranted in response to public comments. The final Mitigation Plan will be made publicly available.
3. Any documents provided to ADEQ in support of a comment to the Mitigation Plan or to secure funding for an eligible project under the Mitigation Plan are subject to public disclosure under FOIA. Personal information is generally not exempt from disclosure under FOIA but certain personally identifiable information, such as birthdays and social security numbers are exempt from disclosure. If included in documents provided to

ADEQ, these items would require redaction prior to release of the documents pursuant to FOIA. Arkansas addresses confidential business information in the Arkansas Trade Secrets Act (Arkansas Code Annotated § 4-75-601, *et seq.*). ADEQ may deny inspection of specific information contained in public records if it is determined that the information submitted is a trade secret within the meaning of the Arkansas Trade Secrets Act and the information was submitted consistent with the ADEQ procedures for handling trade secrets, which is publicly available on the ADEQ website:

https://www.adeq.state.ar.us/air/planning/pdfs/procedures_for_handling_trade_secrets.pdf