

Nevada Diesel Emission Mitigation Fund Annual Competitive Application Form

For the Volkswagen Environmental Mitigation Trust Agreement
for State Beneficiaries



Applications are due by January 15, 2022



Please electronically submit completed applications to
NevadaDEMF@ndep.nv.gov and use the subject line:
NV Diesel Emission Mitigation Fund 2021 Application

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Acronyms and Abbreviations

AFLEET	Alternative Fuel Life-Cycle Environmental and Economic Transportation
CNG	Compressed Natural Gas
CO	Carbon Monoxide
CO ₂	Carbon Dioxide
DEQ	Diesel Emission Quantifier
DERA	Diesel Emission Reduction Act
EPA	United States Environmental Protection Agency
EPS	Electrified Parking Spaces
FY	Fiscal Year
GOE	Nevada Governor's Office of Energy
GSE	Airport ground support equipment
GVWR	Gross Vehicle Weight Rating
LNG	Liquid Natural Gas
LPG	Liquid Propane Gas or Liquefied Petroleum Gas
NDEP	Nevada Division of Environmental Protection
NO _x	Oxides of nitrogen
OGV	Ocean going vessels
PM _{2.5}	Particulate matter 2.5 micrometers and smaller in diameter
State Trust	Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries

General Information

How to Apply

This application must be electronically completed and submitted using either Microsoft Word or Adobe Acrobat. Vehicle/Equipment information must be electronically completed using the provided Microsoft Excel-based template. Applicants must completely fill out this application form in order to be considered for funding. Incomplete applications will not be considered. This application and any supplemental information provided will serve as the primary means by which your project is evaluated for funding. The Nevada Division of Environmental Protection (NDEP) may contact you or your organization for clarification and/or supplemental information so make sure that the contact information you provide is accurate; applicants have 10 calendar days to respond to any such request.

This is an annual, competitive application process. To be considered for funding in this 2021 cycle, completed applications must be received no later than January 15, 2022. If you have any questions about this application, please contact NDEP prior to submitting your application and well in advance of the deadline to submit.¹

Quantifying Emissions Reductions

NDEP will quantify the emission reductions resulting from the project by using the information included in a complete application. Generally, emission reductions will be quantified using either the Alternative Fuel Life-Cycle Environmental and Economic Transportation (AFLEET) Tool² or the Diesel Emission Quantifier (DEQ)³. The quantifier being used will be determined by the Category of the funding request. Categories 1, 2, and 6 will be quantified using AFLEET and Categories 3, 4, 5, 7, 8, and 10 will be quantified using the DEQ. There are other tools for quantifying emission reductions, but the above tools are what NDEP is generally planning to use. If you are having trouble gathering all of the required information for this application, please contact NDEP well in advance of the deadline to submit as we may be able to provide some assistance.

Additional Information

Applicants selected for funding shall have two years to complete their project. If an application shows that the project cannot be completed in two years, it will not be selected for funding. If, after two years, a project has not been completed, funds will no longer be guaranteed for the project and the applicant will need to reapply. Prior to submitting an application for funding, it is recommended that all applicants also review the portions of Appendix D-2 of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries⁴ (State Trust) that apply to their application as well as Nevada's Beneficiary Mitigation Plan⁵. Finally, the majority of the Categories of Eligible Mitigation Actions require the existing vehicle and/or engine to be rendered permanently inoperable. From Appendix D-2 of the State Trust:

¹ All questions regarding this application should be directed to NevadaDEMF@ndep.nv.gov

² The AFLEET Tool is available at: <https://greet.es.anl.gov/afleet>

³ The DEQ is available at: <https://cfpub.epa.gov/quantifier/index.cfm?action=main.home>

⁴ The State Trust (Appendix D-2 begins on page 52) is available at: https://www.vwenvironmentalmitigationtrust.com/sites/default/files/2018-05/Final%20Filed%20Dkt%2051-1%20%20State%20Beneficiary%20Trust%20Agreement_0.pdf

⁵ Nevada's Beneficiary Mitigation Plan can be found at: https://ndep.nv.gov/uploads/air-vw-bmp-docs/beneficiary_mitigation_plan.pdf

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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.

Changes from the Previous Application

NDEP has made three changes to this application compared to the 2019 application. They are listed below for reference:

1. Eligibility – NDEP will only be selecting applications from applicants who have not been awarded funding in previous DEMF cycles.
2. Fuel Types – NDEP is only funding diesel-to-alternative fuel or diesel-to-zero tailpipe emission replacement/repower projects and will no longer accept applications for diesel-to-diesel replacement/repower projects.
3. Funding Levels for Eligible Mitigation Action Categories 1 through 8 – NDEP is now offering to fund the incremental cost of a program eligible replacement/repower project as opposed to the flat dollar amounts in previous cycles. **Note: funding limits inherent to the State Trust still apply.**⁶

Covering the incremental cost means covering the difference between a new alternative fuel or zero tailpipe emission vehicle replacement/engine repower and a new diesel-powered vehicle replacement/engine repower. For example:

A program eligible diesel-powered vehicle is going to be retired. Replacing it with a new diesel-powered vehicle would cost \$150,000. A new zero tailpipe emission replacement would instead cost \$350,000. The applicant would provide both quotes to NDEP with a request to cover the difference, \$200,000 in this case, to support the applicant’s purchase of the zero tailpipe emission vehicle.

General Eligibility Requirements

The Diesel Emission Mitigation Fund (DEMF) is intended to fund the early retirement of program eligible diesel-powered vehicles and equipment before the end of their useful life. Applicants submitting for the replacement of older model year vehicles/equipment may be subject to additional data requests from NDEP beyond what is included in this application. There are several instances where the DEMF either cannot or will not fund a project. These instances include:

- Previous recipients of a DEMF award. NDEP is only selecting qualifying applications from applicants that have not been awarded funding in a previous DEMF cycle;
- The replacement of spare vehicles/equipment. That is, vehicles/equipment that do not see regular usage are ineligible for funds. Regular usage means used multiple times per week and/or driven for

⁶ Appendix D-2 of the State Trust includes funding limits that all State Beneficiaries must follow. Appendix D-2 of the State Trust (Appendix D-2 begins on page 52) is available at: <https://www.vwenvironmentalmitigationtrust.com/state-trust-agreement>

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several thousand miles per year. If you have questions about whether or not your vehicle qualifies, please contact NDEP;

- Lease-purchase agreements. NDEP will not fund the replacement of vehicles/equipment that are currently owned by the applicant for vehicles/equipment that will be leased by the applicant;
- All vehicles/equipment that already have a replacement on order at the time of this application's submission are ineligible for funding;
- For all replacement projects, vehicles/equipment with a scheduled retirement date or a fleet turnover policy that would require the vehicles/equipment to be retired within three years of the submission of this application are ineligible for funding. Fleet turnover policies are generally defined by the fleet owner's budget plan, operating plan, standard procedures, or retirement schedule; and
- The submission of fraudulent data in support of an application will prohibit your fleet's eligibility for funding in this and future cycles.

Eligible Mitigation Action Funding Eligibility Requirements

For the 2021 cycle, NDEP is funding diesel-to-alternative fuel and diesel-to-zero tailpipe emission replacement projects from applicants that have not been awarded funding in a previous DEMF cycle.

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

Eligible Large Trucks include 1992-2009 engine model year diesel-powered class 8 Local Freight or Drayage.

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

Eligible Buses include 2009 engine model year or older diesel-powered class 4-8 school buses, shuttle buses, or transit buses.

Category 3 – Freight Switchers

Eligible Freight Switchers include pre-Tier 4 diesel-powered switcher locomotives that operate 1,000 or more hours per year.

Category 4 – Ferries/Tugs

Eligible Ferries and/or Tugs include unregulated, Tier 1, or Tier 2 diesel-powered marine engines.

Category 5 – Ocean Going Vessels (OGV) Shorepower

Eligible Marine Shorepower includes systems that enable a compatible vessel's main and auxiliary engines to remain off while the vessel is at berth.

Category 6 – Class 4-7 Local Freight Trucks (Medium Trucks)

Eligible Medium Trucks include 1992-2009 engine model year diesel-powered class 4-7 Local Freight trucks.

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Category 7 – Airport Ground Support Equipment

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.

Category 8 – Forklifts and Port Cargo Handling Equipment

Eligible Forklifts includes forklifts with greater than 8,000 pounds lift capacity.

Category 10 – Diesel Emission Reduction Act (DERA) Option

For applicants seeking funding through Category 10 – the DERA Option, please review the most recent version of the EPA’s DERA State Grant Program Information Guide available on the EPA’s DERA State Grant Program webpage⁷. Only those eligible diesel emission reduction solutions that are not also listed in the State Trust are eligible for funding through this application.

Funding Levels for Eligible Mitigation Actions

Categories 1 – 8

For eligible mitigation action categories 1 through 8, NDEP is funding the incremental cost to upgrade from a diesel-powered replacement/repower to an alternative fuel⁸ or zero tailpipe emission replacement/repower. Applications should include both a quote for the diesel-powered replacement/repower as well as a quote for the alternative fuel or zero tailpipe emission replacement/repower. If a level of funding above the incremental upgrade cost is requested, a detailed justification in the Project Funding section of this application is required. Note that even if a project requesting funds above the listed amounts is selected, there is no guarantee that the award will match the amount requested.⁹

Category 10 – Diesel Emission Reduction Act (DERA) Option

Funding for Category 10 will be based on the percentages in the most recent State Grant Program Information Guide. Only those eligible diesel emission reduction solutions that are not also listed in the State Trust will be eligible for funding through this application. Two examples of projects listed in the FY 2021 Program Guide eligible for funding through the DEMF include diesel-powered nonroad vehicle and equipment replacements/repowers and verified idle reduction technologies:

Verified Idle Reduction Technologies: An idle reduction project is generally defined as the installation of a technology or device that reduces unnecessary idling of diesel engines and/or is designed to provide services (such as heat, air conditioning, and/or electricity) to vehicles and

⁷ EPA’s DERA State Grant Program webpage is: <https://www.epa.gov/dera/state>

⁸ Some examples of alternative fuels include compressed natural gas (CNG), plug-in hybrid-electric, liquid natural gas (LNG), and liquid propane gas or liquefied petroleum gas (LPG).

⁹ Appendix D-2 of the State Trust includes funding limits that all State Beneficiaries must follow. Appendix D-2 of the State Trust (Appendix D-2 begins on page 52) is available at: <https://www.vwenvironmentalmitigationtrust.com/state-trust-agreement>

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equipment that would otherwise require the operation of the main drive or auxiliary engine(s) while the vehicle is temporarily parked or remains stationary.

The eligible idle reduction technologies by associated vehicle type are below. To be eligible for funding, these technologies must be on EPA's SmartWay Verified Technologies list (www.epa.gov/verified-diesel-tech/smartway-technology) at the time of acquisition.

a. Long haul Class 8 trucks equipped with sleeper cabs:

- 1) Auxiliary power units and generator sets
- 2) Battery air conditioning systems
- 3) Thermal storage systems
- 4) Fuel operated heaters (direct fired heaters)
- 5) Electrified parking spaces (truck stop electrification)

Nonroad Engines, Equipment, or Vehicles: Includes diesel powered engines, equipment and vehicles used in construction, handling of cargo (including at ports and airports), agriculture, mining, or energy production (including stationary generators and pumps)

To be eligible for funding, vehicles and equipment must be powered by engines certified by EPA and, if applicable, CARB emission standards. Zero tailpipe emissions vehicles and equipment do not require EPA or CARB certification. EPA's annual certification data for vehicles, engines, and equipment may be found at: www.epa.gov/compliance-and-fueleconomy-data/annual-certification-data-vehicles-engines-and-equipment. EPA's engine emission standards may be found at: www.epa.gov/emission-standards-reference-guide/allepa-emission-standards. Engines certified by CARB may be found by searching CARB's Executive Orders for Heavy-duty Engines and Vehicles, found at: www.arb.ca.gov/msprog/onroad/cert/cert.php. Please see the Low-NOx Engine Factsheet found at www.epa.gov/dera/state for guidance on identifying engines certified to meet CARB's Optional Low NOx Standards.

Applicant Information

Government	Non-Government	
Organization Name		
Mailing Address		
City	State	Zip Code
Contact Name		
Contact Email Address		
Contact Phone Number		

Project Information

Select the category of Eligible Mitigation Action this Application is seeking funding for below. Please complete separate applications for projects that fall under more than one category. If you are planning on submitting an application for a Category 3, 4, 5, or 8 project, please contact NDEP prior to submitting your application and no later than November 30.

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

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

Category 3 – Freight Switchers

Category 4 – Ferries/Tugs

Category 5 – Ocean Going Vessels (OGV) Shorepower

Category 6 – Class 4-7 Local Freight Trucks (Medium Trucks)

Category 7 – Airport Ground Support Equipment

Category 8 – Forklifts and Port Cargo Handling Equipment

Category 10 – Diesel Emission Reduction Act (DERA) Option

Note: for Category 9 – Light Duty Zero Emission Vehicle Supply Equipment. These funds are being spent in partnership with the Nevada Governor’s Office of Energy (GOE) and are being dedicated toward the Nevada Electric Highway Initiative. For more information please visit their website (<http://energy.nv.gov/>).

Is this a vehicle replacement project or an engine repower project? Submit separate applications if your fleet is requesting funds for both.

Vehicle Replacement

Engine Replacement

Other

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Description of Proposed Project

1. Please provide a detailed description of the proposed project.

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2. Explain how this request fits into Nevada's Beneficiary Mitigation Plan.

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3. What is the likelihood that the project will incentivize future indirect NOx and other emission reductions? That is, will this be the beginning or continuation of a transition of the fleet to an alternative fuel or electricity? If so, provide a timeline for that transition.

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4. Are there any societal co-benefits of the project? Are there any “sensitive” populations including, but not limited to asthmatics, children, or the elderly that are likely to be directly benefitted by the project? While it isn’t necessary if you are using a tool to identify “sensitive” populations that would likely be impacted by your project (one such example being the EPA’s EJSCREEN, available at <https://www.epa.gov/ejscreen>) include the data/analysis from the tool in your application. School districts and transit authorities do not need to use a tool to demonstrate the societal co-benefits of their project.

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5. Where will the project be located? Provide, at a minimum, the city and/or county where the project will occur. Clark and Washoe counties have identified high priority areas within their counties, see pages 19-22 of Nevada's Beneficiary Mitigation Plan, these areas are a primary concern for the Nevada Diesel Emission Mitigation Fund. NDEP is also considering Carson City, Douglas County, and urban centers in the counties adjacent to Clark and Washoe counties as priority areas. Additional details such as vehicle route information, fleet yard location, or where the vehicle typically operates will also be considered.

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6. Project funds are provided only after the replacement/repower has occurred, the existing vehicle/engine has been appropriately scrapped, and sufficient evidence has been provided to NDEP. When do you expect this to occur?

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7. Project Feasibility: Provide a proposed schedule detailing the steps necessary for executing the project and a description of how you as the applicant have the necessary technical, managerial, procurement, and financial capability and experience to execute on your proposed project.

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8. Is there any additional information that you'd like to provide?

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9. For applicants seeking funding through Category 10 – the DERA Option, please review the EPA’s current State Grant Program Information Guide and the EPA’s State Grant Program webpage. Using the space below and attaching additional information as necessary, provide a summary of your project including the eligible diesel emission reduction solution you are requesting funds for and any other relevant information that you would like to be considered.

Vehicle/Equipment Information

Category 1, 2, 6, and 7 Applications

Vehicle/Equipment information must be electronically completed using the provided Microsoft Excel-based template and submitted with this completed application. The template is available online at <https://www.ndep.nv.gov/air/vw-settlement> under “**Nevada Diesel Emission Mitigation Fund Competitive Application.**” Applicants must completely fill out the portions of the template that applies to their application in order to be considered for funding. Incomplete applications will not be considered.

Category 10 – The DERA Option

Applications seeking funding through Category 10 – the DERA Option must complete and submit with this application the DERA portion of the provided Microsoft Excel-based template and submitted with this completed application. The template is available online at <https://www.ndep.nv.gov/air/vw-settlement> under “**Nevada Diesel Emission Mitigation Fund Competitive Application.**” In addition, requests for funding through Category 10 should provide a detailed response to question 9 above in the Description of Proposed Project section of this application. Only those eligible diesel emission reduction solutions that are not also listed in the Environmental Mitigation Trust Agreement for State Beneficiaries (State Trust) will be eligible for funding through this application.

All Other Categories of Eligible Mitigation Actions

If you are planning on submitting an application for a Category 3, 4, 5, or 8 project, please contact NDEP prior to submitting your application and no later than November 30.

Project Funding

1. What is the total estimated cost of the project?

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2. What is the amount you are requesting from the Nevada Diesel Emission Mitigation Fund?

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3. Separately as attachments and in the space below, provide detailed information relating to the total cost of your project. Include estimates and/or initial invoices from selected or potential vendors for the project and specify what specifically you are seeking funding for. In order to determine the amount of funds being requested, detailed cost estimates from selected or potential vendors are required for both the diesel-powered replacement/repower as well as the alternative fuel or zero tailpipe emission replacement/repower. This is to determine the incremental cost of your project.

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4. Provide information about the required fueling infrastructure and indicate if that infrastructure is already in place or the details on the timeline of when it will be installed. Note that Appendix D-2 of the Note that NDEP is not funding the costs associated with charging infrastructure for any project.

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5. If requesting funds above the incremental replacement/repower costs, provide a detailed justification as to why the higher level of funding is needed. Note that even if a project requesting funds above the incremental cost is selected, there is no guarantee that the award will match the amount requested.

Scoring Criteria

Only complete applications with eligible project proposals will be evaluated according to the criteria set forth below. Applicants should provide information in their applications that specifically addresses these criteria. While the scoring criteria provided in this section are the primary means of determining a selected project, final selection of projects will be made by NDEP and, in certain instances, we reserve the right to deviate from the information provided below. That is, NDEP may also consider other factors not included in these scoring criteria

Criteria	Points
Total Possible Points	/100
NOx Emission Reductions and Cost-Effectiveness: NDEP will quantify the emissions reductions of the project (see pages 26-27 of Nevada’s Beneficiary Mitigation Plan for an example). For every Trust Fund dollar that is spent, the cost per ton of emission reductions associated with the project will be considered.	/25
Project Location: Pages 19-22 of Nevada’s Beneficiary Mitigation Plan detail high priority areas within Clark and Washoe counties that will be of primary focus for Environmental Mitigation Trust Funds. Other areas within those counties would also receive points, albeit fewer. NDEP is also considering Carson City, Douglas County, and urban centers in the counties adjacent to Clark and Washoe counties to be priority areas that will be eligible to receive points in this criterion.	/20
Environmental Co-Benefits: NDEP will quantify the emissions reductions of the project. Reductions of NOx are of primary concern but other emissions reductions of the project (e.g. CO, CO ₂ , and PM _{2.5}) will also be considered.	/15
Likelihood of additional, future, emission reductions: For example, will this be the beginning of a transition of the fleet to an alternative fuel/zero tailpipe emission and if so the timeline of that transition.	/15
Project Feasibility: NDEP will consider whether the applicant supplied a proposed schedule detailing the necessary steps for executing the project. NDEP will also consider whether there was a description provided by the applicant that included the details showing the necessary technical, managerial, procurement, and financial capabilities and experience of the applicant organization and its personnel to execute on the project.	/15
Societal Co-Benefits: The quality and extent to which the proposal demonstrates how the proposed project will address the needs and concerns of affected communities, including any communities or populations that have faced or are facing environmental justice concerns. The likelihood that “sensitive” populations including, but not limited to, asthmatics, children, or the elderly are directly benefited by the project.	/10

Example Subgrant Agreement and Reporting Templates

Should a project be selected for funding, a completed Subgrant Agreement will need to be signed by both parties and the Subgrantee will be required to submit quarterly reports and final proof of vehicle/equipment scrappage. An example of NDEP's Subgrant Agreement that will be used to create a final Subgrant Agreement between NDEP and the Subgrantee is included with this application.¹⁰ Following the execution of the Subgrant Agreement, an Appendix D-4 Beneficiary Eligible Mitigation Action Certification funding request will then be submitted to Wilmington Trust (the Trustee managing the State Trust monies) for their consideration by NDEP.¹¹ Please note regarding Appendix D-4 submissions, Wilmington Trust has 60 days to approve or deny any funding request (subparagraph 5.2.16 of the State Trust).

Next, quarterly reports must be submitted by the Subgrantee until the project has been completed. The due dates for the reports are listed in the Subgrant Agreement. When the Subgrantee has completed their project, a Vehicle/Equipment Scrappage Checklist must be submitted for every vehicle/piece of equipment being replaced through the Subgrant Agreement and appropriate photographic evidence for each vehicle/piece of equipment being replaced must also be submitted. In order to ensure that the vehicle has been scrapped according to the requirements in the State Trust, NDEP will not reimburse a Subgrantee unless and until all required documentation of vehicle scrappage has been submitted to NDEP. All reporting templates are individually available on NDEP's DEMF webpage, <https://ndep.nv.gov/air/vw-settlement>.

¹⁰ Note that much of the spaces for vehicle/equipment information listed in the Scope of Work can change depending on the category of Eligible Mitigation Action and the information available to the Subgrantee.

¹¹ For examples of funding requests submitted by NDEP to Wilmington Trust, visit: <https://ndep.nv.gov/air/vw-settlement/funding-requests>

Example Subgrant Agreement

A Subgrant awarded by:

**Department of Conservation and Natural Resources
Division of Environmental Protection
Bureau of Air Quality Planning
901 S. Stewart Street, Suite 4001
Carson City, NV 89701-5249
Phone: (775) 687-4670 Fax: (775) 687-5856**

hereinafter the “Division”

and awarded to:

**Organization
Subtitle/Name
Street
Town, State Zip
Phone: (000) 000-000**

hereinafter the “Subgrantee”

WHEREAS, Nevada Revised Statute (NRS) 445.230 authorizes the Division to receive grants or other funds from a public or private agency; and

WHEREAS, it is deemed that the project purposes hereinafter set forth are consistent with the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries that provides support for this Subgrant;

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

1. REQUIRED APPROVAL. This Subgrant shall not become effective until and unless approved by appropriate official action of the governing body of each party.
2. DEFINITIONS. “State” means the State of Nevada and any state agency identified herein, its officers, employees, and immune contractors as defined in NRS 41.0307.
3. SUBGRANT TERM. This Subgrant shall be effective to _____, unless:
 - a. Sooner terminated by either party as set forth in this Subgrant; or
 - b. The Subgrantee requests a six month Subgrant Term extension that is then approved by the Division. For any such request to be approved by the Division, the Subgrantee must adequately demonstrate a need for the extension to the Division. The Subgrantee is only eligible to receive two such six month extensions to this Subgrant.

4. TERMINATION. This Subgrant may be terminated by either party prior to the date set forth in paragraph 3, provided that a termination shall not be effective until 30 days after a party has served written notice upon the other party. This Subgrant may be terminated by mutual consent of both parties or unilaterally by either party without cause. The parties expressly agree that this Subgrant shall be terminated immediately if for any reason the funding ability to satisfy this Subgrant is withdrawn, limited, or impaired by the State Legislature and/or Wilmington Trust, acting on behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries.

5. NOTICE. All notices or other communications required or permitted to be given under this Subgrant shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile, by electronic mail, or by regular or certified mail.

6. INCORPORATED DOCUMENTS. The parties agree that the services to be performed shall be specifically described; this Subgrant incorporates the following attachments in descending order of constructive precedence:

ATTACHMENT: Scope of Work (consisting of _____ pages)

ATTACHMENT: Additional Division Terms and Conditions (consisting of 2 pages)

7. CONSIDERATION. Subgrantee agrees to provide the services set forth in paragraph 6 at a cost to the Division not exceeding \$_____. Any intervening end to a biennial appropriation period shall be deemed an automatic renewal (not changing the overall Subgrant term) or a termination as the results of legislative appropriation may require.

The Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries lists funding percentages that the Division cannot exceed, and, in some cases, mandatory cost-share amounts for project partners. The Subgrantee shall provide, as part of this Subgrant Agreement's Scope of Work and budget located therein, a minimum of _____ percent in funding toward the final purchase price of any vehicles or equipment replaced through this Subgrant Agreement to support the completion of this project. The Division understands that changes to the final project cost may affect the total amount of funding the Subgrantee provides, but any minimum funding percentages required by the Subgrantee must be met.

8. ASSENT. The parties agree that the terms and conditions listed on incorporated attachments of this Subgrant are also specifically a part of this Subgrant and are limited only by their respective order of precedence and any limitations expressly provided.

9. INSPECTION & AUDIT.

a. Books and Records. Each party agrees to keep and maintain under generally accepted accounting principles full, true, and complete records, agreements, books, and documents as are necessary to fully disclose to the State or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all State and federal regulations and statutes.

b. Inspection & Audit. Each party agrees that the relevant books, records (written, electronic, computer related, or otherwise), including but not limited to relevant accounting procedures and practices of the party, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location where such records may be found, with or without notice by the State Auditor, Employment Security, the Department of Administration, Budget Division, the Nevada State Attorney General's Office or its Fraud Control Units, the State Legislative Auditor, and with regard to any federal funding, the relevant federal agency, the Comptroller General, the General Accounting Office, the Office of the Inspector General, or any of their authorized representatives.

c. Period of Retention. All books, records, reports, and statements relevant to this Subgrant must be retained a minimum of three years from the date of final payment by or on behalf of the State to the Subgrantee, and only after all other pending matters are closed. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

10. BREACH; REMEDIES. Failure of either party to perform any obligation of this Subgrant shall be deemed a breach. Except as otherwise provided for by law or this Subgrant, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including but not limited to actual damages. If the court awards reasonable attorney's fees to the prevailing party, reasonable shall be deemed \$125 per hour.

11. LIMITED LIABILITY. The parties will not waive and intend to assert available NRS chapter 41 liability limitations in all cases. Subgrant liability of both parties shall not be subject to punitive damages. Actual damages for any State breach shall never exceed the amount of funds which have been appropriated for payment under this Subgrant, but not yet paid, for the fiscal year budget in existence at the time of the breach.

12. FORCE MAJEURE. Neither party shall be deemed to be in violation of this Subgrant if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms. In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Subgrant after the intervening cause ceases.

13. INDEMNIFICATION. To the fullest extent of limited liability as set forth in paragraph 11 of this Subgrant, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorneys' fees and costs, arising out of any alleged negligent or willful acts or omissions of the party, its officers, employees, and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this paragraph.

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The indemnification obligation under this paragraph is conditioned upon receipt of written notice by the indemnifying party within 30 days of the indemnified party's actual notice of any actual or pending claim or cause of action. The indemnifying party shall not be liable to hold harmless any attorneys' fees and costs for the indemnified party's chosen right to participate with legal counsel.

14. INDEPENDENT PARTIES. The parties are associated with each other only for the purposes and to the extent set forth in this Subgrant. In respect to performance of services pursuant to this Subgrant, each party is and shall be separate and distinct from the other party and, subject only to the terms of this Subgrant, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Subgrant. Nothing contained in this Subgrant shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for one agency whatsoever with respect to the indebtedness, liabilities, and obligations of the other agency or any other party.

15. WAIVER OF BREACH. Failure to declare a breach or the actual waiver of any particular breach of the Subgrant or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

16. SEVERABILITY. If any provision contained in this Subgrant is held to be unenforceable by a court of law or equity, this Subgrant shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Subgrant unenforceable.

17. ASSIGNMENT. Neither party shall assign, transfer, or delegate any rights, obligations, or duties under this Subgrant without the prior written consent of the other party.

18. OWNERSHIP OF PROPRIETARY INFORMATION. Unless otherwise provided by law any reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer code, or any other documents or drawings, prepared or in the course of preparation by either party in performance of its obligations under this Subgrant shall be the joint property of both parties.

19. PUBLIC RECORDS. Pursuant to NRS 239.010, information or documents may be open to public inspection and copying. The parties will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.

20. CONFIDENTIALITY. Each party shall keep confidential all information, in whatever form, produced, prepared, observed, or received by that party to the extent that such information is confidential by law or otherwise required by this Subgrant.

21. PROPER AUTHORITY. The parties hereto represent and warrant that the person executing this Subgrant on behalf of each party has full power and authority to enter into this Subgrant and that the parties are authorized by law to perform the services set forth in paragraph 6.

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22. GOVERNING LAW; JURISDICTION. This Subgrant and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. The parties consent to the jurisdiction of the Nevada district courts for enforcement of this Subgrant.

23. ENTIRE AGREEMENT AND MODIFICATION. This Subgrant and its integrated attachments constitute the entire agreement of the parties and as such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other agreements that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Subgrant specifically displays a mutual intent to amend a particular part of this Subgrant, general conflicts in language between any such attachment and this Subgrant shall be construed consistent with the terms of this Subgrant. Unless otherwise expressly authorized by the terms of this Subgrant, no modification or amendment to this Subgrant shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

EXAMPLE

IN WITNESS WHEREOF, the parties hereto have caused this Subgrant to be signed and intend to be legally bound thereby.

SUBGRANTEE

By: _____
Signature

Name: _____

Title: _____ Date: _____

By: _____
Signature

Name: _____

Title: _____ Date: _____

DIVISION ADMINISTRATOR

By: _____
Signature

Name: _____

Title: **Administrator** _____ Date: _____

DIVISION OFM FISCAL

By: _____
Signature

Name: _____

Title: **Budget Analyst** _____ Date: _____

**EXAMPLE SCOPE OF WORK
 ATTACHMENT TO SUBGRANT
 SUBGRANT CONTROL #DEP-S
 BENEFICIARY PROJECT ID #NVDEMF**

This is a Category _____ Eligible Mitigation Action of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries. It is for the replacement/repower of _____. These replacements/repowers will provide a direct benefit to air quality by hastening the Subgrantee’s fleet turnover, providing a reduction in vehicle/equipment emissions.

Information about the vehicles/equipment being replaced/repowered is provided in the table below:

Unit Number	Vehicle License Plate Number	Vehicle Identification Number	Engine Serial Number	Award Amount

The duties and obligations of the Subgrantee and the Division, in addition to those set forth elsewhere in this Subgrant Agreement, are as follows:

Subgrant Budget

The total purchase price of the vehicle/equipment replacements/repowers is \$ _____. The Division is awarding \$ _____ to the Subgrantee in order to complete this project and the Subgrantee shall provide the remaining costs in order to support the completion of this project. Wilmington Trust, the Trustee acting on behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries, shall be directed by the Division, through the submission of an APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification Attachment A Funding Request and Direction, to remit payment to the Subgrantee upon successful completion of this Subgrant.

The Division’s award is determined by the sum of the award amounts for the vehicles/equipment being replaced/repowered in the table above. If some vehicles/pieces of equipment are not replaced/repowered, the total award amount shall be changed by removing the award amount for the vehicles/pieces of equipment from the total award. Changes to the final vehicle/equipment costs will not affect the Division’s award to the Subgrantee unless they conflict with the maximum funding percentages the Division is allowed to award as a Beneficiary of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries.

Eligible costs associated with this replacement project includes the costs of modifications, attachments, accessories, or auxiliary apparatus necessary to make the vehicle/equipment functional. The cost of additional “optional” components or “add-ons” that significantly increase the cost of the vehicle/equipment may not be eligible for funding under this Subgrant; the replacement vehicle/equipment should resemble the replaced vehicle/equipment in form and function.

The Subgrantee shall:

1. Replace the [redacted] with [redacted]. Purchases should be completed with all components necessary to operate the [redacted] vehicles/equipment.
2. Submit quarterly Progress Reports to the Division. Quarterly reports are considered project status reports and will address the progress made achieving this Subgrant's goals. The Subgrantee shall use a template provided by the Division for completing and submitting these quarterly reports. The Subgrantee shall submit quarterly reports to the Division according to the following schedule. If a due date falls on a weekend or holiday, the report will be due on the next business day.

January 1 – March 31 Reporting Period: Report due date April 10

April 1 – June 30 Reporting Period: Report due date July 10

July 1 – September 30 Reporting Period: Report due date October 10

October 1 – December 31 Reporting Period: Report due date January 10

If a project start date falls within a defined Reporting Period, the Subgrantee must report for that period by the given due date. This quarterly reporting schedule shall be repeated for the duration of the Subgrant. Repeated failures by the Subgrantee to submit quarterly progress reports by their respective due dates may result in the Termination of this Subgrant Agreement.

3. The [redacted] shall be scrapped within 90 days of receipt of the new [redacted] vehicles/equipment. Scrapped means to render inoperable and available for recycle and, at a minimum, the vehicle will be disabled in accordance with the following conditions:

- a. By making the engine no longer operational. The preferred engine scrapping method is cutting a three-inch hole in the engine block (the part of the engine containing the cylinders).
- b. By disabling the chassis. The preferred method is completely cutting through the frame/frame rails on each side at a point located between the front and rear axles.
- c. Equipment and vehicle components that are not part of the engine or chassis may be salvaged from the unit being replaced (e.g. plow blades, shovels, seats, tires, etc.).

Other methods may be considered, but prior approval by the Division is required.

4. Provide the Division with the appropriate evidence of disposal. For each [redacted] vehicle/piece of equipment being replaced, this includes:
 - a. Digital photos of:
 1. Side profile photo that identifies the [redacted] vehicle/piece of equipment;
 2. The Vehicle Identification Number;
 3. The engine label clearly showing the engine serial number, engine family number, and engine model year;
 4. The engine bay prior to the hole;

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5. The engine bay after the hole;
6. The completely cut chassis rail(s); and
7. As needed, any additional photos.

If other scragage methods are approved by the Division, then the Division will provide additional information on what will be considered appropriate evidence of disposal at that time.

Note that if any vehicle/piece of equipment is missing an engine label or the engine label has been damaged/worn off such that the engine serial number cannot be read, photos of where the label should be located/photos of the damaged/worn off engine serial number are still required and must be provided by the Subgrantee.

b. A completed Division Certificate of Engine/Chassis Destruction.

5. Provide high-resolution digital photos of each new vehicle/piece of equipment to the Division for public relations purposes.

6. After scrapping the _____, submit to the Division an invoice for the award amount as well as copies of the final invoice(s) from the manufacturer and any additional, supporting documentation. On a per vehicle/piece of equipment basis, the Division's share of the purchase price will not exceed the award amounts listed on page 1 of this Scope of Work. Invoices should include vehicle/equipment identification information such as serial numbers, make, and model. Supporting documentation can include, but is not limited to: copies of receipts, bid documents, or invoices received from suppliers that are not the final manufacturer of the vehicle/piece of equipment.

Unless otherwise agreed by both parties, final invoices must be submitted to the Division no later than 30 days prior to the end of the Subgrant Term (paragraph 3 of the Subgrant Agreement).

7. Provide any information to the Division necessary to complete a Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification Attachment A Funding Request and Direction submission to Wilmington Trust.

8. For each vehicle being replaced through this Subgrant Agreement, obtain and provide to the Division a copy of a Non-Repairable Vehicle Certificate from the Nevada Department of Motor Vehicles. This only applies to the vehicles being replaced that were previously registered to operate on highways in Nevada. The application form for a Non-Repairable Vehicle Certificate is available on the Nevada Department of Motor Vehicle's website at: <https://dmvnev.com/salvage.htm>

9. Provide the necessary information to the Division to complete a State Trust APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification Attachment A Funding Request and Direction submission to Wilmington Trust. In coordinating with the Division on the preparation of the Attachment A Funding Request and Direction submission to Wilmington Trust, any failure by the Subgrantee to provide accurate banking information that results in Wilmington Trust charging fees to the Division will be charged to the Subgrantee by way of a subtraction from the final award amount.

10. Hold title to the _____, insure and register the **vehicles/equipment** in accordance with Nevada state law, retain ownership of the **vehicles/equipment** for at least five years, and maintain the new **vehicles/equipment** to the manufacturer's recommended maintenance schedule through the manufacturer's warranty period.

The Division shall:

1. Submit to Wilmington Trust, the State Trust's designated Trustee, all necessary documentation relating to an APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification submission and provide timely updates to the Subgrantee regarding the status of said submission. The Division shall also provide a copy of the APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification submission to the Subgrantee — excluding any Division confidential business information — when the documents are submitted to Wilmington Trust.

Note that Wilmington Trust has sixty (60) days after receipt of an APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification submission to transmit to the Division a written determination either:

- a. Approving the request;
- b. Denying the request;
- c. Requesting modifications to the request; or
- d. requesting any further information.

2. Provide timely updates to the Subgrantee regarding the status of the APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification submission.

3. Act in a timely manner to review all quarterly progress reports/evidence provided by the Subgrantee to minimize any delays in the completion of this Subgrant.

4. Only reimburse the Subgrantee the award amounts listed in this Scope of Work for the **vehicles/equipment** that have been **replaced/repowered**.

5. Upon the Division's determination that the Subgrantee has provided sufficient evidence to the Division that the Subgrantee has fulfilled the terms of the Subgrant, instruct Wilmington Trust to pay the invoices submitted by the Subgrantee during the period of the Subgrant through an APPENDIX D-4 Beneficiary Eligible Mitigation Action Certification Attachment A Funding Request and Direction submission. The Division shall finalize the Attachment A Funding Request and Direction submission with the Subgrantee prior to submitting to Wilmington Trust. Once a request for disbursement of funds has been made, Wilmington Trust has 15 days to disburse funds, unless such date is not a business day and then the payment shall be made on the next succeeding business day.

EXAMPLE ADDITIONAL DIVISION TERMS AND CONDITIONS
ATTACHMENT TO SUBGRANT
SUBGRANT CONTROL #DEP-S
BENEFICIARY PROJECT ID #NVDEMF

1. The Division shall pay no more compensation than the federal Executive Service Level 4 (U.S. Code) daily rate (exclusive of fringe benefits) for individual consultants retained by the Subgrantee or by the Subgrantee's contractors or subcontractors. This limitation applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate.

2. *The Division shall only reimburse the Subgrantee for actual cash disbursed.*

3. All payments under this Subgrant are contingent upon the notice of approval of sufficient funds to the Division, necessary to carry out the provisions of this Subgrant, from Wilmington Trust, the Trustee acting behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries. Approval from Wilmington Trust can take up to 60 days. The Division shall determine if it has received the specific approval necessary to fund this Subgrant. If Wilmington Trust denies the request to fund this Subgrant, the Division is under no obligation to supply funding for this Subgrant. The approval of sufficient funds by Wilmington Trust is a condition precedent to the Division's obligation to ensure Wilmington Trust disburses payment under this Subgrant (disbursement of payment can take up to an additional 15 days).

Nothing in this Subgrant shall be construed to provide the Subgrantee with a right of payment over any other entity. If any payments that are otherwise due to the Subgrantee under this Subgrant are deferred because of unavailability of sufficient funds, such payments will promptly be made to the Subgrantee if sufficient funds later become available.

4. Notwithstanding the terms of paragraph 3, and at the sole discretion of the Division, payments will not be made by the Division unless all required reports or deliverables have been submitted to and approved by the Division within the schedule listed in paragraph 2 of the Scope of Work.

5. Any funds obligated by the Division under this Subgrant that are not expended by the Subgrantee upon the completion, termination or cancellation of this Subgrant shall be returned to Wilmington Trust, the Trustee acting on behalf of the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries. The Division shall not have any obligation to re-award or to provide, in any manner, such unexpended funds to the Subgrantee. The Subgrantee shall have no claim of any sort to such unexpended funds.

6. The books, records, documents, and accounting procedures and practices of the Subgrantee or any subcontractor relevant to this Subgrant shall be subject to inspection, examination, and audit by the State of Nevada, the Division, the Attorney General of Nevada, the Nevada State Legislative Auditor, the federal or other funding agency, the Comptroller General of the United States, or any authorized representative of those entities.

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7. All books, reports, studies, photographs, negatives, annual reports, other documents, data, materials, or drawings prepared by or supplied to the Subgrantee in the performance of its obligations under this Subgrant shall be the joint property of both parties. Such items must be retained by the Subgrantee for a minimum of three years from the date of final payment by the Division to the Subgrantee, and only after all other pending matters are closed. If requested by the Division at any time within the retention period, any such materials shall be remitted and delivered by the Subgrantee, at the Subgrantee's expense, to the Division. The Division does not warrant or assume any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, report, or product of any kind that the Subgrantee may disclose or use for purposes other than the performance of the Subgrantee's obligations under this Subgrant. For any work outside the obligations of this Subgrant, the Subgrantee must include a disclaimer that the information, report, or products are the views and opinions of the Subgrantee and do not necessarily state or reflect those of the Division nor bind the Division.

8. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with funds provided under this Subgrant, the Subgrantee shall clearly state that funding for the project or program was provided by the Nevada Division of Environmental Protection's Diesel Emission Mitigation Fund. The Subgrantee will insure that the Division is given credit in all official publications relative to this specific project and that the content of such publications will be coordinated with the Division prior to being published.

9. The Subgrantee shall use recycled paper for all reports that are prepared as part of this Subgrant and delivered to the Division. This requirement does not apply to standard forms.

10. The Subgrantee, to the extent provided by Nevada law, shall indemnify and save and hold the State of Nevada, its agents and employees harmless from any and all claims, causes of action, or liability arising from the performance of this Subgrant by the Subgrantee or the Subgrantee's agents or employees or any subcontractor or their agents or employees. The Division, to the extent provided by Nevada law, shall indemnify and save and hold the Subgrantee, its agents, and employees harmless from any and all claims, causes of action, or liability arising from the performance of this Subgrant by the Division or the Division's agents or employees.

11. This Subgrant shall be construed and interpreted according to the laws of the State of Nevada and conditions established in the Volkswagen Environmental Mitigation Trust Agreement for State Beneficiaries. Nothing in this Subgrant shall be construed as a waiver of sovereign immunity by the State of Nevada. Any action brought to enforce this Subgrant shall be brought in the First Judicial District Court of the State of Nevada.

12. The Subgrantee shall neither assign, transfer, nor delegate any rights, obligations, or duties under this Subgrant without the prior written consent of the Division.

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Quarterly Progress Report

Subgrantee: _____ **Date:** _____

Reporting Period: _____ **Project ID:** _____

Expected Project Completion Date: _____

Accomplishments:

What is the current status of the project and have any goals been accomplished toward project completion?

Schedule Status:

What, if any, changes have been made to the project's schedule compared to your DEMF application or since the previous report?

Actual or Anticipated Problems:

Are there any actual or anticipated problems that will delay the completion of the project? How do you plan to solve these problems?

Planned Activities for Next Reporting Period:

What activities are planned for the next reporting period?

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Is an invoice to the Division for the amount of the award included with your submission?

Yes No

Has a copy of the final invoice(s) provided by replacement vehicle/equipment manufacturer been included with your submission?

Yes No

Using only the photographic evidence that you're including, can you identify the vehicle/equipment?

Yes No

Have you included an adequate demonstration for how you made the replacement vehicle/equipment available for recycle?

Yes No

Be sure that any additional, required information has also been included with this completed checklist. Examples may include but are not limited to receipts from scrapyards/dismantlers and photographic evidence of scrappage from scrapper/dismantler.