

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

Minnesota (“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 Minnesota Pollution Control Agency, (MPCA) (“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:	Rocky Sisk, State Program Administrative Coordinator, Minnesota Pollution Control Agency
Address:	520 Lafayette Rd, St. Paul, MN 55155
Phone:	651-757-2173
Fax:	651-215-0246
Email:	rocky.sisk@state.mn.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:

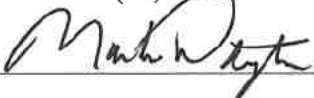
- (a) Shall not deny registration to any Subject Vehicle based solely on:
 - i. The presence of a defeat device or AECD covered by the resolution of claims in the Partial Consent Decree or in the Second Partial Consent Decree; or
 - ii. Emissions resulting from such a defeat device or AECD; or
 - iii. 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: Mark Dayton

Title: Governor

Date: October 12, 2017

Location: St. Paul, MN

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: 


Name: John Linc Stine

Title: Commissioner

Date: October 13, 2017

Location: St. Paul, MN

[FOR OTHER REQUIRED SIGNATORIES]:

Signature: 
Name: Adonis A. Neblett
Title: General Counsel, MPCA
Date: Nov. 3, 2017
Location: St. Paul, MN

Attachment I

(Regarding Paragraph 7 of Appendix D-3)

Guide for members of the public requesting information

(This document is required by Minn. Stat. §13.03, subd. 2.)

Right to access public data

The Minnesota Government Data Practices Act (MGDPA), Chapter 13 of Minnesota statutes, regulates access to and the collection, creation, dissemination, maintenance, and storage of governmental data regardless of their physical form, how they are stored, or how they are used (Minn. Stat. § 13.01, subd. 3 and Minn. Stat. § 13.02, subd. 7).

The MGDPA defines governmental data as “all data collected, created, received, maintained or disseminated by any government entity regardless of its physical form, storage media or conditions of use” (Minn. Stat. § 13.02, subd. 7). The MGDPA establishes a presumption that all governmental data are accessible to the public for both inspection and copying, unless there is a federal law, state statute or, temporary classification that classifies them as not public (Minn. Stat. § 13.01, subd. 3 and Minn. Stat. § 13.03, subd. 1). The files of the Minnesota Pollution Control Agency (MPCA) are open to the public (subject to the restrictions of court orders, federal law, Minnesota statutes, and decisions of the Office of the Minnesota Attorney General).

The MGDPA also requires that a governmental entity keep its data in such a way that makes them easily accessible for convenient use (Minn. Stat. § 13.03, subd. 1). Members of the public have the right to inspect and copy public data maintained by a governmental entity at reasonable times and places and, upon request, be informed of their meaning (Minn. Stat. § 13.03, subd. 3a).

A governmental entity, such as the MPCA, is not required to provide data in a specific arrangement/form according to the desires of a particular requester if the agency does not maintain the requested data in that specific arrangement/form. The requester may receive the data in the form in which they are maintained at the MPCA and convert them to their desired form. If, after some effort, the MPCA could provide the data in the desired form, the agency would notify the requester of this fact and inform him/her how long it would take to do this conversion and how much it would cost (if the total cost of providing the requested data warrants the issuing of an invoice as per the “Requesting copies/copying costs” section of this guide). The requester could then decide if he/she wants the data in the converted form.

The MPCA is not required to create data that do not already exist at the entity. The MGDPA does not require the agency to answer questions that are not requests for data.

The name of/contact information for agency staff members who have data practices-related responsibilities are found on the “Minnesota Pollution Control Agency data practices and records management contacts” page located at the end of this document.

File reviews/data requests

To submit an information request, a requester must complete and submit the automated “Information Request Form” located on the “Information requests” page of the agency’s external website. (This page can be found at the following link: <https://www.pca.state.mn.us/about-mpca/information-requests>.)

When a requester submits an electronic "Information Request Form," it will automatically be sent to the MPCA's "Records Management Intake/Triage" department and will then be assigned to the appropriate file manager for processing. (The agency has various file managers whose job responsibilities include responding to data and file review requests. These file managers are assigned to work with data from different agency programs.) Requests will be processed in the order in which they are received.

The requester will receive an e-mail acknowledging receipt of his/her request and will be notified of the name of the file manager handling the request. The file manager assigned to the request will gather the requested data and contact the requester when they are ready to be reviewed. If the requester wishes to obtain copies of the requested data instead of conducting a file review, the file manager will arrange to have the requested data copied.

If a request involves having to access data from multiple agency programs, it will be forwarded to the appropriate file managers and each of these file managers will gather the requested data from their individual programs and contact the requester when they are ready to be reviewed. In these instances, the requester will be notified of the names of all the file managers handling the request. As stated above, if a requester wishes to obtain copies of the requested data instead of conducting a file review, the file managers will arrange to have the requested data copied.

Requesters who are unable to access the electronic "Information Request Form" located on the agency's external website, need assistance filling out the form, or have questions regarding the submittal of an information request, can contact the agency's Electronic Services at 651-757-2728 or 1-844-828-0942.

When submitting a request, it is helpful to provide as much information as possible regarding the site(s) for which data are being sought - such as the site name(s), former site name(s), address(es), site identification number(s), the agency program(s) to which the site(s) belong etc. This type of information will assist agency file managers in finding the requested data more easily.

If requesters do not have any of the desired information listed above, this information may be obtained by utilizing the "What's in My Neighborhood" tool found on the agency's external website located at <https://www.pca.state.mn.us/data/whats-my-neighborhood>. This tool allows users to perform a map or textbased search to find environmental information regarding facilities and sites.

Since data cannot be removed from the MPCA (Minn. R. 7000.1200), they must be reviewed on-site at one of the agency's offices. The MPCA has an office in Brainerd, Detroit Lakes, Duluth, Mankato, Marshall, Rochester, St. Paul, and Willmar. The locations and contact information for these offices can be found on the "Minnesota Pollution Control Agency offices" page located at the end of this document.

In general, the file manager will arrange for the requested data to be reviewed at the MPCA office where the data are normally kept. However, if necessary, the requested data could be sent to another agency office for review if this is more convenient for the requester. Data cannot be reviewed at locations outside the MPCA.

File review appointments can be scheduled Monday through Friday between 8:00 a.m. and 4:00 p.m. through the appropriate file manager. File reviews will be scheduled as soon as possible, depending upon the availability of appointments and the status and/or location of the requested data.

Before requested data can be accessed by a requester, they may need to be reviewed by agency staff to ensure they do not contain any data that are classified by federal law, Minnesota statute, or temporary classification as not public. Depending on the amount of data being requested and the amount requiring review, this may delay access to the data.

During the course of the file review, the person who requested access to the data is responsible for searching through them to find the desired information. This is not the responsibility of the file manager or any other agency staff member. However, general assistance will be provided to respond to routine questions about the data and to help explain their meaning. This includes defining abbreviations, technical terminology, words, and

phrases etc., but it does not include providing details or additional information beyond what is stated in the data. The agency staff person assigned to the data being reviewed (if there is one) is usually the person who provides this general assistance. When providing explanations for non-English speakers or for persons with hearing or vision impairments, the MPCA will make arrangements to provide an appropriate interpreter.

If a requester prefers not to come to an agency office to review requested data, he/she can request that the desired data be copied and sent to him/her. However, this requires that the requester knows exactly what data he/she would like to have copied and he/she must be willing to pay the costs associated with providing the requested data (if the total cost of providing the requested data warrants the issuing of an invoice as per the "Requesting copies/copying costs" section of this guide). As with a file review, this type of request should be made through the appropriate agency file manager.

Regardless of how a requester chooses to access agency data (e.g., by scheduling an appointment to review the data or having the requested data copied and sent to him/her), when making a request, he/she should: notify the agency that a request for data is being made under the MGDPA (Chapter 13 of Minnesota statutes), state whether the requester would like to inspect the requested data, get copies of the requested data or both and give a clear description of the data being requested.

Unless specifically authorized by statute, when a person makes a file review or data request, the MPCA cannot require him/her to identify himself/herself or ask him/her to explain the reasons why he/she is making a data/file review request (Minn. Stat. § 13.05, subd. 12). If a requester chooses not to give any identifying information, the MPCA will provide him/her with contact information so that he/she will be able to check on the status of his/her request. However, if the agency file manager handling the request has questions about it but is unable to contact the requester for clarification, this may result in a delay in processing the request.

If the MPCA does not have the requested data, the requester will be notified of this as soon as reasonably possible. If the agency does have the requested data but cannot provide these data due to the fact that they are classified as not public, the requester will be informed of this fact either orally at the time of the request or in writing as soon after that time as possible. The MPCA will cite the federal law, state statute or temporary classification upon which this determination is based (Minn. Stat. § 13.03, subd. 3f). Upon the request of individuals denied access to data, the MPCA will certify in writing that the request has been denied and cite the federal law, state statute, or temporary classification upon which this determination is based (Minn. Stat. § 13.03, subd. 3f).

Contact information regarding the agency's records management and electronic services is found on the "Minnesota Pollution Control Agency data practices and records management contacts" page located at the end of this document.

Requesting copies/copying costs

Members of the public also have the right to obtain copies of public data. The MGDPA permits the MPCA to charge for the actual costs of searching for and retrieving data, including the cost of employee time to make, certify, and electronically transmit copies of data, but it may not charge for separating public from not public data. (Retrieval costs do not include the charge assessed to the agency for recalling documents from/returning documents to archival storage.) However, if 100 or fewer pages of black and white, letter, legal, or ledger-size paper copies are requested, actual costs may not be used and, instead, the MPCA may charge no more than \$.25 for each page copied. If the MPCA is not able to provide copies at the time a request is made, copies shall be supplied as soon as reasonably possible (Minn. Stat. § 13.03, subd. 3c).

If paper or electronic copies are requested, the MPCA may charge searching and retrieving costs, including the cost of employee time to make, certify and electronically transmit copies of the data (if the total cost of providing the requested copies warrants the issuing of an invoice as per this section of the document). Documents posted on a file transfer protocol site (or a similar technology) can be considered copies.

During a file review, persons may indicate what they would like to have copied by tabbing the pages desired with supplies provided by the MPCA. The tabbed pages will be copied by agency staff (subject to the restrictions of federal laws and Minnesota statutes).

The per page amount charged for black and white letter, legal, or ledger-size photocopies depends on the total number of copies requested. For requests that total 100 pages or fewer, a fee of \$.25 per page is charged for each page of black and white letter, legal, or ledger-size copy. (A double-sided sheet is charged as two pages.) No charge is assessed for the labor associated with making the copies.

For requests that total more than 100 pages, a fee of \$.01 per page is charged for each black and white letter, legal, or ledger-size copy. (A double-sided sheet is charged as two pages.) A labor fee of \$33.50 per hour is charged for the staff time to search for and retrieve data. A labor fee of \$9.00 per hour is charged for making requested copies (paper or electronic). Labor is billed in 15-minute increments. If, because of the nature of the request, the MPCA finds it necessary for a higher-paid employee to search for and retrieve the requested data, it will calculate the search and retrieval portion of the copy charge at a higher salary/wage.

Other reproduction charges include: \$.05 per letter, legal, or ledger-size color copy, \$.11 per compact disc, \$.20 per digital versatile disc, \$4.54 per 4 gigabyte flash drive, \$4.29 per 8 gigabyte flash drive, \$.36 per map/plan sheet and mailing costs (which includes \$.74 per disc mailer). Labor fees may be assessed for the certification of copies.

If a person makes a request for copies of data that the MPCA maintains but cannot reproduce itself (e.g., photographs or slides), the appropriate file manager can make arrangements with a local vendor to provide this service and the agency will charge the actual cost of what it must pay an outside vendor for the requested copies. (Prices may vary depending on the services desired. Quotes can be obtained from an agency file manager.)

The inspection of data is free. Fees will not be charged for documents that are published and made available by the MPCA as part of its public information efforts.

Persons coming to the agency to conduct a file review will be asked to fill out or provide information for an "Invoice for Information Requests" form if they ask for copies to be made as a result of the review. The form will serve as an acknowledgement that the requester will be invoiced for the requested copies. The data obtained on this form (such as contact information and billing address) will be used by the agency when preparing an invoice for the requested copies and for mailing this invoice and the requested copies. Persons who request that copies be made and sent to them in lieu of scheduling a file review will also be asked to provide this information and acknowledgement (whether via e-mail, facsimile, etc.).

If a person chooses not to identify himself/herself in the course of a file review or data request but would like to obtain copies, arrangements can be made with the appropriate file manager to have the requested copies picked up by the requester at the agency so that they do not have to be mailed to the requester. In these instances, however, the requester will, upon receipt of the copies, be required to pay, in full, the exact amount owed to the agency via a cashier's check or money order made out to the "Minnesota Pollution Control Agency." For those who have requested copies as a result of a file review and for those who have not scheduled a file review but have requested that copies be made and sent to them, these copy requests will be completed by the agency's copying staff in the order in which they are received.

Copied materials will be mailed to the requester after the file review or data request has taken place. If preferred, persons who have requested copies may choose to pick them up at the MPCA once they are completed or have them sent via a delivery service (at the requester's expense).

If preferred, persons may bring a portable copier, scanning device or other means of duplication to the agency for use in making copies. A copying/scanning service of the requester's choice may also come to the agency to make copies (at the requester's expense). Since agency documents may not be removed from MPCA offices and any inspection and copying of records must be made in the presence of an officer, employee or agent of the agency, space accommodations will be made at an MPCA office for external copying services.

An invoice will be sent for every request whose charges (the above-mentioned searching, retrieving, certifying, and copying costs) total \$10.00 or more. This invoice will be sent under separate cover from the copies. The MPCA will not bill customers for requests that total fewer than \$10.00. The agency may require a down payment on copying requests that are over a certain dollar amount and it reserves the right to require prepayment at any time.

If the customer requesting the file review/data has been hired by the MPCA or is from another governmental office (no matter which level - city, county, state, or federal) copying charges may or may not be assessed. The agency does not waive copying fees for or offer reduced copying fees to specific groups such as non-profit organizations, senior citizens, students etc.

Requests for summary data

Summary data are statistical reports and/or records derived from data on individuals that are classified as private or confidential in which individuals are not identified and from which neither their identities nor any other characteristic that could uniquely identify them are ascertainable (Minn. Stat. § 13.02, subd. 19). The preparation of summary data is not a means to gain access to private or confidential data on individuals. The Responsible Authority for the agency (or his/her designees) will prepare summary data upon the request of an individual provided that the request is in writing and the requester is willing to pay the costs associated with preparing the data (if the total cost of providing the requested data warrants the issuing of an invoice as per the MPCA's copying policy). This summary data will be provided within 10 days of the request - excluding Saturdays, Sundays, and legal holidays. If the summary data will not be provided within this timeframe, details of when they will be available will be communicated to the requester as soon as reasonably possible.

This guidance document is a modified version of the Minnesota Department of Administration's Information Policy Analysis Division "Guide for Members of the Public Requesting Information" document dated June 2008.

Minnesota Pollution Control Agency data practices and records management contacts

For questions and concerns regarding the submittal of an information request or for assistance in completing the electronic Information Request Form, contact:

Electronic Services

651-757-2728 or 1-844-828-0942

Records Management Supervisors

Celeste Courneya 651-757-2197

celeste.courneya@state.mn.us

Kristan Courneya 651-757-2534

kristan.courneya@state.mn.us

For data practices concerns and for problems obtaining access to agency data, contact:

Data Practices Compliance Coordinator

Christine Malec 651-757-2548

chris.malec@state.mn.us

Data Practices Compliance Official/Data Practices Responsible Authority

Adonis Neblett 651-757-2791

adonis.neblett@state.mn.us

To obtain data about agency personnel, contact:

Human Resources Director

Colleen Naughton 651-757-2598

colleen.naughton@state.mn.us

Minnesota Pollution Control Agency offices

Brainerd Office

7678 College Road, Suite 105
Baxter, MN 56425
Phone: 218-828-2492
Fax: 218-828-2594

Detroit Lakes Office

714 Lake Avenue, Suite 220
Detroit Lakes, MN 56501
Phone: 218-847-1519
Fax: 218-846-0719

Duluth Office

525 Lake Avenue South, Suite 400
Duluth, MN 55802
Phone: 218-723-4660
Fax: 218-723-4727

Mankato Office

12 Civic Center Plaza, Suite 2165
Mankato, MN 56001
Phone: 507-389-5977
Fax: 507-389-5422

Marshall Office

504 Fairgrounds Road, Suite 200
Marshall, MN 56258
Phone: 507-537-7146
Fax: 507-537-6001

Rochester Office

18 Wood Lake Drive Southeast
Rochester, MN 55904
Phone: 507-285-7343
Fax: 507-280-5513

St. Paul Office

520 Lafayette Road North
St. Paul, MN 55155
Phone: 651-296-6300
Fax: various numbers

Willmar Office

1601 Highway 12 East, Suite 1
Willmar, MN 56201
Phone: 320-214-3786
Fax: 320-214-3787

Directions and/or maps to these offices can be obtained by accessing the agency's webpage located at <https://www.pca.state.mn.us/> and clicking on the "About MPCA" tab (found at the upper right hand corner of the homepage of the website), then by clicking on the "About the MPCA" option in the "About MPCA" dropdown list, then by clicking on "Agency structure" (the third item listed under the "In this section:" heading), then by clicking on "MPCA Offices" (the third item listed under the "In this section:" heading on the upper right hand side of the page) and then by clicking on the desired office listed under the "In this section:" heading.

Attachment II

(Regarding Paragraph 7 of Appendix D-3)

Public and Stakeholder Input

The MPCA is committed to developing a plan that reflects the input and interests of Minnesotans. We are striving to have an open and transparent process that includes the input of a wide range of Minnesotans. We have been soliciting and listening to public and stakeholder input to help inform the development of Minnesota's Beneficiary Mitigation Plan (BMP). We will also have opportunities for input on the draft BMP and plan to receive input throughout the 10-year period of the settlement program.

Part One: Pre-Draft Beneficiary Mitigation Plan input

Public meetings

The MPCA began our engagement by holding three public meetings in February and March of 2017. We held one each in Minneapolis, St. Paul, and Brainerd. MPCA staff provided background on the settlement, answered questions, and encouraged participants to provide input on what matters most to them. MPCA staff took notes at those meetings for consideration with the written comments we have received. Participants were also encouraged to submit written comments and were provided information on how to do so.

We also held an additional listening session in September 2017, hosted by our Environmental Justice Advisory Group (see below for details).

Public comment period

The MPCA had an open public comment period during the spring and summer of 2017. We shared information about VW and the opportunity to comment on the MPCA's VW webpage (www.pca.state.mn.us/vw); by emailing the MPCA's Clean Diesel email list (870 members), environmental justice email list, and Air Mail Newsletter (1,900 members); by sharing on social media; and among other means.

So far, we have received over 200 comment letters from the general public as well as from stakeholders. Staff has reviewed and categorized these comments. A summary of this input can be found on our website. Key themes include supporting electrification and electric vehicles; considering alternative fuels, including propane and natural gas; and promoting environmental justice and health benefits.

Stakeholder meetings

The MPCA has been holding a series of stakeholder meetings with interested groups. The group is open to any person or organization who would like to participate and dive into details on the settlement. The participants are representatives from a variety of interests, including, but not limited to:

- Utility companies
- Bus manufacturing companies
- Local governments
- Propane and natural gas industry
- Electric vehicle advocates
- Politicians (state elected senators and representatives)
- Environmental non-profit groups
- Environmental Justice Advisory Group representatives
- MN Department of Health
- MN transit operators (Metro Transit, Duluth Transit, etc.)

The purpose of these stakeholder meetings is for the MPCA learn from these representatives about their industries and areas of expertise and to understand what is important to them, and for the stakeholders to learn from each other.

So far, we have held four stakeholder meetings over the summer of 2017. Topics from those meetings include:

- Summary of the settlement and eligible project types
- Data on diesel pollution in MN
- Data on the current diesel fleet in MN and new, cleaner vehicles
- Background on the Diesel Emissions Reduction Act and how MN has implemented that program
- Background on electric vehicles and charging infrastructure
- Discussion of health impacts and exposure
- Discussion of environmental justice
- Discussion of vehicles and climate change

At all meetings, participants are encouraged to discuss key issues and provide input on what matters to them and what should be considered in Minnesota's BMP. All meetings included call-in and webinar options for remote participation.

The fourth stakeholder meeting was a listening session where all interested participants could present on their area of expertise and share how they felt their issue fits in with Minnesota's key priorities.

All agendas, meeting notes, and presentations are included on the MPCA's VW settlement website.

Data request

To better understand Minnesota's current diesel fleet and opportunities for improvements, the MPCA put out an informal request for information to people and organizations that are involved with heavy duty equipment and vehicles. We received 11 responses with information on ages of diesel equipment, typical retirement timeframes, and operation parameters, among other information. This information is helping us to understand opportunities for cost-effective program development.

Environmental Justice Advisory Group

The MPCA has an Environmental Justice Advisory Group, made up of community members and environmental justice advocates. Members of this group participated in our stakeholder meetings and provided written comment on environmental justice priorities for the settlement in MN.

The Environmental Justice Advisory Group also hosted a community listening session in North Minneapolis, a community of concern for environmental justice in our state. At that event, the MPCA provided information on the settlement and then spent most of the time answering questions and listening to community members' input on the settlement and priorities for their communities. Written materials were provided in English, Spanish, and Somali. Notes and the presentation from that meeting are included on our website.

"Dotmocracy"

At all our public meetings we brought a poster where people could put dots on issues and topic areas that they feel are most important for the MPCA to consider as we develop Minnesota's BMP. We also had an online version of this engagement tool on our website and we shared this link on social media. Results from these engagement tools are posted on our website.

Online opportunities

The MPCA developed a user-friendly, plain-English website to share information on the settlement and gather input. The website is meant to serve as an "online public meeting" where members of the public and our stakeholder group could go to get information and share input even if they were unable to participate in the in-person meetings. The website also serves as a tool for transparency where we can share with the broader public what is discussed at public and stakeholder meetings.

The website includes all the data shared at our stakeholder meetings in interactive data tools. It also provides agendas, notes, and presentation materials from all stakeholder meetings. In an effort to help communicate with the public about what we are hearing as we hear it, we also include summaries of comments received and results of our "dotmocracy" engagement tool.

We have developed two surveys to provide additional opportunities for the public to provide input in ways that are convenient for them. The first survey was a high-level look at potential priorities, while the second dives into details of implementation of key issues that we have heard from engagement so far.

We have used social media, especially Twitter and Facebook, to get the word out on meetings, surveys, comment periods, and the settlement in general.

Part Two: Input on Minnesota's Draft Beneficiary Mitigation Plan

The MPCA has gathered a lot of input to help shape the development of the BMP. We plan to release a draft BMP for public comment as well. During the public comment period we will have the BMP on our website, share it via MPCA email lists, and discuss it with our stakeholder group at a meeting. We will weigh input we receive and may make changes to the BMP based on that input.

Part Three: Ongoing stakeholder input

As part of Minnesota's BMP, we will describe how we plan to continue our stakeholder engagement process in some fashion throughout the 10-year period of the settlement. The stakeholder engagement will be accompanied by a variety of other public participation options.

These options will include:

- Posting selected projects, along with their anticipated NOx reductions, on MPCA's VW Settlement Web page.
- Additional public and stakeholder meetings, with ongoing comments received
- Social media promotion for all of our public meetings and stakeholder meetings along with VW website promotions.
- Comments will be reviewed by staff and the VW Settlement Team to determine if changes should be made to sector priorities and if Environmental Justice objectives are being met and:
 - If some sectors require more targeted promotion and or partnerships
 - If the balance or percentage of sector funding should be adjusted

Attachment III (Regarding Paragraph 7 of Appendix D-3)

Publicly Available Information

The Minnesota Government Data Practices Act (MGDPA), found in Chapter 13 of Minnesota statutes, is a Minnesota state law that regulates the handling of all governmental data that are collected, created, disseminated, maintained, received and stored by a political subdivision, state agency or statewide system regardless of their physical form, how they are stored or how they are used. The Minnesota Pollution Control Agency (MPCA) is a state agency and, therefore, subject to the requirements of the MGDPA.

There is a general presumption in the MGDPA that all governmental data are public unless there is a federal law, state statute or temporary classification that allows the data to be classified as not public. Some of the not public data types that may be included within the MPCA's Certification for Beneficiary Status/Consent Decree documentation include, but are not limited to, business data, personal information, security information, social security numbers, trade secret information etc.

The MPCA is statutorily obligated to maintain such data types as not public and, therefore, will not provide them when requested. The MPCA will provide requesters with notification that the not public data are not being provided and will cite the federal law, state statute or temporary classification that allows for this not public classification.