



## Department of Environmental Protection

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### **December 2019 Amendment to *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan***

Massachusetts is a beneficiary under the Volkswagen (VW) Settlement. MassDEP is the designated Lead Agency for Massachusetts under the VW Settlement and is responsible for developing the beneficiary mitigation plan (BMP) for Massachusetts, which describes how the Commonwealth will spend its funding allocation. Massachusetts' initial allocation under the VW Settlement is \$75,064,424.40 (investment earnings on the balance of funds held in the environmental mitigation trust created under the VW Settlement may result in Massachusetts final allocation being somewhat higher than the initial value). After a public comment period, Massachusetts issued its initial spending plan in a December 7, 2018 *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan* (December 7, 2018 BMP).<sup>1</sup> On October 3, 2019, MassDEP published a Draft Amendment to the December 7, 2018 BMP on the MassDEP VW webpage and invited the public to submit comments on the Draft Amendment over a 35-day period closing on November 4, 2019. MassDEP is now issuing this December 2019 Amendment to the *Final Massachusetts Volkswagen Settlement Beneficiary Mitigation Plan*.

As indicated in the BMP,

*The Commonwealth, as allowed by the VW Settlement, may adjust its objectives and spending plan when necessary to achieve the BMP's goals. To reflect such changes, MassDEP will update the BMP as needed and publish an amended BMP on MassDEP's public webpage at <https://www.mass.gov/guides/volkswagen-diesel-settlements-environmental-mitigation>.*

and

*The Trust agreement requires a Beneficiary to submit and make publicly available its BMP not later than 30 days before submitting its first funding request. Beneficiaries may adjust their goals and specific spending plans at their discretion and, if they do so, they are to provide the Trustee with updates to their BMP.<sup>2</sup>*

This December 2019 Amendment updates the projects under Eligible Mitigation Activity (EMA) 2 (specifically on transit buses) and EMA 9 (Light Duty Zero Emission Vehicle Supply Equipment), which were two of the three projects detailed in the December 7, 2018 BMP.

- EMA 2: The December 7, 2018 BMP indicated that Massachusetts planned to approve \$11 million to support the purchase of electric transit buses by the Pioneer Valley and

<sup>1</sup> Available at <https://www.mass.gov/media/1882436>

<sup>2</sup> MassDEP will make any changes so submitted available on its VW website: <https://www.mass.gov/guides/volkswagen-diesel-settlements-environmental-mitigation>.

Martha's Vineyard Transit Authorities. Consistent with the December 7, 2018 BMP and public comment received on that BMP and on the Draft Amendment, Massachusetts has added an additional \$11 million to support the purchase of electric transit buses by the Greater Attleboro Taunton Regional Transit Authority and the purchase of additional electric transit buses by the Pioneer Valley Transit Authority. The Massachusetts Department of Transportation has been working with all the Regional Transit Authorities (RTAs) on planning to electrify transit buses, and has received commitments so far from these three RTAs; these three RTAs have existing buses of the size and age eligible for replacement under the VW Settlement.

- EMA 9: Beneficiaries are allowed to use up to 15% of the Trust funding to support the acquisition, installation and maintenance of light duty electric vehicle supply equipment (EVSE) for both electric and hydrogen fuel cell vehicles. The December 7, 2018 BMP indicated that Massachusetts planned to approve \$5 million for the purchase and installation of light duty EVSE to supplement the network of existing EVSE. \$5 million is 6.66% of Massachusetts initial \$75,064,424.40. Consistent with the December 7, 2018 BMP and public comment received on that BMP and on the Draft Amendment, Massachusetts plans to use the full 15% of the Trust funding allowed for the acquisition, installation and maintenance of light duty EVSE. 15% of the \$75,064,424.40 initial allocation is \$11,259,665.16: the final amount spent may be higher due to investment earnings on the balance of funds in the Trust, but not more than the 15% allowed for light duty EVSE.
- MassDEP is reviewing applications received under the January 18, 2019 \$7.5 million VW Open Solicitation. The next Open Solicitation opportunity will take place after review of the applications submitted in response to the first solicitation is complete.

With this December 2019 Amendment, Massachusetts plans to spend up to \$40,759,665.16 of its \$75,064,424.40 initial allocation on the following projects:

- \$22 million to support the purchase of electric transit buses by the Pioneer Valley, Martha's Vineyard, and Greater Attleboro Taunton Regional Transit Authorities;
- \$11,259,665.16 on the purchase and installation of light duty EVSE to supplement the network of existing EVSE; and
- \$7.5 million through the January 18, 2019 Open Solicitation for proposals to implement projects eligible under any of the EMAs (except the EVSE EMA 9) allowed under the VW Settlement.

Thirty-two individuals and organizations commented on the Draft Amendment. Of these, the majority supported MassDEP's proposal to fund an additional \$11 million in electric transit buses and \$6,259,665.16 in EVSE. Commenters also recommended that MassDEP consider:

- Other Electric Vehicle and Equipment Projects. Commenters suggested that instead of purchasing more electric transit buses, the state should electrify airport ground support equipment (GSE), school buses, and terminal tractors, and set aside funding specifically for hydrogen fuel-cell projects and re-powers with hybrid-electric or full electric drivetrains. MassDEP notes that all of these technologies were eligible to apply under MassDEP’s \$7.5 million VW Open Solicitation.
- Alternative Fuel and Technology Projects. Rather than supporting additional electrification projects and EVSE, several commenters encouraged MassDEP to designate funding for natural gas and hybrid-electric projects. MassDEP notes that these technologies were eligible to apply under MassDEP’s \$7.5 million VW Open Solicitation, and that the December 7, 2018 BMP established a number of goals, including to “promote electrification of the State’s transportation network.”
- Climate Impact and Ownership as Project Criteria. In evaluating projects for funding, MassDEP should consider a project’s climate adaptation and resilience, as well as its type of ownership, giving extra weight to projects owned by municipalities and small businesses. MassDEP will consider these comments as it develops future grant opportunities and notes that municipalities were eligible for higher funding under MassDEP’s \$7.5 million VW Open Solicitation.
- Targeted Placement of and Faster Charging EVSE. Those who commented specifically on EVSE advocated for more DC fast charging stations and locating EVSE at park and ride lots, parking garages, multi-modal centers, urban cores, commercial destinations and along major routes. Others suggested that MassDEP conduct stakeholder meetings and follow best management practices to determine where to place EVSE. MassDEP will consider these comments as it develops future grant opportunities and notes that all of these categories with the exception of DC fast charging are eligible to apply under MassDEP’s Massachusetts Electric Vehicle Incentive Program (MassEVIP).<sup>3</sup>
- Additional and Amended EVSE Strategies. A range of commenters recommended that MassDEP:
  - 1) Plan for a dynamic EVSE market that promises to change and grow by not spending all of the 15% allotment now. MassDEP agrees and notes that it has been rolling out MassEVIP offerings based on lessons learned, and will continue to do so in the future.
  - 2) Work with other government agencies and local utilities to develop an appropriate electric rate structure. MassDEP notes that the Department of Public Utilities oversees residential and commercial electric rates, and that the marketplace sets the price for public charging stations, as is the case for gasoline stations.

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<sup>3</sup> <https://www.mass.gov/guides/volkswagen-diesel-settlements-environmental-mitigation#-settlement-funded-grant-&-incentive-programs>

- 3) Review existing state contracts to encourage vendors to offer more electric vehicles. MassDEP notes that the state's Operational Services Division is the lead on state contract VEH98 *Purchase of Vehicles*,<sup>4</sup> and is actively encouraging vendors to offer new electric and alternative fuel vehicles in addition to those already offered on VEH98.
  - 4) Disburse EVSE through a single statewide program, rather than through separate grant programs. MassDEP notes that it offers EVSE under the MassEVIP umbrella, within which it addresses the differing issues facing Workplaces, Multi-Unit Dwellings, and Public Access Charging by tailoring requirements to those groups.
  - 5) Allow the private sector to identify EVSE sites. MassDEP notes that its MassEVIP Workplace Charging, Public Access Charging and Multi-Unit Dwelling grant offerings all allow the private sector to apply.
- Projects for Non-Vehicle/Equipment Uses. Although the VW Settlement does not allow for such measures, some commenters advised MassDEP to dedicate a portion of the funding to: public education; the purchase of electric passenger vehicles; charging stations at single-family homes; High Efficiency Particulate Air (HEPA) filters for vehicles; and an increase in the renewable fuel content of transit and rail.

Finally, some commenters requested information on: 1) the location of EVSE, particularly those located in communities disproportionately burdened by air pollution; 2) why certain regional transit authorities received funding for electric transit buses and others did not; and 3) how much of bus upfront costs and associated charging infrastructure are covered by the VW funds. MassDEP notes that it will be posting information on completed projects (including location and costs) on its website, consistent with the public transparency requirements in the VW Settlement. As indicated on page 2 above, "The Massachusetts Department of Transportation has been working with all the Regional Transit Authorities (RTAs) on planning to electrify transit buses, and has received commitments so far from [Pioneer Valley and Martha's Vineyard Transit Authorities and the Greater Attleboro Taunton Regional Transit Authority]; these three RTAs have existing buses of the size and age eligible for replacement under the VW Settlement."

MassDEP took the above comments into consideration in finalizing this December 2019 Amendment, while supporting the goals and funding priorities presented in the December 7, 2018 BMP. MassDEP will submit this December 2019 Amendment to the BMP to the Trustee overseeing the VW Settlement funds.

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<sup>4</sup> <https://www.mass.gov/doc/veh98/download>