



**Department of  
Environmental  
Conservation**

# **Division of Air Resources**

## **2019 Program Update**

# 2019 Division of Air Resources Update

- Climate Leadership and Community Protection Act (CLCPA)
- DAR Regulatory Update
- State Implementation Plans
- VW Settlement





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# New York State Climate Leadership

## Climate Leadership and Community Protection Act



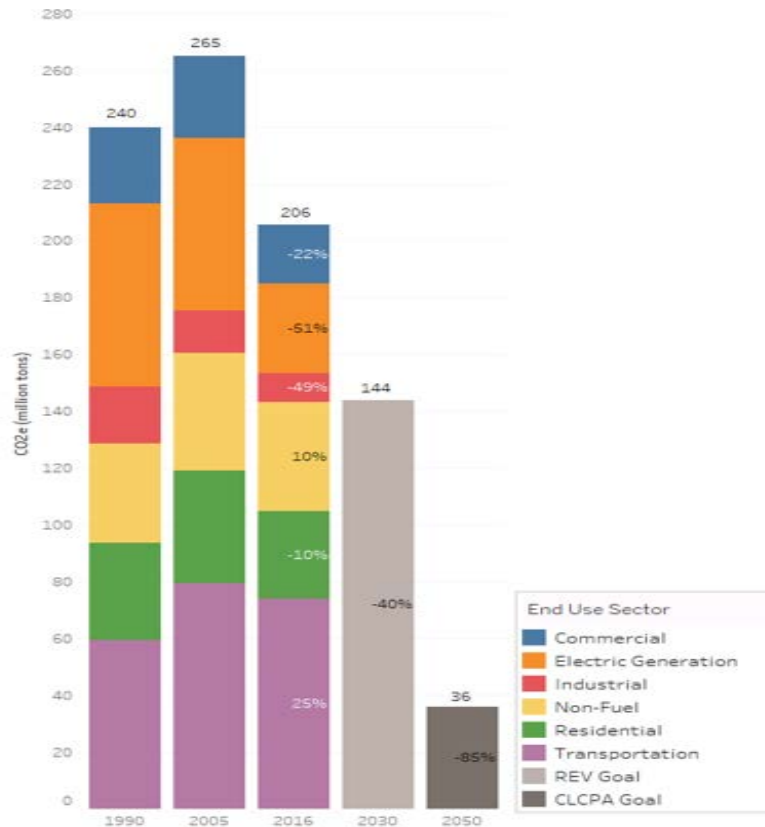
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# CLCPA by the Numbers, Targets Codified into Law

- Carbon neutral economy, mandating at least an 85 percent reduction in emissions below 1990 levels
- 40 percent reduction in emissions by 2030
- 100 percent clean electricity by 2040
- 70 percent renewable electricity by 2030
- 9,000 MW of offshore wind by 2035
- 6,000 MW of distributed solar by 2025
- 3,000 MW of energy storage by 2030
- 185 Tbtu on-site energy savings by 2025



# NYS GHG Emissions



New York State GHG Emissions by Source Category (MMtCO<sub>2</sub>e)



# Establishes Climate Action Council

- Adopt a **Scoping Plan** of recommendations for achieving GHG limits
- Co-chaired by DEC and NYSERDA
- Agencies: DOT, DOH, ESD, DAM, HCR, DOL, PSC, NYPA, LIPA, DOS
- 2 Governor appointments
- 3 Senate majority appointments; 1 minority
- 3 Assembly majority appointments; 1 minority
- **Advisory panels:**
  - transportation
  - land use and local government
  - housing and energy efficiency
  - energy intensive industries
  - power generation
  - agriculture and forestry



# Other Working Groups

## Just Transition WG

Purpose: Recommendations to CAC on clean energy transition impacts and opportunities

## Climate Justice WG

Purpose: Develop criteria for and list of disadvantaged communities; report on barriers and opportunities for clean energy

## Permanent EJ Advisory Group

Purpose: Develop model EJ policy; advise interagency council; monitor compliance

## EJ Interagency Coordinating Council

Purpose: Coordinate EJ policies; annual reports on policy implementation; serve as public clearinghouse for EJ policies



# Developing the Scoping Plan

- Scoping plan shall outline recommendations for measures to achieve the emission targets, including zero emission economy
- Plan shall include the following:
  - Measures to aid in just transition of workforce
  - Mechanisms to limit emission leakage
  - Measures to achieve healthy forests
  - Council shall quantify costs and benefits
- Process
  - Consult with Climate Justice WG and EJ Advisory Group
  - Hold 6 public comment hearings on the draft plan
  - Update every five years





# Implementing the Scoping Plan

- By end of 2023, DEC shall promulgate regulations that
  - ensure compliance with 2030 and 2050 emission targets,
  - cover all sectors but livestock,
  - reflect the findings of scoping plan,
  - maximize net benefits, reduce leakage, and benefit disadvantaged communities.
- DEC may adopt alternative compliance mechanism to achieve additional reductions for carbon neutrality.
- All state agencies shall implement strategies to reduce their emissions:
  - Consider whether permit, licenses and other actions are consistent with achieving emission targets and, if not, identify alternatives or mitigation.
  - Actions should benefit, not burden, disadvantaged communities.
- In collaboration with DEC, all agencies shall promulgate regulations that contribute to meeting the emission targets.



# Just Transition Working Group

- Advise Council on opportunities for workforce development for clean energy economy
- Identify energy-intensive industries and related trades
- Identify EGU sites that may be closed and can be reused
- Advise on potential competitiveness impacts and emission leakage
- Conduct study on jobs to address climate and workforce disruption



# Investing in Disadvantaged Communities

*Climate Justice Working Group to identify disadvantaged communities* that “bear the burdens of negative public health effects, environmental pollution, impacts of climate change, and possess socioeconomic criteria, or comprise high-concentrations of low- and moderate-income households”

**Goal to receive 40% (minimum 35%) of overall benefits** associated with clean energy and energy efficiency programs, projects, or investments in housing, workforce development, pollution reduction, low-income energy assistance, energy, transportation, and economic development (Will not alter funds already contracted or committed)

DEC, NYSERDA, and NYPA report on barriers to and opportunities for access to or community ownership in energy efficiency and weatherization and adaptation measures to improve climate resilience



# Benefiting Disadvantaged Communities

Council to prioritize disadvantaged communities

- Identify measures to reduce emissions of co-pollutants
- Consult with Climate Justice Working Group and EJ Advisory Group

DEC rulemakings to implement the Council recommendations

- Ensure no increase in co-pollutant emissions or disproportionate burden on disadvantaged communities
- Prioritize measures to reduce emissions in disadvantaged communities

DEC to implement community air monitoring

- In coordination with Climate Justice Working Group, DEC shall establish pilot by October 2022 community air monitoring in at least 4 disadvantaged communities.
- By June 2024, DEC shall prepare a strategy to reduce emissions in disadvantaged communities with a disproportionate pollution burden



# Work Products

- **Scoping Plan (CAC):** Recommendations for attaining GHG Limits
  - Just Transition Recommendations (Just Transition Working Group)
- **GHG Limits (DEC):** 2030: 60% of 1990 levels; 2050: 15% of 1990 levels
- **GHG Regulations (DEC):** To ensure compliance with GHG limits
  - exception: agriculture emissions from livestock
- **Implementation Reporting (CAC and DEC):** Track progress toward GHG goals
- **GHG Report (DEC):** Sector-specific reporting, including upstream out-of-state emissions
- **Registry (DEC):** For individual sources to report emissions
- **Value of Carbon (DEC and NYSERDA):** Establish a social cost of carbon
- **Model EJ policy:** For use and implementation by state agencies
- **Air Monitoring Program (DEC):** Identify high priority location to deploy community air monitoring systems
- **Disadvantaged Communities (Climate Justice Working Group):** Community criteria and list; report on barriers to clean energy access



# Timeline

Statewide GHG Limits	1 year
Value of Carbon	1 year
Model EJ Policy	1 year
GHG Report	2 years
Disadvantaged Communities Criteria	TBD
Draft Scoping Plan	2 years
Final Scoping Plan	3 years
Statewide GHG Regulations	4 years





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# **2019 DAR Regulatory Update**

**November 20, 2019**

# Regulations currently being acted on by DAR

<b>Part 200</b>	Exempt VOC Update & Outer Continental Shelf (CAA § 328)
<b>Part 201</b>	Permits and Registrations
<b>Subpart 202-2</b>	Emission Statements
<b>Part 203</b>	Oil and Gas Activities
<b>Part 205</b>	Architectural and Industrial Maintenance Coatings
<b>Part 212</b>	Process Sources
<b>Part 218</b>	Motor Vehicle Emissions Standards
<b>Part 219</b>	Incinerators
<b>Subpart 220-3</b>	Hot Mix Asphalt Plants
<b>Part 222</b>	Distributed Generation Sources
<b>Part 225</b>	Fuel Composition
<b>Part 227</b>	Stationary Combustion Installations
<b>Subpart 227-3</b>	Ozone Season NOx Emission Limits for Simple Cycle and Regenerative Combustion Turbines
<b>Subpart 228-3</b>	Surface Coating Processes
<b>Part 231</b>	New Source Review
<b>Part 235</b>	Consumer and Commercial Products
<b>Part 242</b>	CO <sub>2</sub> Budget Trading Program
<b>Part 247</b>	Outdoor Wood Boilers
<b>Other Parts under Review</b>	206, 250, 256, 260-317





# Part 201 – Permits and Registrations

- Minor language revisions throughout to improve clarity
- ‘Persistent, Bioaccumulative, and Toxic’ changed to ‘High Toxicity Air Contaminant’ throughout to be consistent with Part 212
- Blanket exemption for R&D removed
  - May still be exempt under certain conditions



## Part 201 – Permits and Registrations

- Exempt and Trivial Activity Changes
  - Liquid asphalt storage tanks (300,000 barrels to 10,000 gallons)
  - Lumber drying kilns (annual untreated lumber less than 275,000 bd ft)
  - Coffee roasters (annual < 25 tons of green coffee beans)
  - Cover and flare systems for manure lagoons at farms
  - Breweries (annual beer and malt liquor < 60,000 barrels)
  - Wineries (annual <70,000 gallons per year)
  - Distilleries (annual input <10,000 bushels of grain)
  - Biodiesel storage tanks (<300,000 barrels)



## Part 201 – Permits and Registrations

- Exempt and Trivial Activity Changes
  - C&D waste crushers and tub grinders being removed as trivial activities
    - May still qualify as temporary emission sources in certain situations
    - Revise exempt activity 201-3.2(c)(29) to include crushed stone, concrete, or recycled asphalt processing lines (non-metallic processing)
  - Revising existing trivial activity for laser cutters to allow additional types of lasers and plasma cutting when appropriately controlled



# Part 201 – Permits and Registrations

- State Facility Permit Modifications
  - Include ‘minor’ and ‘significant’ modifications
    - Similar language to Title V modification provisions
    - Significant modifications will trigger public noticing if the permit was subject to public notice (e.g. it contains an emissions cap)
- Title V Permit Op-Flex Modifications
  - Alternate operating scenarios
  - Operational flexibility protocol



# DAR-10 Revision

- Reorganized format and updated recommendations to align with current EPA guidance.
- Provides specific NYSDEC requirements and guidelines for dispersion modeling and air quality impact analysis.
- Recommends screening and refined modeling procedures with their respective required input parameters and data.
- Identifies required information to include in protocols and reports.



## DAR-10

Will contain sections discussing **special issues** such as:

- One-hour NO<sub>2</sub> modeling
- One-hour SO<sub>2</sub> modeling
- Modeling for PM<sub>2.5</sub>
- Impact Analyses required for permit applications subject to Part 231 New Source Review for New and Modified Facilities.



## Subpart 202-2 Emission Statements

- Lean initiative
- Electronic reporting for Title V emissions



## Part 203 Oil & Gas Sector Emissions

- New regulation to reduce criteria pollutants and methane emissions from the oil and gas sector
- Expand upon the control technique guideline proposed by EPA





# Part 205 Architectural and Industrial Maintenance (AIM) Coatings

- Proposed
  - Hearings Held in May 2019
- Limiting VOC emissions from Coatings
- Elimination of the quart exemption for floor coatings



# Part 212 – Process Operations

- Part 212 is moving with the Part 201 package.
- Two changes are proposed in this revision
  - Marrying the listed pollutants in the High Toxicity Air Contaminant (HTAC) Table of 212 with the PBT High Table in 201-9. Also, the PBT table will be renamed HTAC table.
  - Including a second compliance option for NESHAP affected processes. The new option removes the need for air dispersion modeling while still being protective of public health.
- DAR-1 Triennial Update coming soon



# Part 218, “Deemed to Comply” GHG Standards

- NY adopted (on 4/5/19) based on California’s “Deemed to Comply” revisions (CA=Federal)
- If NHTSA & EPA reduce federal GHG stringency as proposed, vehicle manufacturers can not utilize existing “deemed to comply” provisions. All 2021 & subsequent model year vehicles delivered to NY would need to be certified to CA GHG standards



# Part 218, AMCC

- Proposed DEC regulation  
[http://www.dec.ny.gov/enb/20190904\\_hearings.html](http://www.dec.ny.gov/enb/20190904_hearings.html)
- Prohibits use of federal AMCCs; clarifies installation requirements; clarifies installer recordkeeping requirements; and clarifies retailer, distributor, and manufacturer recordkeeping and reporting requirements
- Hearing held 11/08/19
- Developing final rule



# Part 219 – Incinerators

- Subpart 219-4, Human and Animal Crematories
- Subpart 219-10, NO<sub>x</sub> RACT at Municipal and Private Solid Waste Incineration Units
- Hearings December 3 (Long Island), 4 (Avon) and 6 (Albany)
- Comment period closes December 11, 2019



## Subpart 219-4, Human and Animal Crematories

- Adjusting operating and design requirements to better align with the current cremation industry
- No change in PM limit for existing cremation units
- New PM limit (0.05 gr/dscf @ 7% O<sub>2</sub>) for units installed after effective date
- Allow representative stack tests conducted outside NY on similar units
- Changes to recordkeeping requirements
- Operator training required for all operators
- Sunset of 219-5 and 219-6
  - Currently subject units required to comply with new 219-4



# Subpart 219-10, NO<sub>x</sub> RACT at Municipal and Private Solid Waste Incineration Units

- Add NO<sub>x</sub> RACT limits for solid waste incinerators
  - 150 ppmv annual average limit
  - 24-hour average limit based on combustion technology
- Compliance demonstrated via stack testing and CEMs



# Subpart 220-3 Hot Mix Asphalt Plants

- Under development – Stakeholder process soon
- Replace Subpart 212-4 with a new dedicated source category regulation specific to HMA plants
- More stringent controls for both new and existing HMA plants
- Require new HMA plants to apply BACT for criteria and non-criteria air contaminants
- Require existing HMA plants to address excess emissions, odors, and visible smoke by using asphalt storage tank vent condensers, silo and load-out controls, and low sulfur diesel fuel in aggregate drum mixers





# Part 222 Distributed Generation Sources

- Proposed on September 4, 2019
- Establish NOx emission limits for sources not subject to Subpart 227-2
- Revised rule will apply only to downstate ozone non-attainment area
- Comment period closes November 25, 2019



# Part 225 – Fuel Composition

- **Subpart 225-1 Fuel Composition and Use – Sulfur Limitations**
  - Updating to include process sources & incinerators
  - Lower current waste oil sulfur content limitation from 0.75% to 0.25%
- **Subpart 225-2 Fuel Composition and Use - Waste Oil as a Fuel**
  - Establish applicability criteria, composition limits, & permitting requirements for waste oils
    - Lower PCB and lead limits in waste oil
    - Includes arsenic, cadmium & chromium limits
  - Proposing to add marine service facilities as part of exception allowing burning of waste oils in space heaters at automotive maintenance/service facilities.
  - Monitoring, recordkeeping, and reporting requirements for facilities that burn waste oil
  - Hearing held November 8, 2019. Comment period closed.



# Part 226 Solvent Metal Cleaning Processes – Adopted

- Current Part 226 renamed Subpart 226-1 “Solvent Cleaning Processes” to include any material cleaned by solvent cleaning processes.
- Revise ‘cold cleaning’ limit vapor pressure of 1.0 mm Hg, or less, at 20°C to 25 g/l
- Add Subpart 226-2 “Industrial Cleaning Solvents”
- Establish requirements that meet the federal (CTG) for industrial cleaning solvents
  - Facility applicability: 3 tons/yr or more VOC from cleaning solvents
  - Applies to cleaning of foreign materials from surfaces of unit operations, including large and small manufactured components, parts, equipment, floors, tanks, and vessels
  - Cleaning by any method is included, whether by hand or mechanical means.
  - Use of cleaning solvents already subject to (or exempt from) other regulatory provisions are not subject



# Part 227 – Stationary Combustion Installations

## Subpart 227-1 Stationary Combustion Installation

- Redefine applicability
- Lower existing particulate matter limits
- Maintains an opacity limit for all stationary combustion installations
- Includes compliance testing and monitoring
- Hearing held November 7, 2019

## Subpart 227-2 NO<sub>x</sub> RACT

- Adopted November 7, 2019
- Consensus Rulemaking
- Removes obsolete provisions



# Subpart 227-3 Ozone Season Oxides of Nitrogen (NO<sub>x</sub>) Emission Limits for Simple Cycle and Regenerative Combustion Turbines

- Revised Proposal to address applicability issue
  - Review of NO<sub>x</sub> emission limits for peaking turbines
  - New NO<sub>x</sub> limits for Simple Cycle Combustion turbines
- Comment period closed October 7, 2019



## Subpart 228-3 Motor Vehicle and Mobile Equipment Refinishing and Recoating Operations

- Conducting stakeholder outreach – webinar December 16
- Change VOC limits to meet CARB regulations/OTC Model Rule
- Update record keeping requirements



# Part 231 New Source Review for New and Modified Facilities

- Modify Greenhouse Gas criteria applicability to conform with federal regulations/U.S. Supreme Court ruling
- Changes will also be made in accordance with EPA's comments (2016) on the Part 231 SIP submission (2011)
  - Global Warming Potentials
  - Inter-Pollutant Trading Ratios
  - Significant Impact Levels (SILs) and Significant Monitoring Concentration (SMC) for PM-2.5



## Part 235 Consumer Products

- Update to implement additional Volatile Organic Compound (VOC) product content limits
- Effort to be regionally consistent throughout the Ozone Transport Region





# Part 242 Regional Greenhouse Gas Initiative (RGGI)

- Incorporate program changes from 2017 RGGI program model rule
- Expand applicability to units 15 MW and larger



## Part 247 Outdoor Wood Boilers

- NYS backstop for EPA New Source Performance Standards
  - Subpart AAA – Residential Wood Heaters
  - Subpart QQQQ – Hydronic Heaters & Forced-Air Furnaces
- Moving older units will require meeting new installation requirements



# Part 257 – NY State Air Quality Standards (Adopted)

Part 257 Subparts 2 through 10 list the New York State Air Quality Standards (SAQS) promulgated by the Department several decades ago.

- *The following subparts, which have been superseded by stricter Federal regulations, will be repealed:*
  - 257-3 - Air Quality Standards - Particulates
    - 257-3.3 Standards for Suspended Particulates. The 24-hour PM10 standard is outdated and will be repealed.
    - The Federal annual PM10 standard was repealed in 2006 and will be repealed.
  - 257-4 - Air Quality Standards - Carbon Monoxide
  - 257-5 - Air Quality Standards - Photochemical Oxidants
  - 257-6 - Air Quality Standards - Hydrocarbons (non-methane)
  - 257-7 - Air Quality Standards - Nitrogen Dioxide (NO<sub>2</sub>)
  - 257-9 - Air Quality Standards – Beryllium
- 257- 8 (Fluorides) and 257-10 (Hydrogen Sulfide) were revised allowing improved monitoring methods





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# Upcoming SIP Planning Actions

November 20, 2019

# 2008 Ozone NAAQS

- Tri-state NYC area missed 'moderate' attainment deadline of July 20, 2019 for 2008 ozone NAAQS (75 ppb)
  - 2018 design value: 82 ppb
  - 2019 design value: 82 ppb (preliminary)
- EPA reclassified NYC area to 'serious' with attainment date of July 20, 2021
  - Compliance will be based on 2018-2020 monitored data
- Will require another attainment SIP – Due August 3, 2020
  - Modeling
  - Emission inventories
  - Additional 3%/year NO<sub>x</sub> and/or VOC reductions



# 2015 Ozone NAAQS

- Tri-state NYC area designated as ‘moderate’ nonattainment 2015 ozone NAAQS (70 ppb)
  - 2018 design value: 82 ppb
  - 2019 design value: 82 ppb (preliminary)
- Attainment date of October 1, 2024
  - Compliance will be based on 2021-2023 monitored data
- Will require another attainment SIP – Due August 3, 2021
  - Modeling
  - Emission inventories
  - Additional 3%/year NO<sub>x</sub> and/or VOC reductions



# Ozone NAAQS redesignations?

- Push from EPA to transition former nonattainment areas to attainment
- Many upstate areas that had previously been designated 'nonattainment' that are not expected to relapse
  - Lower Hudson Valley
  - Capital Region
  - Essex County
  - Jefferson County
  - Buffalo/Niagara Falls
  - Jamestown
  - Rochester
- Discussions preliminary – will work with EPA to determine what is required



# Legal Challenges - Transport

- Working with Office of General Counsel and Attorney General's Office on various suits regarding ozone transport
- Challenges to EPA actions
  - Failure to require additional upwind reductions under Good Neighbor Provisions for 2008 NAAQS
    - EPA lost suit for ignoring CAA deadlines
  - S.126 petitions
    - EPA applied same GN SIP logic in denying petitions
  - 2015 NAAQS
    - Findings of failure to submit





# Regional Haze

- Federal Regional Haze Rule effective August 30, 1999
- Goal: improve visibility in 156 national parks and wilderness areas to natural conditions by 2064
  - Improve visibility on worst days and show no degradation on the best days
- All states were required to identify key sources of haze-causing pollution, develop plans to reduce emissions from those sources, and submit plans to EPA by 2008
- Comprehensive Regional Haze SIP revisions due every 10 years
  - Current submission is a comprehensive SIP revision for the second planning period (2018-2028)
  - Next progress report due at halfway point (5 years) between comprehensive revisions



# Lead NAAQS Redesignation

- Orange County designated ‘unclassifiable’ for 2008 lead NAAQS
  - High concentrations around Revere in 2013
- Allowable lead limit in RSR permit result in modeled exceedances
- Once limit is revised, can proceed with redesignation to ‘attainment’



# Clean Transportation NY

## Using the VW Settlement to Drive Clean Transportation in New York

### Mitigation Plan Objectives

- Reduce diesel exhaust emissions by replacing or repowering older, dirtier diesel vehicles and engines with all-electric, alternative fueled, or diesel vehicles and engines. Must scrap old engines.
- Consider statewide air quality improvement goals. Prioritize those areas most impacted by diesel emissions, including Environmental Justice neighborhoods
- Accelerate the transition to a zero emission transportation system by promoting greater use of all-electric vehicles
- Prioritize diesel-to-electric replacement projects, where it makes sense
- Fund mitigation projects statewide, offset the excess, lifetime NOx emissions from NYS registered VW vehicles (+/- 25,000)



# Project Partners

DEC worked closely with the following entities in developing the VW Settlement Mitigation Plan:

- New York State Energy and Research Development Authority (NYSERDA)\*
- New York Power Authority (NYPA)\*
- Transit Authorities (Statewide)
- Port Authority of New York and New Jersey (PANYNJ)\*
- New York State Department of Transportation (NYSDOT)
- New York City Department of Transportation (NYCDOT)\*

\* Project Sponsor



## Estimated VW Settlement Funding, by Mitigation Action Item

Eligible Mitigation Action Item	New York State Estimated Funding	Funding (%)	Anticipated # vehicles total/electric
Item 1: Class 8 Local Freight & Port Drayage Trucks	\$11,500,000	Up to 9%	145/60
Item 2: Class 4-8 School Bus, Shuttle Bus, or Transit Bus	At least \$52,400,000	At least 40.5%	500/100+
Item 3: Freight Switchers	Up to \$8,000,000	Up to 6%	10/0
Item 4: Ferries/Tugs	Up to \$3,500,000	Up to 2.5%	12/0
Item 5: Ocean Going Vessels (OGV) Shorepower	\$0	0%	N/A
Item 6: Class 4-7 Local Freight Trucks	\$8,500,000	7%	265/65
Item 7: Airport Ground Support Equipment (Charging Equipment)	\$3,200,000	2.5%	77
Item 8: Forklifts and Port Handling Equipment	Up to \$1,000,000	Up to 1%	4/4
Item 9: Light Duty Zero Emission Vehicle Supply Equipment	\$19,200,000	15%	TBD
Item 10: Federal Diesel Emission Reduction Act Option	Up to \$10,000,000	Up to 8%	300/0
Administrative Costs (excludes Action Item #9)	Up to \$10,900,000	Up to 8.5%	N/A
<b>Mitigation Trust Funding Totals</b>	<b>\$127,701,807</b>	<b>100%</b>	<b>1,313/229+</b>

