



Office of Environmental Education Response to Interested Party Comments

Rule: Alternative Fuel Vehicle Grant Program

Agency Contact for this Package

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New legislation passed by the Ohio General Assembly in 2016 requires Ohio EPA to adopt rules for administration of an alternative fuel vehicle (AFV) conversion grant program. Ohio EPA circulated an early stakeholder outreach fact sheet in February 2017 to ensure stakeholders were brought into the rule development process as early as possible and to obtain additional input and discussion before development of interested party draft rules. Ohio EPA reviewed early stakeholder outreach comments prior to developing rules that were posted to the website May 22, 2017 for an interested party comment period which ended on June 21, 2017. Ohio EPA has now reviewed and considered all comments received during this recent round of Interested Party outreach. By law, Ohio EPA has authority to consider specific issues related to protection of the environment and public health.

In an effort to help you review this document, the questions are grouped by the number of the applicable rule reference, and organized in a consistent format. The name of the commenter follows the comment in parentheses.

General/Overall Concerns

Ohio EPA received comments from seven stakeholders: two requesting clarification of statutory language in the rule concerning compliance designation or certification by US EPA; two requesting adequate time for applicants to prepare grant applications; one on project selection criteria; and two with recommendations that would require statutory changes beyond the scope of this rulemaking.

Proposed Rule 3745-49-53 (C) Definitions

Comment 1: **“‘Alternative fuel vehicle’ includes a bi-fueled or dual-fueled vehicle with a motor that can run on both alternative fuel and one gasoline or diesel fuel. We appreciate that Ohio intends to promote competition via the inclusion of dedicated alternative fuel, bi-fueled, and, dual-fueled vehicles. However, we find that the inclusion of bi-fueled and dual-fueled vehicles would potentially diminish the emission reduction and petroleum displacement benefits of the program. If that (sic) the program does choose to include these, ROUSH recommends that the incentive levels be lowered to reflect that only a portion of their operations are on alternative fuel.” (Todd Mouw, Roush Clean Tech).**

Response 1: This would require a statutory change that is beyond the scope of this rulemaking. The statute does not authorize Ohio EPA to consider the emission reduction and petroleum displacement benefits of the program. Nor does it link the purchase of a new vehicle to the retirement of an existing vehicle. Therefore the rules and proposed grant application form do not require grant applicants to provide the level of technical information that would be necessary to estimate such benefits.

Comment 2: **“For the past 2 years I have advocated for the legalization and decriminalization of industrial hemp. I believe with the large amount of unused land and the industrial cities we have a serious opportunity to implement a ecologically friendly fuel that releases little to no exhaust and reduces vibration all while increasing longevity of Diesel engines. With some tinkering we can create new engines that run off alcohol based fuels which is and always has been the best option. Not only can Hemp create fuel but it can make thousands of other useful high quality natural products.” (Nick Fillinger)**

Response 2: Expanding the definition of alternative fuel would require a statutory change that is beyond the scope of this rulemaking.

Proposed Rule 3745-49-53 (F)(4) Definitions

Comment 3: **“I am seeking clarification on whether or not the EPA actually certifies particular alternative fuel ‘systems’ or whether they re-certify an engine with an alternative fuel system that has been modified in specific ways. I have attached a document detailing the tampering from and alternative fuel system that would require an engine to be recertified by the EPA. I believe the term ‘EPA Certified System’ is being misused and would appreciate and (sic) clarity the EPA can provide.” (Richard Coleman, Next Level Solutions, LLC)**

Comment 4: **“The only thing that I was hoping to clear up for alternative fuel conversion companies like American Power Group, was the use of the phrase, ‘compliance designation’, regarding US EPA. I don’t believe that I have seen that term used by US EPA or elsewhere and wondered about the specifics of the definition. It is clear what is meant by EPA ‘Certified’ – that is a Certificate of Conformance issued, usually, to OEM’s for new engine emissions. What is not clear is how EPA ‘Approvals’ under the EPA Rulemaking described in the Federal Register on Apr 8, 2011 under 40 CFR Part 85. (EPA-HQ-OAR-2009-0299)**

<https://www.gpo.gov/fdsys/pkg/FR-2011-04-08/pdf/2011-7910.pdf>

It may be your intent to leave the Ohio language less specific in order to respond to future EPA changes to the rules. However, I have seen other States mention the EPA Final Rule 40 CFR Part 85 in their programs to ensure that everyone is measured by the same standard.” (Dan Goodwin, American Power Group)

Response 3 & 4: The “compliance designation” language in the Ohio rule is taken from the Ohio statute. Conversion systems modify vehicles and engines so that they can run on different fuels than the ones for which they were originally intended. Any change to the manufacturer’s original vehicle or engine design is a potential violation of the Clean Air Act. US EPA has established protocols through which conversion manufacturers can demonstrate that emission controls in the converted vehicle or engine will continue to function properly,

and emissions will not increase as a result of conversion. Under federal law, conversion systems must be compliant with the US EPA's Rule 40 CFR Part 85, "Clean Alternative Fuel Vehicle and Engine Conversions" promulgated April 8, 2011. To be eligible for AFV grant funding as the statute requires, *and to ensure that proposed conversions of traditional diesel- or gasoline-powered engines to alternative fuels do not violate federal anti-tampering laws under the Clean Air Act*, Ohio EPA is requiring grant applicants to indicate that the proposed conversion will use a system that has been approved by either US EPA or the California Air Resources Board (ARB) under agreement with US EPA. The draft grant application guidelines reference the federal rule, and include this explanation and specific links to US EPA and ARB websites with lists of approved conversion systems. Grant applicants will be asked to include the US EPA approval number or ARB executive order number in their grant application. It will be the responsibility of the grant awardee to select a vendor appropriately qualified to carry out the conversion in keeping with the terms of the US EPA or ARB approval.

Proposed Rule 3745-49-54 (A) Permitted uses, eligibility, and prioritization

Comment 5: "To reflect the increasing market for Low NOx engines, ROUSH recommends that Ohio offer an increased incentive level for such technologies. This structure has already been established in premier grant programs by the California Air Resources Board and the Environmental Protection Agency...ROUSH recommends that Ohio's per vehicle maximum be increased to \$30,000 for vehicles equipped with engines certified to the 0.05 g NOx standard. Further, we recommend that the limit be raised to \$35,000 for vehicles equipped with engines certified to the 0.02 g NOx standard." (Todd Mouw, Roush Clean Tech).

Response 5: Increasing the dollar amount Ohio EPA is authorized to award per new AFV vehicle or conversion would require a statutory change that is beyond the scope of this rulemaking.

Comment 6: "...we recommend that Ohio revise its applicant limit of \$400,000 to reflect the potential of program under-subscription. Specifically, we suggest that if, after the program has been open for six months and funds still remain, that applicants who have hit the \$400,000 cap be allowed to apply for additional funding." (Todd Mouw, Roush Clean Tech).

Response 6: Increasing the \$400,000 limit on the dollar amount Ohio EPA is authorized to award per grant recipient would require a statutory change that is beyond the scope of this rulemaking. Based on the level of interest expressed by stakeholders, Ohio EPA does not believe the program will be under-subscribed. We have included in the grant application guidelines an explanation of how after all available funds are allocated, the remaining eligible applications received will be maintained on a waiting list. Proposed rule 3745-49-55 (B) and the grant application guidelines include a specific benchmark of 18 months for grant recipients to complete the project. If the grant recipient cannot demonstrate good cause for missing this benchmark, Ohio EPA has reserved in the rule the right to revoke the grant award and reallocate the funds to the next eligible unfunded applicant.

Comment 7: **“To further incentivize in-state emission reductions, we recommend that Ohio provide bonus points in the scoring criteria to those applicants who can verify that 100% of miles would be driven in state. This will more effectively deliver emissions reductions and their air quality and public health benefits.” (Todd Mouw, Roush Clean Tech).**

Response 7: The language in Proposed Rule 3745-49-54 (A)(4) repeats exactly the language in Ohio Revised Code Section 122.076 (C)(4) requiring the grant program rules to include “a requirement that each grant recipient attest that, of the total number of miles that the recipient or any employee or agent of the recipient will drive the alternative fuel vehicle, over half will be within this state.” In conducting its review of each grant application to determine eligibility, Ohio EPA will confirm that the applicant has included this statement. We do not believe it would be possible at the point in time at which the application is being submitted for grant *applicants* to provide any further verification that could justify the awarding of bonus points. Instead, Ohio EPA has included in Proposed Rule 3745-49-55 (B)(3) a provision for periodic reporting and verification by grant *recipients* that over half the miles actually driven by the purchased or converted vehicle were within this state.

Proposed Rule 3745-49-54 (C) Prioritization

Comment 8: **“...we recommend that they NOT follow DERG on the cost effectiveness methodology” (Karen Mann, Gladstein, Neandross & Associates)**

Response 8: Ohio EPA agrees with the comment. The Diesel Emission Reduction Grant (DERG) program is federally funded with a number of requirements and criteria that are not authorized for the AFV program. Ohio EPA will not be using the DERG methodology of ranking applications for funding on the basis of the cost effectiveness of the potential emission reductions to be achieved by the project. In the AFV program, applications will be reviewed by Ohio EPA only for eligibility, and funded in the order received until all available funds have been allocated.

Comment 9: **“I am glad that heavy transit buses are allowed to apply for this program. It should be a priority for funding. (Kurt Conrad, Stark Area Regional Transit Authority, SARTA)**

Response 9: Transit buses weighing at least 26,000 pounds are indeed eligible for funding with this program.

Proposed Rule 3745-49-55 (A) Grant Administration

Comment 10: **“We need to make sure there is a publication date with a few days or weeks before the opening of the application period.” (Kurt Conrad, Stark Area Regional Transit Authority, SARTA)**

Comment 11: **“IGS is also supportive of...the response of Ohio EPA regarding tracking and availability of funding remaining in the grant pool, inasmuch as it does not delay the grant implementations process.” (Matthew White, IGS Energy)**

Response 10 & 11: Ohio EPA posted draft application guidelines and forms to the [program website](#) on August 1, 2017, and notified stakeholders on the Interested Parties list by email with the request for comments and questions. In Section 3.1 of the posted draft Grant Application Guidelines, Ohio EPA has pledged to post the (final) application guidelines and forms to the program website at least eight weeks before the initial application submittal date, to allow applicants adequate time to prepare. Ohio EPA will also hold at least one information session and two conference calls to receive questions during that eight-week period. Ohio EPA will post on the program website a summary of questions received and answers provided, at least twice during that eight-week period, so that the information is available to all prospective applicants.

End of Response to Comments