

Re: Interested Party Review - Diesel School Bus Retrofit Grant Rules

Dear Interested Parties:

The Ohio Environmental Protection Agency is in the process of conducting a review of the regulations for Diesel School Bus Retrofit Grants. This review is being conducted to satisfy requirements mandated by Ohio Revised Code (ORC) Section 119.032 which requires all state agencies to review each of their rules every five years to determine whether or not to continue the rules without change, amend the rules, or rescind the rules.

Rule # Title:

The following rules are drafted with amendments:

3745-49-50	Definitions.	New and Rescission
3745-49-51	Permitted uses, eligibility, and prioritization.	Amendment
3745-49-52	Grant administration.	Amendment

Summary of proposed changes:

- County Boards of Developmental Disabilities have been added to these rules as eligible recipient for diesel retrofit grants due to a statutory change in section 3704.144 of the Revised Code.
- A definition for “approved idle reduction technology” has been added to these rules as a technology eligible to receive grant money for.
- The language regarding “offsetting the additional cost of using ultra low sulphur diesel fuel if ultra low diesel fuel is not reasonably available in a particular geographic region” has been removed since this is the only diesel fuel that is available.
- The language for which years of school buses are eligible has been changed from “1994 or newer” to “1996 to 2006.”
- Minor grammatical errors, punctuation errors, and Rule Drafting Standards errors are being fixed.
- Rule 3745-49-50 is being rescinded and proposed as new since more than 50% of the rule has changed.

Where can I get a copy of the draft rules?

The draft rules are attached to this notification or you may call (614) 644-2782 to obtain a copy.

When are my comments due?

Please submit your comments by January 13, 2011.

Where should I send my comments?

Please send your comments to:

Mandi Payton
Ohio EPA, Director’s Office
PO Box 1049
Columbus, OH 43216-1049

You may also send your comments by fax at (614) 644-3184 or e-mail amanda.payton@epa.ohio.gov

Who can I talk to about the rules?

For questions about diesel bus retrofitting, particle standards, or program rules, contact John Paulian at john.paulian@epa.ohio.gov, or 614-644-4832. For questions about the grant program, please contact Carolyn Watkins at carolyn.watkins@epa.ohio.gov, or 614-644-3768.

What should I consider as I prepare my comments?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide any technical information and/or data you used that support your views.
4. If you estimate potential burden or costs, explain how you arrived at your estimate.
5. Provide specific examples to illustrate your concerns.
6. Offer alternatives.
7. Make sure to submit your comments by the comment period deadline.

Thank you for your interest and we look forward to hearing from you.

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3745-49-50 Definitions.

The following definitions apply to this rule and rules 3745-49-51 and 3745-49-52 of the Administrative Code:

(A) "Approved control equipment" means diesel retrofit technologies that USEPA or the California air resources board have approved for use in engine retrofit programs or that have been deemed to be acceptable by the director.

(B) "Approved idle reduction technology" means applicable idle reduction technologies or devices that have been approved for use by USEPA or have been deemed acceptable by the director.

(C) "County boards of developmental disabilities" means an entity regulated under Chapter 5126. of the Revised Code.

(D) "Director" means the director of the Ohio environmental protection agency.

(E) "National ambient air quality standards" or "NAAQS" means health based standards established by USEPA in 40 CFR Part 50 as published in the July 1, 2010 edition of the Code of Federal Regulations.

[Comment: Information and copies of the Code of Federal Regulations (CFR) may be obtained by writing to: "Superintendent of Documents, Attn: New Orders, PO Box 371954, Pittsburgh, PA 15250-7954." The full text of the CFR is also available in electronic format at www.access.gpo.gov/nara/cfr/. The CFR compilations are also available for inspection and copying at most public libraries and "The State Library of Ohio."]

(F) "Ohio EPA" means the Ohio environmental protection agency or the director, as the context or other law or regulations may require.

(G) "School district" means a city, local or exempted school district as defined in Chapter 3311. of the Revised Code.

(H) "USEPA" means the United States environmental protection agency.

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3745-49-51 **Permitted uses, eligibility, and prioritization.**

(A) With monies credited to the "Clean Diesel School Bus Fund" pursuant to 3704.144 of the Revised Code, the director may:

- (1) Make grants to Ohio school districts and county boards of developmental disabilities for the purpose of adding approved control equipment or approved idle reduction technology on diesel school buses;
- (2) Make grants to Ohio school districts and county boards of developmental disabilities for maintaining approved control equipment or idle reduction technology on diesel school buses ~~and to offset the additional cost of using ultra low sulphur diesel fuel if ultra low diesel fuel is not reasonably available in a particular geographic region~~; and
- (3) Pay costs incurred by the Ohio EPA related to administering the grant program.

(B) Eligible school buses.

- (1) To be eligible for funding under section 3704.114 of the Revised Code, the bus to be retrofitted ~~must~~ shall:
 - (a) Have a diesel engine;
 - (b) Have a gross vehicle rating of ~~19,500~~ nineteen thousand five hundred pounds or more;
 - (c) Be a model year ~~1994 or newer~~ 1996 to 2006;
 - (d) Be driven not less than five thousand miles per year; and
 - (e) Employ only approved control equipment.
- (2) Buses privately owned but used exclusively to transport Ohio school children pursuant to an agreement with an Ohio school district or county board of developmental disabilities are eligible for retrofitting so long as the bus remains in service with an Ohio school district or county board of developmental disabilities for the useful life of the approved control equipment. Under such circumstances, the grant applicant shall be the school district or county board of developmental disabilities.

(C) Prioritization.

- (1) In awarding grants the director shall give higher priority to school districts or county boards of developmental disabilities that serve counties designated by -

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~~US EPA USEPA~~ as nonattainment areas for the “~~NAAQS~~”-NAAQS for fine particulates. The director may give higher priority for school districts or county boards of developmental disabilities that serve counties that are designated by - ~~US EPA USEPA~~ as a nonattainment area for other “~~NAAQS~~”NAAQS.

- (2) In awarding grants, the director may give higher priority to those school districts or county boards of developmental disabilities that employ additional environmental measures, such as anti-idling programs, to reduce air pollution from their school bus fleets.

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3745-49-52 Grant administration.

(A) Grant applications and awards.

- (1) Applicants shall prepare and submit grant applications on forms approved by the director. The application shall be signed by a school district official or county board of developmental disabilities official with the authority to enter into contracts on behalf of the school district or county board of developmental disabilities.
- (2) Grant applications shall be accepted and reviewed collectively in discrete granting rounds. The frequency or number of granting cycles shall be subject to the discretion of the director.

(B) The director shall establish minimum and maximum awards for each round of grant funding.

(C) Grant requirements.

- (1) Grants awarded to school districts or county boards of developmental disabilities shall require the installation of the approved control equipment or approved idle reduction technology as expeditiously as practicable.
- (2) Grants awarded to school districts or county boards of developmental disabilities shall require the implementation of an adequate program for routine maintenance and repair of the approved control equipment or approved idle reduction technology.
- (3) Grants awarded to school districts or county boards of developmental disabilities shall include provisions for periodic reporting and verification that the approved control equipment or approved idle control technology was installed expeditiously in accordance with the grant agreement.
- (4) The director may hold in reserve a percentage of the grant until such time as the grant recipient demonstrates substantial progress in retrofitting buses under the terms of the grant agreement.
- (5) The director shall not make future grant awards to a school district or county board of developmental disabilities if ~~he~~ the director determines that the school district or county board of developmental disabilities materially failed to comply with the terms of a prior grant award under this section and has failed to correct said deficiencies to the satisfaction of the director.