

**NOTICE OF ADOPTION OF RULES  
OHIO ENVIRONMENTAL PROTECTION AGENCY**

**Rules Governing**

**Diesel School Bus Retrofit Grant Program**

Notice is hereby given that the Director of the Ohio Environmental Protection Agency (Ohio EPA) has adopted as final the following rules of the Ohio Administrative Code:

3745-49-50 Definitions

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

3745-49-52 Grant administration

These rules address content of and process for the operation of the new Diesel School Bus Retrofit Grant Program.

The purpose of this rule making is to establish the Diesel School Bus Retrofit Grant Program set forth in HB 66 and the administrative process for its operation.

The Director's order of adoption was issued on January 12, 2006. These adopted rules will become effective on February 1, 2006.

The Director's action in this matter is pursuant to the procedural requirements of Ohio Revised Code Chapter 119 and is based upon the record of the public hearing conducted by Ohio EPA on December 6, 2005, and comments received during the public comment period.

This action of the Director is final and may be appealed to the Environmental Review Appeals Commission (ERAC) pursuant to Ohio Revised Code Section 3704.144. This appeal must be in writing and set forth the action complained of and the grounds upon which the appeal is based. The appeal must be filed with ERAC within thirty (30) days after notice of the Director's action. ERAC is located at 309 South Fourth Street, Suite 222, Columbus, OH, 43215. Copies of the appeal must be served on the Director of the Ohio EPA within three (3) days of filing with ERAC. The Ohio EPA is located at, 122 S. Front St., Columbus, OH, 43216-1049.

3745-49-50

**Definitions.**

- (A) "Approved control equipment" means diesel retrofit products that have been approved for use by US EPA's engine retrofit program or that have been deemed to be acceptable by the director.
- (B) "Director" means the director of the Ohio environmental protection agency.
- (C) "National ambient air quality standards for fine particulates" means health based standards that were promulgated by the United States environmental protection agency on July 18, 1997 (62 CFR 38652, 40 CFR Part 50.7) as the National Ambient Air Quality Standards ("NAAQS") for atmospheric concentrations of fine particulates (i.e., particulates in the atmosphere with a nominal aerodynamic diameter of 2.5 micrometers or less, also known as "PM 2.5").
- (D) "Ohio EPA" means the Ohio environmental protection agency or its director, as the context or other law or regulations may require.
- (E) "School district" means a city, local or exempted school district as defined in Ohio Revised Code chapter 3311.
- (F) "US EPA" means the United States environmental protection agency.

Effective: 02/01/2006

R.C. 119.032 review dates: 02/01/2011

CERTIFIED ELECTRONICALLY

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Certification

01/12/2006

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Date

Promulgated Under: 119.03  
Statutory Authority: 3704.144  
Rule Amplifies: 3704.144

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 for the purpose of adding approved control equipment on diesel school buses;

(2) Make grants to Ohio school districts for maintaining approved control equipment 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:

(a) Have a diesel engine;

(b) Have a gross vehicle rating of 19,500 pounds or more;

(c) Be a model year 1994 or newer;

(d) Be driven not less than 5000 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 are eligible for retrofitting so long as the bus remains in service with an Ohio school district for the useful life of the approved control equipment. Under such circumstances, the grant applicant shall be the school district.

(C) Prioritization

(1) In awarding grants the director shall give higher priority to school districts that serve counties designated by US EPA as nonattainment areas for the "NAAQS" for fine particulates. The director may give higher priority for school districts that serve counties that are designated by US EPA as a nonattainment area for other "NAAQS".

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

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**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 with the authority to enter into contracts on behalf of the school district.
- (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 shall require the installation of the approved control equipment as expeditiously as practicable.
- (2) Grants awarded to school districts shall require the implementation of an adequate program for routine maintenance and repair of the approved control equipment.
- (3) Grants awarded to school districts shall include provisions for periodic reporting and verification that the approved control equipment 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 if he determines that the school district 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.

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