

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

Rules Governing

Diesel School Bus Retrofit Grant Rules

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

<u>Rule #</u>	<u>Title:</u>	<u>Type of filing:</u>
3745-49-50	Definitions.	New and Rescission
3745-49-51	Permitted uses, eligibility, and prioritization.	Amendment
3745-49-52	Grant administration.	Amendment

The Director's order of rescission, adoption, and amendment was issued on November 18, 2011. These rules will become effective on December 1, 2011.

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 October 17, 2011 and comments received during the public comment period.

You are hereby notified that this action of the Director is final and may be appealed to the Environmental Review Appeals Commission pursuant to Section 3745.04 of the Ohio Revised Code. The 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 the Commission within thirty (30) days after notice of the Director's action. The appeal must be accompanied by a filing fee of \$70.00, made payable to "Ohio Treasurer Josh Mandel," which the Commission, in its discretion, may reduce if by affidavit you demonstrate that payment of the full amount of the fee would cause extreme hardship. Notice of the filing of the appeal shall be filed with the Director within three (3) days of filing with the Commission. Ohio EPA requests that a copy of the appeal be served upon the Ohio Attorney General's Office, Environmental Enforcement Section. An appeal may be filed with the Environmental Review Appeals Commission at the following address:

Environmental Review Appeals Commission
309 South Fourth Street, Room 222
Columbus, OH 43215

TO BE RESCINDED

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 Chapter 3311. of the Revised Code.
- (F) "US EPA" means the United States environmental protection agency.

Effective: 12/01/2011

R.C. 119.032 review dates: 09/13/2011

CERTIFIED ELECTRONICALLY

Certification

11/18/2011

Date

Promulgated Under: 119.03
Statutory Authority: 3704.144
Rule Amplifies: 3704.144
Prior Effective Dates: 02/01/2006

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.

Replaces: 3745-49-50
Effective: 12/01/2011
R.C. 119.032 review dates: 12/01/2016

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Date

Promulgated Under: 119.03
Statutory Authority: 3704.144
Rule Amplifies: 3704.144
Prior Effective Dates: 02/01/2006

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 ~~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.

Effective: 12/01/2011

R.C. 119.032 review dates: 09/13/2011 and 12/01/2016

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11/18/2011

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Promulgated Under: 119.03
Statutory Authority: 3704.144
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Prior Effective Dates: 02/01/2006

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.

Effective: 12/01/2011

R.C. 119.032 review dates: 09/13/2011 and 12/01/2016

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