

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

NOTICE OF PUBLIC COMMENT PERIOD AND PUBLIC HEARING

**IN RE: Air Pollution Control Regulation No. 50 “Clean Diesel Fund”
260-RICR-120-00-50**

The Director of the Rhode Island Department of Environmental Management (DEM) proposes a new Air Pollution Control (APC) Regulation, Regulation No. 50 “Clean Diesel Fund” (260-RICR-120-00-50) and gives notice of intent to receive public comment and hold a public hearing on the proposed regulation to afford interested parties an opportunity to submit data, views, or arguments in person or in writing on the proposed regulation.

A formal public hearing will be held at 10:00 AM on Thursday, January 19, 2017 in Room 280C1 at RIDEM’s Headquarters, 235 Promenade Street in Providence. The Department of Environmental Management building is accessible to those with disabilities. A recording of the public hearing will be made and the DEM will provide interpreter services for the hearing impaired, provided such a request is made at least three (3) business days prior to the hearing date. A request for this service can be made in writing or by calling (401) 222-6800 or dialing 711 (RI Relay).

APC Regulation No. 50 was developed pursuant to R.I. Gen. Laws § 31-47.3-5.1, that established the Rhode Island clean diesel fund. The Clean Diesel Fund was created in order to enable the Department to receive annually appropriated monies and provide reimbursement grants to companies for the purpose of reducing emissions from heavy-duty diesel vehicles operating on Rhode Island roads and improving supply chain efficiency. The Department will solicit projects that undertake eligible clean diesel measures and award grants from the fund to reimburse applicants for undertaking these measures.

A fact sheet that more fully describes the proposed regulation as well as copies of the proposed regulation is available on the Department’s website at www.dem.ri.gov/programs/air/documents/pnadc50.pdf.

Copies are also available at DEM’s Office of Air Resources, 235 Promenade St., Providence, RI. Any additional requests can be made by contacting the Office of Air Resources at 222-2808, weekdays, 8:30 AM - 4:00 PM.

DEM encourages the submission of written comments. Written comments, to be considered part of the administrative record, must be submitted during the public comment period. Written comments may be mailed or e-mailed to the Office of Air Resources and must be received no later than 4:00 PM, Tuesday, January 31, 2017, at which time the public comment period will close. The mailing address for comments is:

Allison Callahan, Senior Air Quality Specialist
Department of Environmental Management
Office of Air Resources
235 Promenade Street
Providence, RI 02908-5767

The e-mail address for comments is: allison.callahan@dem.ri.gov.

Signed this 30th day of December, 2016

Laurie A. Grandchamp, Deputy Chief
Office of Air Resources

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
OFFICE OF AIR RESOURCES**

FACT SHEET

**IN RE: Proposed Air Pollution Control Regulation
No. 50 "Clean Diesel Fund"
(260-RICR-120-00-50)**

Introduction

The Department of Environmental Management (DEM), Office of Air Resources, is proposing to adopt Air Pollution Control (APC) Regulation No. 50 "Clean Diesel Fund". (260-RICR-120-00-50)

Overview

APC Regulation No. 50 "Clean Diesel Fund" was developed pursuant to R.I. Gen. Laws § 31-47.3-5.1, which established the Rhode Island Clean Diesel Fund. The Clean Diesel Fund was created in order to enable the Department to receive annually appropriated monies and provide grants to companies for the purpose of reducing emissions from heavy-duty vehicles operating on Rhode Island roads and improving supply chain efficiency. The Department will solicit projects that undertake eligible clean diesel measures and award grants from the fund to reimburse applicants for undertaking these measures.

Description of Proposed Regulation

APC Regulation No. 50 will provide reimbursement grants to companies for the purpose of reducing emissions from heavy-duty vehicles operating on state roads. The Rhode Island DEM will administer the fund in accordance with these regulations and will solicit projects that undertake eligible clean diesel measures and award grants from the fund to reimburse applicants for undertaking emission reduction measures. The funds will be available to eligible applicants in the form of reimbursement grants of up to fifty percent (50%) of the total project cost. Applicants must be able to match at least fifty percent (50%) of the total project cost. The total project cost shall include both the material and labor needed to implement the eligible measure. No one applicant shall be awarded more than twenty-five percent (25%) of the grant funds appropriated during a given fiscal year, provided that the total grants requested exceed the amount appropriated. If the total amount of grants requested is less than the amount appropriated in a given fiscal year, the Department may allocate more than twenty-five percent (25%) of the fund to one applicant.

Equipment eligible for grant funding must:

- Be intended for on-road use;
- Be registered with the Rhode Island division of motor vehicles (DMV);
- Be kept or garaged in Rhode Island as indicated on the vehicle registration issued by the DMV; and
- The applicant must certify to the Department on the application that fifty percent (50%) or more of the vehicle miles traveled, or hours of operation are projected to be in Rhode Island for at least five (5) years following the reimbursement grant award.

Funds will be available to assist companies reduce emissions and improve supply chain efficiency through implementation of:

- Vehicle Replacements;
- Repower of Vehicles;

- Clean Alternative Fuel Conversions;
- Replacement/Upgrade of Transport Refrigeration Units or Transport Refrigeration Unit Generator Sets
- Diesel Emissions Reduction Solutions
- Idle Reduction Technologies;
- Low Rolling Resistance Tires;
- Aerodynamic Technologies; and
- Routine Maintenance shown to improve fuel efficiency or decrease emissions.

Demonstration of Need

This regulation is necessary to meet the requirement pursuant to R.I. Gen. Laws § 31-47.3-5.1, the establishment of the Rhode Island clean diesel fund.

Alternative Approaches Considered

No alternative approaches were considered.

Identification of Overlapped or Duplicated State Regulations

The Office of Air Resources has identified no state regulations that overlap or duplicate the proposed regulation.

Determination of Significant Adverse Economic Impact on Small Business or Any City or Town

No significant adverse economic impact to small business or any city or town is anticipated related to this proposed regulation.

Public Hearing

A public hearing regarding the proposed Air Pollution Control Regulation No. 50 "Clean Diesel Fund" (260-RICR-120-00-50) will be held on Thursday, January 19, 2017 at 10:00 AM in Room 280C1 of DEM's Headquarters at 235 Promenade Street in Providence. Written comments may be sent to the Office of Air Resources at the address below until 4:00 PM on Tuesday, January 31, 2017, unless the hearing officer extends the comment period.

For more information or copies of the proposed regulation contact:

Allison Callahan, Senior Air Quality Specialist
RIDEM - Office of Air Resources
235 Promenade Street
Providence, RI 02908
(401) 222-2808 ext. 2035
Allison.Callahan@dem.ri.gov
TCDD (401) 222-6800 or,
Visit the Department's website from Office of Air Resources homepage:
<http://www.dem.ri.gov/programs/air/>

260-RICR-120-00-50

TITLE 260 - DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

CHAPTER 120 - AIR RESOURCES

SUBCHAPTER 00

PART 50 - Clean Diesel Fund

50.1 Purpose

The Clean Diesel Fund was created for the purpose of reducing emissions from heavy-duty diesel engines operating on Rhode Island roads and helping companies improve supply chain efficiency. The Clean Diesel Fund will solicit projects that undertake eligible clean diesel measures and award grants from the Fund to reimburse applicants for undertaking those measures.

50.2 Authority

These regulations are authorized pursuant to R.I. Gen. Laws § 42-17.1-2(s) and 23-23, as amended, and have been promulgated pursuant to the procedures set forth in the R.I. Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

50.3 Application

The terms and provisions of this regulation shall be liberally construed to permit the Department to effectuate the purposes of state law, goals and policies.

50.4 Severability

If any provision of this regulation or the application thereof to any person or circumstance, is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulation shall not be affected thereby.

50.5 Definitions

Unless otherwise expressly defined in this section, the terms used in this regulation shall be defined by reference to 260-RICR-120-00-00 - "General Definitions". As used in this regulation, the following terms shall, where the context permits, be construed as follows:

"Aerodynamic Technologies" means components designed to reduce wind resistance on the tractor or trailer resulting in improved overall tractor fuel economy and reduced carbon dioxide emissions. There are two main types of aerodynamic technologies: fairing and flow control devices. US EPA SmartWay Technology Program verifies the performance of certain categories of aerodynamic devices.

"California Air Resources Board (CARB)" means the California state agency established and empowered to regulate sources of air pollution in California, including motor vehicles, pursuant to Division 26 (Air Resources) of the California Health & Safety Code.

“Clean Alternative Fuel Conversion” means a US EPA verified/certified technology system that allow gasoline or diesel vehicles to operate on alternative fuels such as, but not limited to, natural gas, propane, alcohol, or electricity.

“Diesel Emission Reduction Solution” means a US EPA verified technology used to reduce harmful pollutions of diesel exhaust such as, but not limited to, selective catalytic reduction technologies (SCRT), diesel particulate filters (DPF), and diesel oxidation catalyst (DOC).

“Diesel Engine” means a compression ignition type of internal combustion engine.

“Diesel Particulate Matter Filtration System (DPFs)” means a ceramic device that collects particulate matter in the exhaust stream and oxidizes it into less harmful components using the high temperature of the exhaust.

“Engine Repower” means the replacement of an old or original engine with a new cleaner-running engine that is certified to a more stringent set of emissions standards.

“Heavy-duty Diesel Trailer Truck” means any trailer truck defined by FHWA as Class 8 through Class 13.

“Idle Reduction Technology” means a US EPA verified technology used to allow operators to shut down the main propulsion engine such as, but not limited to, auxiliary power units and generator sets (APU/GS), battery air conditioning systems (BAC), and fuel operated heaters (FOH). US EPA's SmartWay Technology Program verifies the performance of certain categories of idle reduction devices.

“Low Rolling Resistance Tires (LRR)” means a tire that is designed to improve fuel efficiency of a tractor pulling a trailer by minimizing its rolling resistance, which consists of the energy lost as heat within the rubber itself, as well as aerodynamic drag of the tire, and friction between the tire and the road and between the tire and the rim where the tire is rolling under load; rolling resistance is expressed as the energy consumed per unit distance as the tire rolls under load. US EPA's SmartWay Technology Program verifies the performance of new and retread low rolling resistance tires.

“On-Road Use” means vehicles that are intended by their manufacturer for use on public highways. On-road vehicles must be certified by their manufacturer with the U.S. Department of Transportation (DOT), National Highway Traffic Administration (NHTSA), as compliant with on-highway safety standards as well as certified to all applicable ARB and U.S. EPA on-road emission standards.

“Routine Maintenance” means preventive or cyclical maintenance that is an essential part of the on-going care and upkeep shown to improve fuel efficiency or decrease emissions including, but not limited to, oil changes and cleaning of DPFs.

“Transport Refrigeration Unit (TRU)” means a refrigeration systems powered by integral internal combustion engines designed to control the environment of temperature-sensitive products that are transported in trucks and refrigerated trailers. TRUs may be capable of both cooling and heating.

“Transport Refrigeration Unit Generator Sets (gensets)” means a system used to provide electric power to electrically driven refrigeration units of any kind.

“US EPA Designated SmartWay Tractor” means a tractor that has been designated by the United States Environmental Protection Agency (US EPA) as meeting the technical specifications and requirements of the US EPA SmartWay Technology Program.

“US EPA SmartWay Tractor-Trailer” means the baseline tractor-trailer with the SmartWay verified aerodynamic technology installed on the trailer in its verified configuration.

“US EPA Designated SmartWay Trailer” means a 53-foot or longer box-type dry van or refrigerated trailer that has been designated by the US EPA as meeting the technical specifications and requirements of the US EPA SmartWay Technology Program.

“US EPA SmartWay Technology Program” is a voluntary program designed to assist fleets in identifying and equipping the most fuel-efficient long-haul tractors and trailers available on the market. The program helps carrier fleets make informed business decisions to save fuel and improve their supply chain efficiency. SmartWay also verifies the performance of idle reduction technology for locomotives and school buses.

“Vehicle Replacement” means the replacement of an older vehicle with a newer vehicle certified to more stringent emissions standards than the engine or vehicle being replaced.

50.6 Fund Establishment

There is hereby established a fund entitled the “Clean Diesel Fund”. The Fund was created in order to enable the Department to receive annually appropriated monies and provide grants to companies for the purpose of reducing emissions from heavy-duty vehicles operating on Rhode Island roads and improving supply chain efficiency. The Department will administer the Fund in accordance with these regulations.

50.7 Notification of Available Funds

50.7.1 Availability of Funds:

The Director shall announce the availability of all funds under the Clean Diesel Fund. The funds will be available to eligible applicants in the form of reimbursement grants of up to fifty percent (50%) of the total project cost. Applicants must be able to match at least fifty percent (50%) of the total project cost. The total project cost shall include both the material and labor needed to implement the eligible measure. No one applicant shall be awarded more than twenty-five percent (25%) of the grant funds appropriated during a given fiscal year, provided that the total grants requested exceed the amount appropriated. If the total amount of grants requested is less than the amount appropriated in a given fiscal year, the Department may allocate more than twenty-five percent (25%) of the fund to one applicant.

50.7.2 Frequency of Awards and Announcements:

Reimbursement grants using these funds will be made periodically, but not less than bi-annually (twice every fiscal year) on a competitive basis, based on announcements regarding requests for applications pursuant to Section 50.7.1. At a minimum the announcement will state:

- A. The approximate amount of money available under the fund;
- B. The deadline for all applications; and
- C. Any other information the Director determines necessary and pertinent.

50.8 Application Requirements

Applications shall be submitted on a form provided by the Department and shall be signed by the applicant’s chief executive or chief financial officer, or other designated and qualified representative.

Applications shall be submitted to the Department via:

Rhode Island Department of Environmental Management
Permit Application Center (PAC), 2nd Floor
235 Promenade Street
Providence, Rhode Island 02908

In the alternative, the Department may provide mechanisms for electronic submissions of grant applications.

50.9 Reimbursement Grant Eligibility Requirements

Equipment eligible for reimbursement grant funding shall meet the following requirements:

- A. Be intended for on-road use;
- B. Be registered with the Rhode Island Division of Motor Vehicles;
- C. Be kept or garaged in Rhode Island as indicated on the vehicle registration issued by the Division of Motor Vehicles;
- D. The applicant shall certify to the Department on the application that fifty percent (50%) or more of the vehicle miles traveled, or hours of operation, shall be projected to be in Rhode Island for at least five (5) years following the reimbursement grant award.

50.10 Project Categories and Eligible Costs

Projects that benefit human health and the environment while achieving the goals listed above will be scored favorably. The following categories of grants will be considered:

- A. Vehicle Replacements – the following conditions shall be met:
 - 1. The applicant shall replace an older vehicle with a newer vehicle certified to more stringent emissions standards than the engine or vehicle being replaced;
 - 2. The vehicle being replaced is a model year at least ten (10) years old;
 - 3. The vehicle being replaced has a gross vehicle weight rating of thirty-three thousand one pounds (33,001 pounds) or greater;
 - 4. The replacement vehicle purchased by the applicant is a model year no more than three (3) years old;
 - 5. The replacement vehicle has a gross vehicle weight rating of thirty-three thousand one pounds (33,001 pounds) or greater;
 - 6. The replacement vehicle must be operable with remaining useful life for at least five (5) years) following the grant award;
 - 7. The engine of the vehicle being replaced must be scrapped or otherwise rendered permanently inoperable, or remanufactured to a certified cleaner emission standard utilizing the following methods:
 - a. Cutting a three inch hole in the engine block is the preferred scrapping method.

- b. Remanufacturing shall be performed by the original engine manufacturer, or by a dealership/distributor that has a service program that is sponsored/backed by original engine manufacturer warranties.
 - c. Disabling the chassis may be completed by cutting through the frame/frame rails on each side at a point located between the front and rear axles.
 - 8. The amount of funding requested must contain the sale price of the vehicle, not including any interest or other finance charges; and
 - 9. A vehicle purchased on a lease shall be operated for at least five (5) years following the reimbursement grant award.
 - 10. The technology should be either EPA verified or California Air Resources Board certified. Models of tractors and trailers that qualify as "designated" under EPA's SmartWay Technology Program are given preference, and SmartWay "Elite" trailer models are further encouraged.
- B. Replacement or upgrades of transport refrigeration units (TRU) or transport refrigeration unit generator sets shall meet the following conditions:
 - 1. The TRU or transport refrigeration unit generator set being replaced or upgraded is powered by a diesel engine;
 - 2. The TRU or transportation refrigeration unit generator set being replaced or upgraded is being used on a vehicle with a gross vehicle weight rating of thirty-three thousand one pounds (33,001 pounds) or greater;
 - 3. The replacement or upgraded TRU or transport refrigeration unit generator set produces fewer emissions than the equipment being replaced or upgraded;
 - 4. The replacement or ungraded TRU or transport refrigeration unit generator set should be either EPA or CARB certified; and
 - 5. Replacement TRUs that do not burn diesel fuel, and that are stand-by ready (capable of drawing electric "shore" power), shall be given preference.
- C. Engine repowers;
 - 1. All vehicle classes that meet eligibility requirements will be considered.
- D. Diesel emission reduction solutions;
 - 1. All vehicle classes that meet eligibility requirements will be considered.
- E. Clean alternative fuel conversions;
 - 1. All vehicle classes that meet eligibility requirements will be considered.
- F. Idle reduction technologies;
 - 1. All vehicle classes that meet eligibility requirements will be considered;
 - 2. Owners of vehicles with existing idle reduction controls shall prove that replacement controls are verified to achieve higher emission reductions than existing controls.

- G. Aerodynamic technologies;
 - 1. All vehicle classes that meet eligibility requirements will be considered.
- H. Low rolling resistance tires; and
 - 1. All vehicle classes that meet eligibility requirements will be considered.
 - 2. For tire replacement projects, the replaced tires should be properly disposed of in accordance with RIGL Chapter 23-63 or tires can be salvaged for reuse or retreading.
- I. Routine maintenance shown to improve fuel efficiency or decrease emissions including, but not limited to, oil changes and cleaning of diesel particulate filters.

50.11 Project Prioritization List and Reimbursement Amounts

Applicants shall be reimbursed for each eligible measure in accordance with the following:

Project Priority Ranking	Technology	DEM Reimbursement Grant % of the Total Project Cost
1	Replacement of Vehicle Repower of Vehicle Clean Alternative Fuel Conversion	50%
2	Replacement/Upgrade of Transport Refrigeration Units or Transport Refrigeration Unit Generator Sets Diesel Emissions Reductions Solutions Idle Reduction Technologies	50%
3	Low Rolling Resistance Tires Aerodynamic Technologies	50%
4	Routine Maintenance shown to Improve Fuel Efficiency or Decrease Emissions	25%

50.12 Application Review and Selection

- A. Application Review – All applications shall be reviewed to determine eligibility and completeness. In order to be considered complete, the applicant and their proposed project shall meet the requirements in Sections 50.8, 50.9 and 50.10 (Application Requirements, Reimbursement Grant Eligibility Requirements and Project Categories and Eligible Costs) of these Regulations.
- B. Application Scoring – Projects accepted by the Department will be ranked in accordance with the following criteria:
 - 1. Ranking of technology from Project Prioritization List in Section 50.11.
 - 2. Environmental benefit of diesel emissions reductions as demonstrated in percent reduction.
 - 3. Percentage of time the existing vehicle is currently operated in Rhode Island, and the percentage of time the upgraded or replaced vehicle will be in operation by the applicant.
 - 4. Readiness and timeliness to proceed.

5. Other Measures to Reduce Emissions - Proof of additional fleet/driver training programs or how proposed project is part of a larger strategy to address emissions reductions from heavy-duty vehicles. This may include, but not limited to, a supply chain efficiency plan, road-speed governing, use of idle reduction technology or strategy, and driver training programs that increase skills, knowledge, and measure and incentivize performance.
- C. Applicants may request a meeting on their application package after the awards are announced. The meeting request shall be made in writing within thirty (30) days of the applicable grant announcement and shall be accommodated within thirty (30) days of the request.

50.13 Grant Awards

Successful applicants will receive a grant offer specifying the amount, duration and conditions of the award. The offer will be in the form of a binding contract. Other requirements to secure funding shall be:

- A. Grant recipients will be required to sign, accept and return the offer to the Department within forty-five (45) days of the date of the receipt. Failure to execute the agreement within forty-five (45) days may result in the cancellation of the grant award and may result in these funds being awarded to the next highest rated project.
- B. Recipients will have ninety (90) days from the date of the acceptance of the grant offer to provide proof of the necessary grant match letters of credit, loan agreements, or any other pre-approved proof of matching funds to the Department.
- C. All grant payments will be paid in the form of reimbursement payments for eligible expenses incurred in accordance with the approved project. Requests for reimbursement shall include documentation of the incurred, eligible costs. Required documentation will be detailed in the grant offer and/or grant agreement.

50.14 Suspension, Modification and Revocation

The Director may suspend, modify or revoke any awards granted pursuant to these Regulations in the event that subsequent examination reveals any data included in an application form, submittal, reimbursement request, plan or sketch to be incorrect or not in compliance with these Regulations.

50.15 Stop Payment

The Director may take appropriate action to stop payment of and/or seek the return of grant funds expended for any project where;

- A. The applicant has obtained said grant based upon incomplete, false, misleading or erroneous information; or
- B. The applicant has not completed the work approved under the grant in accordance with any and all conditions of approval issued by the Director in the grant award.

50.16 Reporting

Projects that receive grant funding shall annually certify in a report submitted to the Department:

- A. Fuel usage (required in accordance with the signed agreement described in Section 50.13); and

- B. Fifty percent (50%) or more of the vehicle miles traveled or hours of operation, occurred in Rhode Island for the previous year.

50.17 Penalties

Applicants awarded funds under the Clean Diesel Fund may be penalized for breaching the terms of their grant award or for other project non-performance through the following:

- A. Cancellation of the grant award;
- B. Recovery of all or a portion of the grant award;
- C. Other fiscal penalties on an applicant based on the severity of non-performance and as specified in rules and regulations promulgated by the Department; and
- D. Prohibiting an applicant or a specific vehicle from participating in the program in the future.