

New Grant and Loan Money Available to Retrofit Diesel Engines¹

The United States Environmental Protection Agency (“EPA”) first issued new stricter regulations on the emissions from diesel engines in 2000. The original regulations were scheduled to become effective with heavy-duty engines manufactured in 2007, but then extended the date until 2009, with a requirement that all engines comply with the new regulations by 2010. The regulations were aimed at the human health risks caused by diesel engine emissions which contain high levels of nitrogen oxide (“NOx”) and particulate matter (“PM”). Fleet owners have the option of either replacing their vehicles with newer low-emissions vehicles or retrofitting their older vehicle engines with emission control technologies.

On February 17, 2009, President Barack Obama signed into law the American Recovery and Reinvestment Act (“ARRA”), more commonly known as the “Stimulus Bill.” As part of ARRA, \$300 million will be available to the National Diesel Emissions Reduction Program. Funds will be distributed on a competitive basis, with those seeking funds applying to individual state EPA agencies.

US EPA suggests that potential applicants for ARRA funds begin to assess their diesel fleets to determine vehicle eligibility. Private parties seeking funds are encouraged to establish the necessary partnerships with public entities, since the National Diesel Emissions Reduction Program requires Public-Private Partnerships in order for private diesel fleets to access its funds.

Another source of funding is the Energy Policy Act of 2005, which established a grant program whereby the US EPA distributes funds to states so that they may achieve “significant reductions in diesel emissions.” For example, in Ohio, R.C. §122.861 creates Ohio’s Diesel Emissions Reduction Grant (“DERG”) program, as well as a revolving loan fund, a program jointly administered by the Ohio Director of Development. In order to be eligible for this funding, projects must focus on retrofitting, repowering, installing anti-idle equipment, or replacing public diesel-powered fleets. Additionally, the project must demonstrate a reduction in NOx and PM pollutants. Finally, projects may be more likely to receive DERG funds if the requesting party agrees to use biodiesel fuels, which have fewer harmful emissions.

A third source of funds is the federal Congestion Mitigation and Air Quality (“CMAQ”) program. The federal Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (“SAFETEA-LU”), enacted in 2005, established the criteria for funds available under CMAQ program, designed to reach attainment and maintenance of the federal Clean Air Act’s National Ambient Air Quality Standards (“NAAQS”) more

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feasible. Under the CMAQ program, the Federal Highway Administration gives priority to diesel emissions reduction projects and congestion mitigation projects.

Finally, U.S. EPA's Smartway Transport Finance Program ("Smartway") offers low-cost loans for either the purchase of new diesel-powered vehicles with EPA-certified emissions control technology or the equipment to retrofit older vehicles with EPA-certified emissions control technology. Smartway funds can also be used to install idle-reduction technologies. The program allows \$3 million to be distributed on a competitive basis to selected applicants. Smartway funds are available to local and state governmental entities that operate diesel fleets. Additionally, non-profit organizations are eligible to receive Smartway funds if they will distribute the funds to operators of diesel fleets or promote awareness of air quality considerations in the transportation industry.

EPA's 2010 deadline for diesel fleet owners to comply with emissions reduction regulations is rapidly approaching. Several programs offer eligible fleet owners opportunities to defray the costs associated with achieving full compliance. Given the competitive nature of the application processes for these funding options, fleet owners must have an understanding of the program requirements and decision-makers' relevant considerations.



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