

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

AGENDA ITEM REQUEST

for Proposed Rulemaking

AGENDA REQUESTED: November 6, 2013

DATE OF REQUEST: October 18, 2013

INDIVIDUAL TO CONTACT REGARDING CHANGES TO THIS REQUEST, IF NEEDED: Bruce McAnally, (512) 239-2141

CAPTION: Docket No. 2013-1192-RUL. Consideration for publication of, and hearing on, proposed amendments to 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter K, Mobile Source Incentive Programs, Division 3, Diesel Emissions Reduction Incentive Program for On-Road and Non-Road Vehicles, Section 114.622 and Section 114.629, and proposed repeal of Section 114.648 of Division 4, Texas Clean School Bus Program, and corresponding revisions to the state implementation plan.

The proposed rulemaking would implement part of Senate Bill (SB) 1727, from the 83rd Legislature, 2013, Regular Session, relating to requirements for receiving an incentive grant under the Diesel Emissions Reduction Incentive (DERI) Program and make changes to reflect recent action by the United States Environmental Protection Agency (EPA) to amend the designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard. The proposed rulemaking would also implement part of House Bill (HB) 1796, from the 81st Legislature, 2009, Regular Session. The revisions to Chapter 114, Subchapter K, Division 3, as required by SB 1727, would incorporate changes to the DERI Program eligibility criteria to remove the maximum cost-effectiveness limit of \$15,000 per ton of nitrogen oxide emissions reduced in a nonattainment area or affected county. As a result of the EPA adding Wise County to the Dallas-Fort Worth Eight-Hour Ozone Nonattainment Area, these revisions would also add Wise County to the list of applicable counties under the DERI Program. The revision to Chapter 114, Subchapter K, Division 4, would repeal the expiration date for the Texas Clean School Bus (TCSB) Program rules to be consistent with statutory changes by HB 1796 to extend the TCSB Program beyond August 31, 2013. (Steve Dayton, Betsy Peticolas) (Rule Project No. 2013-036-114-AI)

Steve Hagle, P.E.

Deputy Director

David Brymer

Division Director

Michael Parrish for Bruce McAnally

Agenda Coordinator

Copy to CCC Secretary? NO YES X

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners

Date: October 18, 2013

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: Steve Hagle, P.E., Deputy Director
Office of Air

Docket No.: 2013-1192-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 114, Control of Air Pollution From Motor Vehicles
SB 1727: Emissions Reduction Incentive Grants Program
Rule Project No. 2013-036-114-AI

Background and reason(s) for the rulemaking:

Senate Bill (SB) 1727, 83rd Legislature, 2013, Regular Session, by Senators Deuell and Garcia, amends Texas Health and Safety Code (THSC), Chapter 386, Subchapter C. This subchapter establishes the Diesel Emissions Reduction Incentive (DERI) Program to be funded from the Texas Emissions Reduction Plan (TERP) Fund and administered by the Texas Commission on Environmental Quality (commission). The changes enacted under SB 1727 require amendment of existing rules to revise existing provisions.

In addition, on May 21, 2012, the United States Environmental Protection Agency (EPA) published a revision to Title 40 Code of Federal Regulations (CFR) Part 81 (40 CFR Part 81), effective July 20, 2012, amending the designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard. Under the revised EPA rule, Wise County was added to the designation of the Dallas-Fort Worth 2008 Eight-Hour Ozone Nonattainment Area.

According to current commission rules, Wise County automatically became an eligible county under the ERIG Program once it was included in the nonattainment area designation. The proposed rule amendment would add Wise County to the list of counties applicable to the ERIG Program to make the list consistent with the nonattainment area designation.

Finally, House Bill (HB) 1796, 81st Legislature, 2009, Regular Session, by Representative Chisum and others, amended THSC, Chapter 390, to extend the expiration date for the Texas Clean School Bus (TCSB) Program from August 31, 2013 to August 31, 2019. The proposed rules would repeal the expiration date of August 31, 2013 for the existing TCSB Program so that the program can continue to be implemented.

Scope of the rulemaking:

A.) Summary of what the rulemaking will do: SB 1727 amended THSC, §386.106(a), to remove the maximum cost-effectiveness limit of \$15,000 per ton of nitrogen oxide (NO_x) emissions reduced. The proposed rule revision would remove the

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cost-effectiveness limits from the rule. The commission would be authorized to set cost-effectiveness limits as needed to meet the needs of the DERI Program.

Also, the proposed rules would add Wise County to the list of applicable counties in the DERI Program to make the list consistent with the EPA's recent addition of Wise County to the designation of the Dallas-Fort Worth 2008 Eight-Hour Ozone Nonattainment Area.

Finally, the proposed rules would remove the expiration date for the TCSB Program rules.

B.) Scope required by federal regulations or state statutes: The proposed rules are required by changes to: THSC, Chapter 386, under SB 1727; changes to 40 CFR Part 81 by the EPA to amend the designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard; and changes to THSC, Chapter 390, under HB 1796.

C.) Additional staff recommendations that are not required by federal rule or state statute: Staff is not recommending additional changes to the rules.

Statutory authority:

- Texas Water Code (TWC), §5.102, which provides the commission with the general powers to carry out its duties;
- TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of the state;
- TWC, §5.105, which authorizes the commission by rule to establish and approve all general policy of the commission;
- THSC, §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act;
- THSC, §382.011, which authorizes the commission to establish the level of air quality to be maintained in the state's air and to control the quality of the state's air;
- THSC, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air;
- THSC, Chapter 386, which establishes the DERI Program; and
- THSC, Chapter 390, which establishes the Texas Clean School Bus Program.

Effect on the:

A.) Regulated community: This rule will not affect regulated entities.

B.) Public: The change to remove the cost-effectiveness limits may result in an increase to the eligible grant amounts depending on the limits that may be set by the commission.

The removal of the expiration date for the TCSB Program rules will allow the program to continue to be implemented with school districts being able to continue to apply for and

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receive grant funding to retrofit school buses with devices to reduce emissions of particulate matter.

C.) Agency programs: The TERP guidance document, *Guidelines for Emissions Reduction Incentive Grants* (guidelines), will need to be amended. The revised guidelines will need to be adopted by the commission after the rule changes are adopted. Program processes, criteria, and forms will need to be updated.

Stakeholder meetings:

Stakeholder meetings are not proposed for this rulemaking.

Potential controversial concerns and legislative interest:

The proposed rules do not go further than what is required to comply with statutory changes and to reflect changes to federal rules. Therefore, staff does not anticipate any concerns with the rule. Staff expects legislators involved in SB 1727 to be interested in how the commission implements the changes to the DERI Program criteria.

Will this rulemaking affect any current policies or require development of new policies?

The TERP guidelines will need to be amended to incorporate the changes to the rules.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

If the rulemaking is not completed, implementation of the programs under the existing rules would be inconsistent with the statutory provisions. Possible alternatives are not adopting the rules or adopting the rules at a later date and delaying implementation of the program.

Key points in the proposal rulemaking schedule:

Anticipated proposal date: November 6, 2013

Anticipated *Texas Register* publication date: November 22, 2013

Anticipated public hearing date (if any): December 12, 2013

Anticipated public comment period: November 8, 2013 – December 18, 2013

Anticipated adoption date: April 9, 2014

Agency contacts:

Steve Dayton, Rule Project Manager, (512) 239-6824, Air Quality Division

Betsy Peticolas, Staff Attorney, (512) 239-1439

Bruce McAnally, Texas Register Coordinator, (512) 239-2141

Attachments

Commissioners
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October 18, 2013

Re: Docket No. 2013-1192-RUL

cc: Chief Clerk, 2 copies
Executive Director's Office
Anne Idsal
Tucker Royall
Office of General Counsel
Steve Dayton
Bruce McAnally

The Texas Commission on Environmental Quality (TCEQ, agency, or commission) proposes amendments to §114.622 and §114.629; and the repeal of §114.648.

If adopted, the amendments will be submitted to the United States Environmental Protection Agency (EPA) as revisions to the state implementation plan.

Background and Summary of the Factual Basis for the Proposed Rules

The purpose of this rulemaking is to amend existing rules implementing the Diesel Emissions Reduction Incentive (DERI) Program established under Texas Health and Safety Code (THSC), Chapter 386, Subchapter C. The DERI Program provides financial incentives for reducing emissions of on-road heavy-duty motor vehicles and non-road equipment.

This rulemaking would also repeal the expiration date for existing rules implementing the Texas Clean School Bus (TCSB) Program established under THSC, Chapter 390.

Senate Bill (SB) 1727, 83rd Legislature, 2013, amended THSC, Chapter 386, Subchapter C, to revise existing criteria for receiving an incentive grant under this subchapter. The revision to THSC, §386.106, removed the maximum cost-effectiveness limit of \$15,000 per ton of nitrogen oxides (NO_x) reduced in the nonattainment area or affected county for which the project is proposed.

The proposed rulemaking would incorporate the change to THSC, §386.106, under SB 1727.

In addition, on May 21, 2012, the EPA published a revision to 40 Code of Federal Regulations Part 81, effective July 20, 2012 amending the designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard. Under the revised EPA rule, Wise County was added to the designation of the Dallas-Fort Worth 2008 Eight-Hour Ozone Nonattainment Area.

The proposed rulemaking would add Wise County to the list of applicable counties for the DERI Program.

Finally, House Bill (HB) 1796, 81st Legislature, 2009, amended THSC, Chapter 390, to extend the effective date for the TCSB Program from August 31, 2013 to August 31, 2019.

The proposed rulemaking would repeal the expiration date of August 31, 2013 so that the existing TCSB Program rules are consistent with state law.

Section by Section Discussion

§114.622, Incentive Program Requirements

The commission proposes to amend §114.622 to incorporate a change to the program eligibility criteria under THSC, §386.106(a).

Proposed subsection (g) would be consistent with amended THSC, §386.106(a), by removing the maximum cost-effectiveness limit of \$15,000 per ton of NO_x emissions reduced. Under the proposed change to this subsection, the commission would be authorized to set cost-effectiveness limits as needed to ensure the best use of available funds.

§114.629, Affected Counties and Implementation Schedule

The commission proposes to amend §114.629 to update the list of applicable counties in the Texas Emissions Reduction Program (TERP) incentive program to be consistent with the latest designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard by the EPA. Subsection (a) would be amended to add Wise County to the list of applicable counties based on the addition of Wise County to the Dallas-Fort Worth 2008 Eight-Hour Ozone Nonattainment Area.

§114.648, Implementation Schedule

The commission proposes to repeal §114.648. This change would remove the expiration date of August 31, 2013, for the TCSB Program rules. A new expiration date is not

proposed so that any future changes to the statutory expiration date would not need a corresponding rule change.

Fiscal Note: Costs to State and Local Government

Nina Chamness, Analyst, Strategic Planning and Assessment, has determined that for the first five-year period the proposed rulemaking is in effect, no significant fiscal implications are anticipated for the agency as a result of administration or enforcement of the proposed rules. The agency will use funding appropriated out of the TERP - Account 5071 to implement the changes made to the DERI and TCSB Programs in the proposed rule. For the 2014 - 2015 biennium, appropriated funding for DERI Program grants is approximately \$34 million each year and appropriated funding for the TCSB Program grants is approximately \$3.1 million each year.

The proposed rulemaking would amend Chapter 114 to implement parts of SB 1727 and to update the list of applicable counties in the DERI Program as a result of changes to the EPA designation of nonattainment areas for the 2008 Ozone National Ambient Air Quality Standard. Specifically, the proposed rulemaking would remove the maximum limits on the cost-effectiveness of a project and add Wise County to the list of applicable counties.

If the commission establishes a cost-effectiveness limit for the DERI Program that is higher than the original limit of \$15,000 per ton of NO_x reduced, state agencies and local governments interested in applying for the program may benefit if their projects qualify for a larger incentive amount. Applying for a grant would be voluntary, and it is not known at this time how many state agencies or local governments would do so. Under current rules, the typical grant award ranges from \$50,000 to \$100,000. Under the proposed changes, the average grant award could increase depending on the limits established by the commission.

The proposed rules would also repeal the expiration date for the TCSB Program allowing the commission to continue implementing the program. School districts eligible for funding under the program would continue to benefit from the grants available to retrofit existing school buses with devices to reduce emissions of particulate matter from diesel exhaust. Cost of grant eligible devices, including installation, may range from \$1,200 to \$20,000 per device. Grants have ranged from \$10,000 to \$1.4 million depending on the type of device installed and number of buses to be retrofitted.

Public Benefits and Costs

Nina Chamness also determined that for each of the first five years the proposed rulemaking is in effect, the anticipated public benefit will be an improvement in air quality in the 42 counties eligible to receive DERI Program grant funding since a greater

number of vehicles and equipment will become eligible for replacement or upgrade using grant funds.

The proposed rulemaking may not have a significant fiscal impact on individuals unless they qualify for a DERI Program grant. Individuals that can utilize DERI Program funding should experience the same cost benefits as a local government or large business. Individuals are not eligible for a TCSB Program grant.

If the commission establishes a cost-effectiveness limit for the DERI Program that is higher than the original limit of \$15,000 per ton of NO_x reduced, businesses interested in applying for the program may benefit if their projects qualify for a larger incentive amount. Applying for a grant would be voluntary, and it is not known at this time how many businesses would do so. Under current rules, the typical grant award ranges from \$50,000 to \$100,000. Under the proposed changes, the average grant award could increase depending on the limits established by the commission.

Staff is not able to determine how many additional businesses may become eligible to apply for a grant as a result of these changes.

Small Business and Micro-Business Assessment

No adverse fiscal implications are anticipated for small or micro-businesses as a result of the proposed rules. The proposed rulemaking may make it easier for a small or micro-business to qualify for a grant under the DERI Program. Small or micro-businesses are expected to experience the same benefits as a large business. Staff is not able to determine how many additional small and micro-businesses may become eligible to apply for a DERI Program grant as a result of these changes.

Small Business Regulatory Flexibility Analysis

The commission has reviewed this proposed rulemaking and determined that a small business regulatory flexibility analysis is not required because the proposed rulemaking is required by state law and does not adversely affect a small or micro-business in a material way for the first five years that the proposed rulemaking is in effect.

Local Employment Impact Statement

The commission has reviewed this proposed rulemaking and determined that a local employment impact statement is not required because the proposed rulemaking does not adversely affect a local economy in a material way for the first five years that the proposed rulemaking is in effect.

Draft Regulatory Impact Analysis Determination

The commission reviewed the rulemaking in light of the regulatory analysis requirements of Texas Government Code, §2001.0225, and determined that this rulemaking action is not subject to Texas Government Code, §2001.0225, because it does not meet the definition of a "major environmental rule" as defined in that statute. A "major environmental rule" means a rule the specific intent of which is to protect the environment or reduce risks to human health from environmental exposure and that may adversely affect in a material way the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state.

The amended Chapter 114 rules are proposed in accordance with SB 1727, 83rd Legislature, 2013, which amended THSC, Chapter 386, and HB 1796, 81st Legislature, 2009, which amended THSC, Chapter 390. The proposed rules add or revise eligibility requirements for a voluntary grant program and remove the expiration date for a different voluntary grant program. Because the proposed rules place no involuntary requirements on the regulated community, the proposed rules will not adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, or the public health and safety of the state or a sector of the state. In addition, the amendments do not place additional financial burdens on the regulated community.

In addition, a regulatory impact analysis is not required because the proposed rules do not meet any of the four applicability criteria for requiring a regulatory analysis of a "major environmental rule" as defined in the Texas Government Code. Texas Government Code, §2001.0225, applies only to a major environmental rule the result of which is to: 1) exceed a standard set by federal law, unless the rule is specifically required by state law; 2) exceed an express requirement of state law, unless the rule is specifically required by federal law; 3) exceed a requirement of a delegation agreement or contract between the state and an agency or representative of the federal government to implement a state and federal program; or 4) adopt a rule solely under the general powers of the agency instead of under a specific state law. This rulemaking does not exceed a standard set by federal law. In addition, this rulemaking does not exceed an express requirement of state law and is not proposed solely under the general powers of the agency, but is specifically authorized by the provisions cited in the Statutory Authority section of this preamble. Finally, this rulemaking does not exceed a requirement of a delegation agreement or contract to implement a state and federal program.

The commission invites public comment on the draft regulatory impact analysis determination. Written comments on the draft regulatory impact analysis determination may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Takings Impact Assessment

The commission evaluated this rulemaking action and performed an analysis of whether the proposed rules are subject to Texas Government Code, Chapter 2007. The primary purpose of the rulemaking is to amend Chapter 114 in accordance with SB 1727, 83rd Legislature, 2013, and HB 1796, 81st Legislature, 2009. The rules make revisions to voluntary programs and only affect motor vehicles and equipment that are not considered to be private real property. The promulgation and enforcement of the proposed rules are neither a statutory nor a constitutional taking because the proposed rules do not affect private real property. Therefore, the rules do not constitute a taking under Texas Government Code, Chapter 2007.

Consistency with the Coastal Management Program

The commission reviewed the proposed rulemaking and found the proposal is a rulemaking identified in the Coastal Coordination Act Implementation Rules, 31 TAC §505.11(b)(2), concerning rules subject to the Texas Coastal Management Program (CMP), and will, therefore, require that goals and policies of the CMP be considered during the rulemaking process. The commission reviewed this action for consistency and determined the rulemaking for Chapter 114 does not impact any CMP goals or policies, because it revises voluntary incentive grant programs and does not govern air pollution emissions.

Written comments on the consistency of this rulemaking may be submitted to the contact person at the address listed under the Submittal of Comments section of this preamble.

Announcement of Hearing

The commission will hold a public hearing on this proposal in Austin on December 12, 2013 at 10:00 a.m. in Building E, Room 201S, at the commission's central office located at 12100 Park 35 Circle. The hearing is structured for the receipt of oral or written comments by interested persons. Individuals may present oral statements when called upon in order of registration. Open discussion will not be permitted during the hearing; however, commission staff members will be available to discuss the proposal 30 minutes prior to the hearing.

Persons who have special communication or other accommodation needs who are planning to attend the hearing should contact Sandy Wong, Office of Legal Services at (512) 239-1802. Requests should be made as far in advance as possible.

Submittal of Comments

Written comments may be submitted to Bruce McAnally, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas

78711-3087, or faxed to (512) 239-4808. Electronic comments may be submitted at: <http://www5.tceq.texas.gov/rules/ecomments/>. File size restrictions may apply to comments being submitted via the eComments system. All comments should reference Rule Project Number 2013-036-114-AI. The comment period closes December 18, 2013. Copies of the proposed rulemaking can be obtained from the commission's Web site at http://www.tceq.texas.gov/nav/rules/propose_adopt.html. For further information, please contact Steve Dayton, Implementation Grants Section, at (512) 239-6824.

SUBCHAPTER K: MOBILE SOURCE INCENTIVE PROGRAMS

DIVISION 3: DIESEL EMISSIONS REDUCTION INCENTIVE PROGRAM

FOR ON-ROAD AND NON-ROAD VEHICLES

§114.622 and §114.629

Statutory Authority

The amendments are proposed under Texas Water Code (TWC), §5.102, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, which authorizes the commission by rule to establish and approve all general policy of the commission. The amendments are also proposed under Texas Health and Safety Code (THSC), Texas Clean Air Act, §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; and THSC, Chapter 386, which establishes the Texas Emission Reduction Plan. Finally, the amendments are proposed as part of the implementation of Senate Bill 1727, 83rd Legislature, 2013.

The proposed amendments implement THSC, §386.104 and §386.106.

§114.622. Incentive Program Requirements.

(a) Eligible projects include:

- (1) purchase or lease of on-road and non-road diesels;
- (2) emissions-reducing retrofit projects for on-road or non-road diesels;
- (3) emissions-reducing repower projects for on-road or non-road diesels;
- (4) purchase and use of emissions-reducing add-on equipment for on-road or non-road diesels;
- (5) development and demonstration of practical, low-emissions retrofit technologies, repower options, and advanced technologies for on-road or non-road diesels with lower nitrogen oxides (NO_x) emissions;
- (6) use of qualifying fuel;
- (7) implementation of infrastructure projects;

(8) replacement of on-road and non-road diesels with newer on-road and non-road diesels; and

(9) other projects that have the potential to reduce anticipated NOX emissions from diesel engines.

(b) For a proposed project as listed in subsection (a) of this section, other than a project involving a marine vessel or engine, a project involving non-road equipment used for natural gas recovery purposes, a project involving replacement of a motor vehicle, or a project involving the purchase or lease of a motor vehicle, not less than 75% of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement.

(c) For a proposed motor vehicle replacement, purchase, or lease project, the period used to determine the emissions reductions and cost-effectiveness of each replacement, purchase, or lease activity included in the project must extend for five

years or more, or 400,000 miles, whichever occurs earlier. Not less than 75% of the vehicle miles traveled projected for the period used to determine the emissions reductions must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside of a nonattainment county or affected county to count towards the percentage of use requirement.

(d) For a proposed project that includes a replacement of equipment or a repower, the old equipment or engine must be recycled or scrapped provided, however, that the executive director may allow permanent removal from the State of Texas in specific grants where the applicant has provided sufficient assurances that the old locomotive will not be returned to the State of Texas.

(e) For a proposed project to replace a motor vehicle, the vehicle and engine must be decommissioned by crushing the vehicle and engine, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another method approved by the executive director that permanently removes the vehicle and engine from operation in this state. For a proposed project to repower a motor vehicle, the engine being replaced must be decommissioned in a manner consistent with the requirements for decommissioning an engine as part of a vehicle replacement project.

The executive director shall allow an applicant for a motor vehicle replacement or repower project to propose an alternative method for complying with the requirements of this subsection.

(f) For a project to replace a motor vehicle, the vehicle being replaced may have been owned, leased, or otherwise commercially financed by the applicant. The applicant must have a legal right to replace and recycle or scrap the vehicle and engine before a grant is awarded for that project.

(g) [To be eligible for a grant, the cost-effectiveness of a proposed project as listed in subsection (a) of this section, except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, must not exceed a cost-effectiveness of \$15,000 per ton of NO_x emissions reduced.] The commission may set [lower] cost-effectiveness limits as needed to ensure the best use of available funds. The commission may also base project selection decisions on additional measures to evaluate the effectiveness of projects in reducing NO_x emissions in relation to the funds to be awarded.

(h) The executive director shall waive eligibility requirements established under subsections (b) - (f) of this section on a finding of good cause, which may include a waiver of any ownership and use requirements established for replacement of a motor

vehicle for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances. In determining good cause and deciding whether to grant a waiver, the executive director shall ensure that the emissions reductions that will be attributed to the project will still be valid and, where applicable, meet the conditions for assignment for credit to the state implementation plan.

(i) Projects funded with a grant from this program may not be used for credit under any state or federal emissions reduction credit averaging, banking, or trading program except as provided under Texas Health and Safety Code, §386.056.

(j) A proposed project as listed in subsection (a) of this section is not eligible if it is required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document. This subsection does not apply to:

(1) an otherwise qualified project, regardless of the fact that the state implementation plan assumes that the change in equipment, vehicles, or operations will occur, if on the date the grant is awarded the change is not required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document; or

(2) the purchase of an on-road diesel or equipment required only by local law or regulation or by corporate or controlling board policy of a public or private entity.

(k) A proposed retrofit, repower, replacement, or add-on equipment project must achieve a reduction in NO_x emissions to the level established in the commission's Texas Emissions Reduction Plan: Guidelines for Emissions Reduction Incentive Grants Program (RG-388) for that type of project compared with the baseline emissions adopted by the commission for the relevant engine year and application.

(l) If a grant recipient fails to meet the terms of a project grant or the conditions of this division, the executive director can require that the grant recipient return some or all of the grant funding to the extent that emission reductions are not achieved or cannot be demonstrated.

(m) Criteria established in the guidelines, including revisions to the commission's Texas Emissions Reduction Plan: Guidelines for Emissions Reduction Incentive Grants Program (RG-388), apply to the Texas Emissions Reduction Plan program.

Notwithstanding the provisions of this chapter, as authorized under Texas Health and Safety Code, §386.053(d), revisions to the guidelines may include, among other changes, adding additional pollutants; adding stationary engines or engines used in stationary applications; adding vehicles and equipment that use fuels other than diesel;

or adjusting eligible program categories; as appropriate, to ensure that incentives established under this program achieve the maximum possible emission reductions.

§114.629. Affected Counties and Implementation Schedule.

(a) Applicable counties in the incentive program include: Bastrop, Bexar, Brazoria, Caldwell, Chambers, Collin, Comal, Dallas, Denton, El Paso, Ellis, Fort Bend, Galveston, Gregg, Guadalupe, Harris, Hardin, Harrison, Hays, Henderson, Hood, Hunt, Jefferson, Johnson, Kaufman, Liberty, Montgomery, Nueces, Orange, Parker, Rockwall, Rusk, San Patricio, Smith, Tarrant, Travis, Upshur, Victoria, Waller, Williamson, Wilson, Wise, and any other county located within an area of Texas designated as a nonattainment area for ground-level ozone under Federal Clean Air Act, §107(d), as amended.

(b) Equipment purchased before September 1, 2001 is not eligible for a grant under this program.

SUBCHAPTER K: MOBILE SOURCE INCENTIVE PROGRAMS

DIVISION 4: TEXAS CLEAN SCHOOL BUS PROGRAM

[§114.648]

Statutory Authority

The repealed section is proposed under Texas Water Code (TWC), §5.102, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, which authorizes the commission by rule to establish and approve all general policy of the commission. The repealed section is also proposed under Texas Health and Safety Code (THSC), Texas Clean Air Act, §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §382.011, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; THSC, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; and THSC, Chapter 390, which establishes the Texas Clean School Bus Program. Finally, the repealed section is proposed as part of the implementation of House Bill 1796, 81st Legislature, 2009.

The repealed section implements THSC, §390.006.

[§114.648. Implementation Schedule.]

[This division expires August 31, 2013.]

H.B. No. 1796

AN ACT

relating to the development of carbon dioxide capture and sequestration in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 382, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. OFFSHORE GEOLOGIC STORAGE OF CARBON DIOXIDE

Sec. 382.501. DEFINITIONS. In this subchapter:

(1) "Board" means the School Land Board.

(2) "Bureau" means the Bureau of Economic Geology at

The University of Texas at Austin.

(3) "Carbon dioxide repository" means an offshore deep subsurface geologic repository for the storage of anthropogenic carbon dioxide.

(4) "Land commissioner" means the commissioner of the General Land Office.

Sec. 382.502. RULES. (a) The commission by rule may adopt standards for the location, construction, maintenance, monitoring, and operation of a carbon dioxide repository.

(b) If the United States Environmental Protection Agency issues requirements regarding carbon dioxide sequestration, the commission shall ensure that the construction, maintenance, monitoring, and operation of the carbon dioxide repository under this subchapter comply with those requirements.

Sec. 382.503. STUDY; SELECTION OF LOCATION. (a) The land commissioner shall contract with the bureau to conduct a study

of state-owned offshore submerged land to identify potential locations for a carbon dioxide repository.

(b) The land commissioner shall recommend suitable sites for carbon dioxide storage to the board based on the findings of the study.

(c) The board shall make the final determination of suitable locations for carbon dioxide storage.

Sec. 382.504. CONTRACT FOR NECESSARY INFRASTRUCTURE AND OPERATION. (a) Once the location has been established for the carbon dioxide repository, the board may issue requests for proposals for the lease of permanent school fund land for the construction of any necessary infrastructure for the transportation and storage of carbon dioxide to be stored in the carbon dioxide repository.

(b) The board may contract for construction or operational

services for the repository.

Sec. 382.505. ACCEPTANCE OF CARBON DIOXIDE FOR STORAGE;
FEES AND CARBON CREDITS. (a) Once the carbon dioxide
repository is established, the board may accept carbon dioxide
for storage.

(b) The board by rule may establish a fee for the storage
of carbon dioxide in the carbon dioxide repository. If this
state participates in a program that facilitates the trading of
carbon credits, a fee under this subsection may be established
as a percentage of the carbon credits associated with the
storage.

Sec. 382.506. MEASURING, MONITORING, AND VERIFICATION;
ROLE OF BUREAU. (a) The commission by rule may establish
standards for the measurement, monitoring, and verification of
the permanent storage status of the carbon dioxide in the carbon

dioxide repository.

(b) The bureau shall perform the measurement, monitoring, and verification of the permanent storage status of carbon dioxide in the carbon dioxide repository.

(c) The bureau shall serve as a scientific advisor for the measuring, monitoring, and permanent storage status verification of the carbon dioxide repository.

(d) The bureau shall provide to the board data relating to the measurement, monitoring, and verification of the permanent storage status of the carbon dioxide in the carbon dioxide repository, as determined by the board.

Sec. 382.507. OWNERSHIP OF CARBON DIOXIDE. (a) The board shall acquire title to carbon dioxide stored in the carbon dioxide repository on a determination by the board that permanent storage has been verified and that the storage

location has met all applicable state and federal requirements for closure of carbon dioxide storage sites.

(b) The right, title, and interest in carbon dioxide acquired under this section are the property of the permanent school fund and shall be administered and controlled by the board.

Sec. 382.508. LIABILITY. (a) The transfer of title to the state under Section 382.507 does not relieve a producer of carbon dioxide of liability for any act or omission regarding the generation of stored carbon dioxide performed before the carbon dioxide was stored.

(b) On the date the permanent school fund, under Section 382.507, acquires the right, title, and interest in carbon dioxide, the producer of the carbon dioxide is relieved of liability for any act or omission regarding the carbon dioxide

in the carbon dioxide repository.

(c) This section does not relieve a person who contracts with the board under Section 382.504(b) of liability for any act or omission regarding the construction or operation, as applicable, of the carbon dioxide repository.

Sec. 382.509. RATES FOR TRANSPORTATION. Neither the commission nor the board may establish or regulate the rates charged for the transportation of carbon dioxide to the carbon dioxide repository.

Sec. 382.510. ANNUAL REPORT. The land commissioner shall issue annually a report regarding the carbon dioxide repository. The report may be submitted electronically by posting on the General Land Office's Internet website. The report must include information regarding:

- (1) the total volume of carbon dioxide stored;

(2) the total volume of carbon dioxide received for storage during the year; and

(3) the volume of carbon dioxide received from each producer of carbon dioxide.

SECTION 2. This Act does not make an appropriation. A provision in this Act that creates a new governmental program, creates a new entitlement, or imposes a new duty on a governmental entity is not mandatory unless a specific appropriation has been made to implement the provision or it is determined by the agency that the provisions imposed by this Act may be absorbed within agency resources during the fiscal period without additional state funding.

SECTION 3. Section 382.003(1-a), Health and Safety Code, is amended to read as follows:

(1-a) "Advanced clean energy project" means a project

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for which an application for a permit or for an authorization to use a standard permit under this chapter is received by the commission on or after January 1, 2008, and before January 1, 2020, and that:

(A) involves the use of coal, biomass, petroleum coke, solid waste, or fuel cells using hydrogen derived from such fuels, in the generation of electricity, or the creation of liquid fuels outside of the existing fuel production infrastructure while co-generating electricity, whether the project is implemented in connection with the construction of a new facility or in connection with the modification of an existing facility and whether the project involves the entire emissions stream from the facility or only a portion of the emissions stream from the facility;

(B) with regard to the portion of the emissions

stream from the facility that is associated with the project, is capable of achieving:

(i) on an annual basis a 99 percent or greater reduction of sulfur dioxide emissions or, if the project is designed for the use of feedstock substantially all of which is subbituminous coal, an emission rate of 0.04 pounds or less of sulfur dioxide per million British thermal units as determined by a 30-day average;

(ii) on an annual basis~~[,]~~ a 95 percent or greater reduction of mercury emissions;

(iii) ~~[, and]~~ an annual average emission rate for nitrogen oxides of:

(a) 0.05 pounds or less per million British thermal units; or

(b) if the project uses gasification

technology, 0.034 pounds or less per million British thermal units; and

(iv) an annual average emission rate for filterable particulate matter of 0.015 pounds or less per million British thermal units; and

(C) captures not less than 50 percent of the [renders] carbon dioxide in the portion of the emissions stream from the facility that is associated with the project and sequesters that captured carbon dioxide by geologic storage or other means [capable of capture, sequestration, or abatement if any carbon dioxide is produced by the project].

SECTION 4. Section 382.0567(b), Health and Safety Code, is amended to read as follows:

(b) The commission may not consider any technology or level of emission reduction to be achievable for purposes of a

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best available control technology analysis or lowest achievable emission rate analysis conducted by the commission under another provision of this chapter solely because the technology is used or the emission reduction is achieved by a facility receiving an incentive as an advanced clean energy project or new technology project, as described by Section 391.002.

SECTION 5. Section 386.051(b), Health and Safety Code, is amended to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

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(3) the new technology research and development program established under Chapter 387; [~~and~~]

(4) the clean school bus program established under Chapter 390; and

(5) the new technology implementation grant program established under Chapter 391.

SECTION 6. Section 386.052(b), Health and Safety Code, is amended to read as follows:

(b) Appropriate commission objectives include:

(1) achieving maximum reductions in oxides of nitrogen to demonstrate compliance with the state implementation plan;

(2) preventing areas of the state from being in violation of national ambient air quality standards;

(3) achieving cost-saving and multiple benefits by

reducing emissions of other pollutants; ~~and~~

(4) achieving reductions of emissions of diesel exhaust from school buses; and

(5) advancing new technologies that reduce oxides of nitrogen and other emissions from facilities and other stationary sources.

SECTION 7. Section 386.057(b), Health and Safety Code, is amended to read as follows:

(b) Not later than December 1, 2002, and not later than December 1 of each subsequent second year, the commission, in consultation with the advisory board, shall publish and submit to the legislature a biennial plan report. The report must include:

(1) the information included in the annual reviews conducted under Subsection (a);

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(2) specific information for individual projects as required by Subsection (c);

(3) information contained in reports received under Sections 386.205, 388.003(e), [~~and~~] 388.006, and 391.104; and

(4) a summary of the commission's activities under Section 386.052.

SECTION 8. Section 386.251(c), Health and Safety Code, is amended to read as follows:

(c) The fund consists of:

(1) the amount of money deposited to the credit of the fund under:

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code;

and

(C) Sections 501.138, 502.1675, and 548.5055,

Transportation Code; and

(2) grant money recaptured under Section 386.111(d) and Chapter 391.

SECTION 9. Subtitle C, Title 5, Health and Safety Code, is amended by adding Chapter 391 to read as follows:

CHAPTER 391. NEW TECHNOLOGY IMPLEMENTATION FOR FACILITIES AND STATIONARY SOURCES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 391.001. DEFINITIONS. In this chapter:

(1) "Best available control technology" has the meaning assigned by Section 169 of the federal Clean Air Act (42 U.S.C. Section 7479(3)).

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Facility" has the meaning assigned by Section

382.003.

(4) "Incremental cost" has the meaning assigned by Section 386.001.

(5) "New technology" means emissions control technology that results in emissions reductions that exceed state or federal requirements in effect at the time of submission of a new technology implementation grant application.

(6) "Stationary source" has the meaning assigned by Section 302 of the federal Clean Air Act (42 U.S.C. Section 7602(z)).

Sec. 391.002. GRANT PROGRAM. (a) The commission shall establish and administer a new technology implementation grant program to assist the implementation of new technologies to reduce emissions from facilities and other stationary sources in this state. Under the program, the commission shall provide

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grants or other financial incentives for eligible projects to offset the incremental cost of emissions reductions.

(b) Projects that may be considered for a grant under the program include:

(1) advanced clean energy projects, as defined by Section 382.003;

(2) new technology projects that reduce emissions of regulated pollutants from point sources and involve capital expenditures that exceed \$500 million; and

(3) electricity storage projects related to renewable energy.

Sec. 391.003. GUIDELINES AND CRITERIA. (a) The commission shall adopt grant guidelines and criteria consistent with the requirements of this chapter.

(b) The guidelines must include:

(1) protocols to compute projected emissions reductions and project cost-effectiveness; and

(2) safeguards to ensure that the projects funded result in emissions reductions not otherwise required by state or federal law.

(c) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the program to achieve the program goals.

(d) The commission may adopt emergency rules under Section 2001.034, Government Code, with abbreviated notice, to carry out any rulemaking necessary to implement this chapter.

(e) Except as provided by Subsection (d), the rulemaking requirements of Chapter 2001, Government Code, do not apply to the adoption or revision of guidelines and criteria under this section.

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Sec. 391.004. AVAILABILITY OF EMISSIONS REDUCTION CREDITS
IN CERTAIN NONATTAINMENT AREAS. A project funded under this
chapter must comply with Sections 386.055 and 386.056, as
applicable.

[Sections 391.005-391.100 reserved for expansion]

SUBCHAPTER B. GRANT APPLICATIONS AND REVIEW

Sec. 391.101. APPLICATION FOR GRANT. (a) The owner of a
facility located in this state may apply for a grant under the
program established under Section 391.002. To improve the
ability of the program to achieve the program goals, the
commission may adopt guidelines to allow a person other than the
owner to apply for and receive a grant.

(b) An application for a grant under this chapter must be
made on a form provided by the commission and must contain
information required by the commission, including:

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(1) a detailed description of the proposed project;

(2) information necessary for the commission to determine whether the project meets the commission's eligibility requirements, including a statement of the amounts of any other public financial assistance the project will receive; and

(3) other information the commission may require.

(c) An application for a grant under this chapter must contain a plan for implementation of a program that will provide project information and education to the public in the areas subject to public notice under federal and state permitting requirements for the proposed project until completion of the permitting process. The plan must provide for a publicly accessible informational Internet website.

Sec. 391.102. GRANT APPLICATION REVIEW PROCEDURES.

(a) The commission shall review an application for a grant for

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a project authorized under this chapter according to dates specified in a request for grant applications. If the commission determines that an application is incomplete, the commission shall notify the applicant and provide an explanation of the information missing from the application. The commission shall evaluate the completed application according to the guidelines and criteria adopted under Section 391.003.

(b) To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

(c) The commission may deny a grant application for a project that does not meet the applicable criteria or that the commission determines is not made in good faith, is not credible, or is not in compliance with this chapter or the goals

of this chapter.

(d) Subject to the availability of funding, the commission shall award a grant under this chapter in conjunction with the execution of a contract that obligates the commission to make the grant and the recipient to perform the actions described by the recipient's grant application. Subject to Section 391.204, the contract must incorporate provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provisions shall be deposited in the Texas emissions reduction plan fund and reallocated for other projects under this subchapter.

(e) An applicant may seek reimbursement for qualifying equipment installed after the effective date of this program.

(f) In coordinating interagency application review procedures, the commission shall:

(1) solicit review and comments from:

(A) the comptroller to assess:

(i) the financial stability of the applicant;

(ii) the economic benefits and job creation potential associated with the project; and

(iii) any other information related to the duties of that office;

(B) the Public Utility Commission of Texas to assess:

(i) the reliability of the proposed technology;

(ii) the feasibility and cost-effectiveness of electric transmission associated with the project; and

(iii) any other information related to the

duties of that agency; and

(C) the Railroad Commission of Texas to assess:

(i) the availability and cost of the fuel
involved with the project; and

(ii) any other information related to the
duties of that agency;

(2) consider the comments received under Subdivision
(1) in the commission's grant award decision process; and

(3) as part of the report required by Section
391.104, justify awards made to projects that have been
negatively reviewed by agencies under Subdivision (1).

(g) The commission may solicit review and comments from
other state agencies or other entities with subject matter
expertise applicable to the review of a grant application.

Sec. 391.103. EVIDENCE OF EMISSIONS REDUCTION POTENTIAL

REQUIRED. (a) An application for a new technology implementation grant under this chapter must show reasonable evidence that the proposed technology is capable of providing a significant reduction in emissions.

(b) The commission shall consider specifically, for each proposed new technology implementation grant application:

(1) the projected potential for reduced emissions and the cost-effectiveness of the new technology;

(2) the potential for the new technology to contribute significantly to air quality goals; and

(3) the strength of the implementation plan.

Sec. 391.104. REPORTING REQUIREMENTS. The commission annually shall prepare a report that summarizes the applications received and grants awarded in the preceding year. Preparation of the report must include the participation of the state

agencies involved in the review of applications under Section 391.102.

[Sections 391.105-391.200 reserved for expansion]

SUBCHAPTER C. PROJECT REQUIREMENTS

Sec. 391.201. ELIGIBILITY OF PROJECTS FOR GRANTS.

(a) The commission shall establish criteria for prioritizing projects eligible to receive grants under this chapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A proposed project must meet the requirements of this section to be eligible for a grant under the program established under Section 391.002.

(c) Each proposed project must meet the cost-effectiveness requirements established by the commission.

(d) A new technology implementation project must document,

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in a manner acceptable to the commission, an achieved reduction from the baseline emissions adopted by the commission for the relevant facility or stationary source. After studying available emissions reduction technologies, the commission may impose a required minimum percentage reduction of emissions to improve the ability of the program to achieve the program goals.

(e) If a baseline emissions standard does not exist for a facility, the commission, for purposes of this subchapter, shall adopt an appropriate baseline emissions level for comparison purposes.

(f) Planned water usage for proposed projects must be consistent with the state water plan.

Sec. 391.202. EVALUATING COST-EFFECTIVENESS. The commission shall establish reasonable methodologies for evaluating project cost-effectiveness, consistent with accepted

methods.

Sec. 391.203. DETERMINATION OF GRANT AMOUNT. (a) The commission may not award a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project.

(b) In determining the amount of a grant under this subchapter, the commission shall reduce the incremental cost of a proposed project by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance.

Sec. 391.204. COST SHARING; RECAPTURING GRANT. (a) The commission shall require an applicant to bear at least 50 percent of the costs of implementing a project funded under this chapter.

(b) The commission may not require repayment of grant money, except that the commission must require provisions for recapturing grant money for noncompliance with grant requirements.

Sec. 391.205. PREFERENCES. (a) Except as provided by Subsection (c), in awarding grants under this chapter the commission shall give preference to projects that:

(1) use natural resources originating or produced in this state;

(2) contain an energy efficiency component; or

(3) include the use of solar, wind, or other renewable energy sources.

(b) Projects that include more than one of the criteria described by Subsection (a) shall be given a greater preference in the award of grants under this chapter.

(c) The commission may give preference under Subsection (a) only if the cost-effectiveness and emission performance of the project are comparable to those of a project not claiming a preference described by that subsection.

[Sections 391.206-391.300 reserved for expansion]

SUBCHAPTER D. FUNDING; EXPIRATION

Sec. 391.301. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter must use the grant to pay the incremental costs of the purchase and installation of the project for which the grant is made, which may include reasonable and necessary expenses for the labor needed to install emissions-reducing equipment. The recipient may not use the grant for the costs of operating and maintaining the emissions-reducing equipment.

Sec. 391.302. COMPTROLLER REVIEW OF USE OF GRANT FUNDS.

(a) The comptroller annually shall conduct a review of each recipient of a new technology implementation grant under this chapter to ensure that the recipient's use of the grant complies with state law and the terms of the award.

(b) To assist with a review under this section, the commission shall provide the comptroller with all monitoring reports received from grant recipients and any other documentation requested by the comptroller.

(c) On a finding of any misuse of grant money or other noncompliance with grant requirements, the comptroller shall provide a report to the commission with recommendations for subsequent action, including the recapture of money misused.

(d) A finding of any misuse of grant money by a recipient of a grant under this chapter results in a debt owed to the state, and the comptroller may withhold warrants and electronic

funds transfers to the recipient in accordance with Section 403.055, Government Code.

(e) The comptroller may contract with another state agency, an institution of higher education, or a private entity to conduct a review under this section or to assist the comptroller in conducting any part of the review.

(f) The comptroller may adopt rules to implement this section.

Sec. 391.303. TIME OF USE OF GRANT FUNDING. Money appropriated for grants to be made by the commission under this chapter for a fiscal year may be distributed in subsequent fiscal years if the grant has been awarded and treated as a binding encumbrance by the commission before the end of the appropriation year of the money appropriated for grant purposes. Distribution of the grant money is subject to Section 403.071,

Government Code.

Sec. 391.304. EXPIRATION. This chapter expires August 31, 2019.

SECTION 10. Section 403.071(b), Government Code, is amended to read as follows:

(b) A claim may not be paid from an appropriation unless the claim is presented to the comptroller for payment not later than two years after the end of the fiscal year for which the appropriation was made. However, a claim may be presented not later than four years after the end of the fiscal year for which the appropriation from which the claim is to be paid was made if the appropriation relates to new construction contracts, to grants awarded under Chapter 391, Health and Safety Code, or to repair and remodeling projects that exceed the amount of \$20,000, including furniture and other equipment, architects'

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and engineering fees, and other costs related to the contracts
or projects.

SECTION 11. Section 382.0622(a), Health and Safety Code,
is amended to read as follows:

(a) Clean Air Act fees consist of:

(1) fees collected by the commission under Sections
382.062, 382.0621, 382.202, and 382.302 and as otherwise
provided by law; ~~and~~

(2) \$2 of each advance payment collected by the
Department of Public Safety for inspection certificates for
vehicles other than mopeds under Section 548.501, Transportation
Code; and

(3) fees collected that are required under Section
185 of the federal Clean Air Act (42 U.S.C. Section 7511d).

SECTION 12. Section 382.210(d), Health and Safety Code, is

amended to read as follows:

(d) A participating county shall provide an electronic means for distributing vehicle repair or replacement funds once all program criteria have been met with regard to the repair or replacement. The county shall ensure that funds are transferred to a participating dealer under this section not later than the 10th [~~five~~] business day [~~days~~] after the date the county receives proof of the sale and any required administrative documents from the participating dealer.

SECTION 13. Sections 382.220(c) and (d), Health and Safety Code, are amended to read as follows:

(c) Money that is made available for the implementation of a program under Subsection (b) may not be expended for local government fleet or vehicle acquisition or replacement, call center management, application oversight, invoice analysis,

education, outreach, or advertising purposes.

(d) Fees collected under Sections 382.202 and 382.302 may be used, in an amount not to exceed \$5 million per fiscal year, for projects described by Subsection (b). The fees shall be made available only to counties participating in the low-income vehicle repair assistance, retrofit, and accelerated vehicle retirement programs created under Section 382.209 and only on a matching basis, whereby the commission provides money to a county in the same amount that the county dedicates to a project authorized by Subsection (b). The commission may reduce the match requirement for a county that proposes to develop and implement independent test facility fraud detection programs, including the use of remote sensing technology for coordinating with law enforcement officials to detect, prevent, and prosecute the use of counterfeit state inspection stickers.

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SECTION 14. Section 386.001, Health and Safety Code, is amended by adding Subdivision (10-a) to read as follows:

(10-a) "Stationary engine" means a machine used in a nonmobile application that converts fuel into mechanical motion, including turbines and other internal combustion devices.

SECTION 15. Section 386.002, Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires August 31, 2019 [~~2013~~].

SECTION 16. Section 386.104(c), Health and Safety Code, is amended to read as follows:

(c) For a proposed project as described by Section 386.102(b), other than a project involving a marine vessel or engine, not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately

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following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may also allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection. For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient amount of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105. For a proposed project involving non-road equipment used for natural gas recovery purposes, the equipment must be operated in a nonattainment area or affected county for

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a sufficient amount of use over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section 386.105.

SECTION 17. Section 390.006, Health and Safety Code, is amended to read as follows:

Sec. 390.006. EXPIRATION. This chapter expires August 31, 2019 [~~2013~~].

SECTION 18. Section 151.0515(d), Tax Code, is amended to read as follows:

(d) This section expires August 31, 2019 [~~2013~~].

SECTION 19. Section 152.0215(c), Tax Code, is amended to read as follows:

(c) This section expires August 31, 2019 [~~2013~~].

SECTION 20. Section 501.138(b-3), Transportation Code, is amended to read as follows:

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(b-3) This subsection and Subsection (b-2) expire August 31, 2019 [~~September 1, 2015~~].

SECTION 21. Section 502.1675(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 [~~2013~~].

SECTION 22. Section 548.5055(c), Transportation Code, is amended to read as follows:

(c) This section expires August 31, 2019 [~~2013~~].

SECTION 23. Sections 386.252(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 percent of the money in the fund, of which:

(A) not more than four percent may be used for the clean school bus program;

(B) [~~and~~] not more than 10 percent may be used for on-road diesel purchase or lease incentives; and

(C) a specified amount may be used for the new technology implementation grant program, from which a defined amount may be set aside for electricity storage projects related to renewable energy;

(2) for the new technology research and development program, nine [~~9.5~~] percent of the money in the fund, of which:

(A) up to [~~\$250,000 is allocated for administration, up to~~] \$200,000 is allocated for a health effects study;

(B) [~~7~~] \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under

Section 382.0622 to supplement funding for air quality planning activities in affected counties;

(C) ~~[7]~~ not less than 20 percent is to be allocated each year to support research related to air quality as provided by Section 387.010; ~~[for the Houston-Galveston Brazoria and Dallas Fort Worth nonattainment areas by a nonprofit organization based in Houston of which \$216,000 each year shall be contracted to the Energy Systems Laboratory at the Texas Engineering Experiment Station for the development and annual calculation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the State Implementation Plan,~~ and

(D) the balance is ~~[to be]~~ allocated each year to the commission ~~[a nonprofit organization or an institution of higher education based in Houston]~~ to be used to:

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(i) implement and administer the new technology research and development program [under a contract with the commission] for the purpose of identifying, testing, and evaluating new emissions-reducing technologies with potential for commercialization in this state and to facilitate their certification or verification; and

(ii) contract with the Energy Systems Laboratory at the Texas Engineering Experiment Station for \$216,000 annually for the development and annual computation of creditable statewide emissions reductions obtained through wind and other renewable energy resources for the state implementation plan; and

(3) two percent is allocated to the commission and 1.5 percent is allocated to the laboratory for administrative costs incurred by the commission and the laboratory [, ~~three~~

~~percent of the money in the fund].~~

(b) The ~~[Up to 25 percent of the]~~ money allocated under Subsection (a) to a particular program ~~[and not expended under that program by January 1 of the second fiscal year of a fiscal biennium]~~ may be used for another program under the plan as determined by the commission ~~[in consultation with the advisory board].~~

SECTION 24. Section 387.003, Health and Safety Code, is amended to read as follows:

Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM. (a) The commission ~~[A nonprofit organization or institution of higher education described by Section 386.252(a)(2), under a contract with the commission as described by that section,]~~ shall establish and administer a new technology research and development program as provided by this

chapter. The commission may contract with one or more well-qualified nonprofit organizations or institutions of higher education for administration of this program [~~than one entity and may limit the amount of each grant contract accordingly~~].

(b) Under the program, the commission shall provide grants [~~to be used~~] to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapters [~~Chapter~~] 386 and 391 and other new technologies that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies to reduce emissions of oxides of nitrogen in nonattainment areas designated in this state [~~that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives~~].

(c) If the commission contracts with one or more [~~The board of directors of a~~] nonprofit organizations to [~~organization under contract with the commission to establish~~ and] administer a new technology research and development program under [~~as provided by~~] this chapter, the board of directors of each organization may not have more than 11 members, must include two persons of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges [~~selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas~~]. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(d) [~~The commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.~~

[~~(e)~~] The commission shall provide oversight as appropriate for grants provided to a nonprofit organization or an institution of higher education under this program.

(e) [~~(f)~~] A nonprofit organization or an institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under this program.

(f) [~~(g)~~] The commission shall limit the use of grants for administrative costs incurred by a nonprofit organization or an institution of higher education to an amount not to exceed 10 percent of the total program funding [~~provided to the nonprofit~~

~~organization under this program~~].

(g) [~~(h)~~] A nonprofit organization that receives grants from the commission under this program is subject to Chapters 551 and 552, Government Code.

SECTION 25. Section 387.004, Health and Safety Code, is amended to read as follows:

Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The commission from time to time shall issue or contract with a nonprofit organization or an institution of higher education described by Section 387.003(a) [~~386.252(a)(2)~~] to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

SECTION 26. Sections 387.005(a), (b), and (f), Health and Safety Code, are amended to read as follows:

(a) Grants awarded under this chapter shall be directed toward a balanced mix of:

(1) retrofit and add-on technologies and other advanced technologies that reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan, provided that the technologies do not significantly reduce the fuel economy of those engines and vehicles;

~~(2) [the establishment of a testing facility to evaluate retrofits, add-ons, advanced technologies, and fuels, or combinations of retrofits, add-ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen; and~~

~~[3]~~ advanced technologies for new engines and

vehicles that produce very-low or zero emissions of oxides of nitrogen, including stationary and mobile fuel cells;

(3) advanced technologies for reducing oxides of nitrogen and other emissions from stationary sources; and

(4) field validation of innovative technologies that:

(A) reduce emissions of oxides of nitrogen and other emissions; and

(B) require demonstration of viability for full commercial acceptance.

(b) The commission, directly or through a nonprofit organization or an institution of higher education described by Section 387.003(a) [~~386.252(a)(2)~~], shall identify and evaluate and may consider making grants for technology projects that would allow qualifying fuels to be produced from energy resources in this state. In considering projects under this

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subsection, the commission shall give preference to projects involving otherwise unusable energy resources in this state and producing qualifying fuels at prices lower than otherwise available and low enough to make the projects to be funded under the program economically attractive to local businesses in the area for which the project is proposed.

(f) Selection of grant recipients by a nonprofit organization or an institution of higher education described by Section 387.003(a) [~~386.252(a)(2)~~] under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. A grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization or an institution of higher

education if the commission or executive director of the commission does not consent to the grant or contract.

SECTION 27. Section 387.006, Health and Safety Code, is amended to read as follows:

Sec. 387.006. EVIDENCE OF COMMERCIALIZATION POTENTIAL REQUIRED. (a) An application for a technology grant under this chapter must show reasonable [~~clear and compelling~~] evidence that:

(1) the proposed technology project has a substantial [~~strong~~] commercialization plan and organization; and

(2) the technology proposed for funding[÷
[~~(A)~~] is likely to be offered for commercial sale in this state as soon as practicable [~~but no later than five years~~] after the date of the application for funding[÷ and

[~~(B) once commercialized, will offer~~

~~opportunities for projects eligible for funding under Chapter 386].~~

(b) The commission shall consider specifically, for each proposed technology project application:

(1) the projected potential for reduced emissions of oxides of nitrogen and the cost-effectiveness of the technology once it has been commercialized, including the impact on fuel consumption and maintenance costs for retrofits and rebuilds;

(2) the potential for the technology to contribute significantly to air quality goals; and

(3) the strength of the commercialization plan.

SECTION 28. Chapter 387, Health and Safety Code, is amended by adding Section 387.010 to read as follows:

Sec. 387.010. AIR QUALITY RESEARCH. (a) The commission shall contract with a nonprofit organization or institution of

higher education to establish and administer a program to support research related to air quality.

(b) The board of directors of a nonprofit organization establishing and administering the research program related to air quality under this section may not have more than 11 members, must include two persons with relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons with relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(c) The commission shall provide oversight as appropriate

for grants provided under the program established under this section.

(d) A nonprofit organization or institution of higher education shall submit to the commission for approval a budget for the disposition of funds granted under the program established under this section.

(e) A nonprofit organization or institution of higher education shall be reimbursed for costs incurred in establishing and administering the research program related to air quality under this section. Reimbursable administrative costs of a nonprofit organization or institution of higher education may not exceed 10 percent of the program budget.

(f) A nonprofit organization that receives grants from the commission under this section is subject to Chapters 551 and 552, Government Code.

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SECTION 29. Chapter 382, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. FEDERAL GREENHOUSE GAS REPORTING RULE

Sec. 382.501. DEVELOPMENT OF FEDERAL GREENHOUSE GAS REPORTING RULE. (a) The commission and the Railroad Commission of Texas, the Department of Agriculture, and the Public Utility Commission of Texas shall jointly participate in the federal government process for developing federal greenhouse gas reporting requirements and the federal greenhouse gas registry requirements.

(b) The commission shall adopt rules as necessary to comply with any federal greenhouse gas reporting requirements adopted by the federal government for private and public facilities eligible to participate in the federal greenhouse gas registry. In adopting the rules, the commission shall adopt and

incorporate by reference rules implementing the federal reporting requirements and the federal registry.

Sec. 382.502. VOLUNTARY ACTIONS INVENTORY. The commission shall:

(1) establish an inventory of voluntary actions taken by businesses in this state or by state agencies since September 1, 2001, to reduce carbon dioxide emissions; and

(2) work with the United States Environmental Protection Agency to give credit for early action under any federal rules that may be adopted for federal greenhouse gas regulation.

SECTION 30. The purpose of the changes in law made by this Act is to encourage the development of onshore and offshore geologic storage of carbon dioxide including by encouraging the development of advanced clean energy projects that capture

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carbon dioxide and sequester not less than 50 percent of the captured carbon dioxide in onshore or offshore geologic repositories. Securing the necessary capacity for geologic sequestration is essential to the success of carbon capture strategies, such as the advanced clean energy projects facilitated by the changes in law made by this Act. The success of the offshore repositories facilitated by this Act depends on an adequate supply of anthropogenic carbon dioxide, which is not currently being captured at industrial facilities in this state. The advanced clean energy grants established in this Act are intended to create the supply of anthropogenic carbon dioxide necessary to the success of the offshore repositories facilitated by this Act.

SECTION 31. This Act takes effect September 1, 2009.

President of the Senate

Speaker of the House

I certify that H.B. No. 1796 was passed by the House on May 7, 2009, by the following vote: Yeas 144, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 1796 on May 29, 2009, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 1796 on May 31, 2009, by the following vote: Yeas 143, Nays 0, 1 present, not voting.

Chief Clerk of the House

H.B. No. 1796

I certify that H.B. No. 1796 was passed by the Senate, with amendments, on May 27, 2009, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 1796 on June 1, 2009, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor

AN ACT

relating to the use of the Texas emissions reduction plan fund.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 386.051, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) Under the plan, the commission and the comptroller shall provide grants or other funding for:

(1) the diesel emissions reduction incentive program established under Subchapter C, including for infrastructure projects established under that subchapter;

(2) the motor vehicle purchase or lease incentive program established under Subchapter D;

(3) the air quality research support program established under Chapter 387;

(4) the clean school bus program established under Chapter 390;

(5) the new technology implementation grant program established under Chapter 391;

(6) the regional air monitoring program established under Section 386.252(a) [~~386.252(a)(5)~~];

(7) a health effects study as provided by Section 386.252(a) [~~386.252(a)(7)~~];

(8) air quality planning activities as provided by

1 Section 386.252(a) [~~386.252(a)(8)~~]; [~~and~~]

2 (9) a contract with the Energy Systems Laboratory at
3 the Texas Engineering Experiment Station for computation of
4 creditable statewide emissions reductions as provided by Section
5 386.252(a)(14);

6 (10) the clean fleet program established under Chapter
7 392;

8 (11) the alternative fueling facilities program
9 established under Chapter 393;

10 (12) the natural gas vehicle grant program and clean
11 transportation triangle program established under Chapter 394;

12 (13) other programs the commission may develop that
13 lead to reduced emissions of nitrogen oxides, particulate matter,
14 or volatile organic compounds in a nonattainment area or affected
15 county;

16 (14) other programs the commission may develop that
17 support congestion mitigation to reduce mobile source ozone
18 precursor emissions; and

19 (15) the drayage truck incentive program established
20 under Subchapter D-1 [~~386.252(a)(9)~~].

21 (b-1) Under the plan, the commission may establish and
22 administer other programs, including other grants or funding
23 programs, as determined by the commission to be necessary or
24 effective in fulfilling its duties and achieving the objectives
25 described under Section 386.052. The commission may apply the
26 criteria and requirements applicable to the programs under
27 Subsection (b) to programs established under this subsection, or

1 the commission may establish separate criteria and requirements as
2 necessary to achieve the commission's objectives. The additional
3 programs shall be consistent with and comply with all applicable
4 laws, regulations, and guidelines pertaining to the use of state
5 funds, the awarding and administration of grants and contracts, and
6 achieving reductions in ozone precursors or particulate matter.
7 Under this subsection, the commission may place a priority on
8 programs that address the following goals:

9 (1) reduction of emissions of oxides of nitrogen or
10 particulate matter from heavy-duty on-road vehicles and non-road
11 equipment, including drayage vehicles, locomotives, and marine
12 vessels, at seaport facilities or servicing seaport facilities in
13 nonattainment areas; and

14 (2) reduction of emissions from the operation of
15 drilling, production, completions, and related heavy-duty on-road
16 vehicles or non-road equipment in oil and gas production fields
17 where the commission determines that the programs can help prevent
18 that area or an adjacent area from being in violation of national
19 ambient air quality standards.

20 SECTION 2. Subchapter B, Chapter 386, Health and Safety
21 Code, is amended by adding Section 386.0515 to read as follows:

22 Sec. 386.0515. AGRICULTURAL PRODUCT TRANSPORTATION
23 PROJECTS. (a) In this section, "agricultural product
24 transportation" means the transportation of a raw agricultural
25 product from the place of production using a heavy-duty truck to:

26 (1) a nonattainment area;

27 (2) an affected county;

1 (3) a destination inside the clean transportation
2 triangle; or

3 (4) a county adjacent to a county described by
4 Subdivision (2) or that contains an area described by Subdivision
5 (1) or (3).

6 (b) Notwithstanding other eligibility requirements, the
7 commission shall by rule or policy provide specific eligibility
8 requirements under the Texas Clean Fleet Program established under
9 Chapter 392 and under the Texas natural gas vehicle grant program
10 established under Chapter 394, as added by Chapter 892 (Senate Bill
11 No. 385), Acts of the 82nd Legislature, Regular Session, 2011, for
12 projects relating to agricultural product transportation.

13 (c) The determining factor for eligibility for
14 participation in a program established under Chapter 392 or Chapter
15 394, as added by Chapter 892 (Senate Bill No. 385), Acts of the 82nd
16 Legislature, Regular Session, 2011, for a project relating to
17 agricultural product transportation is the overall accumulative
18 net reduction in emissions of oxides of nitrogen in a nonattainment
19 area, an affected county, or the clean transportation triangle.

20 SECTION 3. Subsection (b), Section 386.058, Health and
21 Safety Code, is amended to read as follows:

22 (b) The governor shall appoint to the advisory board:

23 (1) a representative of the trucking industry;

24 (2) a representative of the air conditioning
25 manufacturing industry;

26 (3) a representative of the electric utility industry;

27 (4) a representative of regional transportation; and

1 (5) a representative of the nonprofit organization
2 described by Section 387.002 [~~386.252(a)(2)~~].

3 SECTION 4. Section 386.104, Health and Safety Code, is
4 amended by adding Subsection (f-1) to read as follows:

5 (f-1) The commission may establish minimum percentage
6 reduction standards alternative to the standards established under
7 Subsection (f) as an incentive for the conversion of heavy-duty
8 diesel on-road vehicle engines or non-road engines to operate under
9 a dual-fuel configuration that uses natural gas and diesel fuels
10 through an alternative fuel conversion system certified by the
11 United States Environmental Protection Agency or the California Air
12 Resources Board. In determining the emissions rate of the
13 converted vehicle and engine to compute the emissions reductions
14 that can be attributed to the conversion system, the commission may
15 take into account whether the emissions certification requirements
16 for the conversion system prevent fully accounting for the
17 emissions reductions. If the commission determines it to be
18 necessary and appropriate, the commission may consider under this
19 subsection certified engine test information that demonstrates
20 reductions of emissions of nitrogen oxides and other pollutants and
21 other information to verify the emissions reductions.

22 SECTION 5. Section 386.106, Health and Safety Code, is
23 amended to read as follows:

24 Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION
25 OF GRANT AMOUNT. (a) Except as otherwise provided by statute, the
26 ~~[as provided by Section 386.107 and except for infrastructure~~
27 ~~projects and infrastructure purchases that are part of a broader~~

1 ~~retrofit, repower, replacement, or add-on equipment project, the~~
2 ~~commission may not award a grant for a proposed project the~~
3 ~~cost-effectiveness of which, calculated in accordance with Section~~
4 ~~386.105 and criteria developed under that section, exceeds \$15,000~~
5 ~~per ton of oxides of nitrogen emissions reduced in the~~
6 ~~nonattainment area or affected county for which the project is~~
7 ~~proposed. This subsection does not restrict commission authority~~
8 ~~under other law to require emissions reductions with a~~
9 ~~cost-effectiveness that exceeds \$15,000 per ton.~~

10 [(b) ~~The~~] commission may not award a grant that, net of
11 taxes, provides an amount that exceeds the incremental cost of the
12 proposed project.

13 (b) [~~(c)~~] The commission shall adopt guidelines for
14 capitalizing incremental lease costs so those costs may be offset
15 by a grant under this subchapter.

16 (c) [~~(d)~~] In determining the amount of a grant under this
17 subchapter, the commission shall reduce the incremental cost of a
18 proposed new purchase, lease, retrofit, repower, or add-on
19 equipment project by the value of any existing financial incentive
20 that directly reduces the cost of the proposed project, including
21 tax credits or deductions, other grants, or any other public
22 financial assistance.

23 SECTION 6. Sections 386.152 and 386.153, Health and Safety
24 Code, are amended to read as follows:

25 Sec. 386.152. [~~COMPTROLLER AND~~] COMMISSION DUTIES
26 REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE
27 PROGRAM. (a) The [~~comptroller and the~~] commission shall develop a

1 purchase or lease incentive program for new light-duty motor
2 vehicles and shall adopt rules necessary to implement the program.

3 (b) The program shall authorize statewide incentives for
4 the purchase or lease [~~according to the schedule provided by~~
5 ~~Section 386.153,~~] of new light-duty motor vehicles powered by
6 compressed natural gas, liquefied petroleum gas, or electric drives
7 ~~[that are certified by the United States Environmental Protection~~
8 ~~Agency to meet an emissions standard that is at least as stringent~~
9 ~~as those provided by Section 386.153]~~ for a purchaser or lessee who
10 agrees to register [~~the vehicle in this state]~~ and [~~to~~] operate the
11 vehicle in this state for a minimum period of time to be established
12 by the commission [~~not less than 75 percent of the vehicle's annual~~
13 ~~mileage]~~.

14 (c) Only one incentive will be provided for each new
15 light-duty motor vehicle. The incentive shall be provided to the
16 lessee and not to the purchaser if the motor vehicle is purchased
17 for the purpose of leasing the vehicle to another person.

18 Sec. 386.153. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE
19 INCENTIVE REQUIREMENTS [~~SCHEDULE~~]. (a) A new light-duty motor
20 vehicle powered by compressed natural gas or liquefied petroleum
21 gas is eligible for a \$2,500 incentive if the vehicle:

22 (1) has four wheels;

23 (2) was originally manufactured to comply with and has
24 been certified by an original equipment manufacturer or
25 intermediate or final state vehicle manufacturer as complying with,
26 or has been altered to comply with, federal motor vehicle safety
27 standards, state emissions regulations, and any additional state

1 regulations applicable to vehicles powered by compressed natural
2 gas or liquefied petroleum gas;

3 (3) was manufactured for use primarily on public
4 streets, roads, and highways;

5 (4) is rated at not more than 9,600 pounds unloaded
6 vehicle weight;

7 (5) has a dedicated or bi-fuel compressed natural gas
8 or liquefied petroleum gas fuel system with a range of at least 125
9 miles as estimated, published, and updated by the United States
10 Environmental Protection Agency;

11 (6) has, as applicable, a:

12 (A) compressed natural gas fuel system that
13 complies with the:

14 (i) 2013 NFPA 52 Vehicular Gaseous Fuel
15 Systems Code; and

16 (ii) American National Standard for Basic
17 Requirements for Compressed Natural Gas Vehicle (NGV) Fuel
18 Containers, commonly cited as "ANSI/CSA NGV2"; or

19 (B) liquefied petroleum gas fuel system that
20 complies with:

21 (i) the 2011 NFPA 58 Liquefied Petroleum
22 Gas Code; and

23 (ii) Section VII of the 2013 ASME Boiler and
24 Pressure Vessel Code; and

25 (7) was acquired on or after September 1, 2013, or a
26 later date established by the commission, by the person applying
27 for the incentive under this subsection and for use or lease by that

1 person and not for resale.

2 (b) If the commission determines that an updated version of
3 a code or standard described by Subdivision (a)(6) is more
4 stringent than the version of the code or standard described by
5 Subdivision (a)(6), the commission by rule may provide that a
6 vehicle for which a person applies for an incentive under
7 Subsection (a) is eligible for the incentive only if the vehicle
8 complies with the updated version of the code or standard.

9 (b-1) The incentive under Subsection (a) is limited to 2,000
10 vehicles for the state fiscal biennium beginning September 1, 2013.

11 (c) A new light-duty motor vehicle powered by electric drive
12 is eligible for a \$2,500 incentive if the vehicle:

13 (1) has four wheels;

14 (2) was manufactured for use primarily on public
15 streets, roads, and highways;

16 (3) has not been modified from the original
17 manufacturer's specifications;

18 (4) is rated at not more than 8,500 pounds unloaded
19 vehicle weight;

20 (5) has a maximum speed capability of at least 55 miles
21 per hour;

22 (6) is propelled to a significant extent by an
23 electric motor that draws electricity from a battery that:

24 (A) has a capacity of not less than four kilowatt
25 hours; and

26 (B) is capable of being recharged from an
27 external source of electricity; and

1 (7) was acquired on or after September 1, 2013, or a
2 later date as established by the commission, by the person applying
3 for the incentive under this subsection and for use or lease by that
4 person and not for resale.

5 (d) The incentive under Subsection (c) is limited to 2,000
6 vehicles for the state fiscal biennium beginning September 1, 2013.
7 ~~[A new light-duty motor vehicle is eligible for an incentive~~
8 ~~according to the following schedule:~~

9	[Incentive emissions standard and incentive amount
10	[Model year 2003-2007
11	[Bin 4 — \$1,250
12	[Bin 3 — \$2,225
13	[Bin 2 — \$3,750
14	[Bin 1 — \$5,000]

15 SECTION 7. Section 386.156, Health and Safety Code, is
16 amended to read as follows:

17 Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On
18 August 1 each year the commission shall publish ~~[and provide to the~~
19 ~~comptroller]~~ a list of ~~[the]~~ new model motor vehicles eligible for
20 inclusion in an incentive under this subchapter as listed for the
21 commission under Section 386.155. The commission shall publish
22 ~~[and provide to the comptroller]~~ supplements to that list as
23 necessary to include additional new vehicle models ~~[listed in a~~
24 ~~supplement to the original list provided by a manufacturer under~~
25 ~~Section 386.155]~~.

26 (b) The commission ~~[comptroller]~~ shall publish ~~[distribute]~~
27 the list of eligible motor vehicles on the commission's Internet

1 website [~~to all new motor vehicle dealers and leasing agents in this~~
2 ~~state~~].

3 SECTION 8. Subsections (a) and (c), Section 386.158, Health
4 and Safety Code, are amended to read as follows:

5 (a) A person who purchases or leases a new light-duty motor
6 vehicle described by Section 386.153 and [~~that has been~~] listed
7 under Section 386.156(a) [~~386.155~~] is eligible to apply for an
8 incentive under this subchapter.

9 (c) To receive money under an incentive program provided by
10 this subchapter, the purchaser or lessee of a new light-duty motor
11 vehicle who is eligible to apply for an incentive under this
12 subchapter shall apply for the incentive in the manner provided by
13 law or by rule of the commission [~~comptroller~~].

14 SECTION 9. Section 386.160, Health and Safety Code, is
15 amended to read as follows:

16 Sec. 386.160. COMMISSION [~~COMPTROLLER~~] TO ACCOUNT FOR MOTOR
17 VEHICLE PURCHASE OR LEASE INCENTIVES. (a) The commission
18 [~~comptroller~~] by rule shall develop a method to administer and
19 account for the motor vehicle purchase or lease incentives
20 authorized by this subchapter and to pay incentive money to the
21 purchaser or lessee of a new motor vehicle, on application of the
22 purchaser or lessee as provided by this subchapter.

23 (b) The commission [~~comptroller~~] shall develop and publish
24 forms and instructions for the purchaser or lessee of a new motor
25 vehicle to use in applying to the commission [~~comptroller~~] for an
26 incentive payment under this subchapter. The commission
27 [~~comptroller~~] shall make the forms available to new motor vehicle

1 dealers and leasing agents. Dealers and leasing agents shall make
2 the forms available to their prospective purchasers or lessees.

3 (c) In addition to other forms developed and published under
4 this section, the commission [~~comptroller~~] shall develop and
5 publish a verification form by which, with information provided by
6 the dealer or leasing agent, the commission [~~comptroller~~] can
7 verify the sale of a vehicle covered by this subchapter. The
8 verification form shall include at least the name of the purchaser,
9 the vehicle identification number of the vehicle involved, the date
10 of the purchase, and the name of the new motor dealer or leasing
11 agent involved in the transaction. At the time of sale or lease of a
12 vehicle eligible for an incentive under this subchapter, the dealer
13 or leasing agent shall complete the verification form supplied to
14 the dealer by the commission [~~comptroller~~]. The purchaser or
15 lessee shall include the completed verification form as part of the
16 purchaser's application for an incentive. The dealer shall
17 maintain a copy of the completed verification form for at least two
18 years from the date of the transaction.

19 SECTION 10. The heading to Section 386.161, Health and
20 Safety Code, is amended to read as follows:

21 Sec. 386.161. [~~REPORT TO COMMISSION,~~] SUSPENSION OF
22 PURCHASE OR LEASE INCENTIVES.

23 SECTION 11. Subsections (b), (c), and (d), Section 386.161,
24 Health and Safety Code, are amended to read as follows:

25 (b) If the balance available for motor vehicle purchase or
26 lease incentives falls below 15 percent of the total allocated for
27 the incentives during that fiscal year, the commission

1 ~~[comptroller]~~ by order shall suspend the incentives until the date
2 the comptroller can certify that the balance available in the fund
3 for incentives is an amount adequate to resume the incentives or the
4 beginning of the next fiscal year, whichever is earlier. If the
5 commission ~~[comptroller]~~ suspends the incentives, the commission
6 ~~[comptroller]~~ shall immediately notify ~~[the commission and]~~ all new
7 motor vehicle dealers and leasing agents that the incentives have
8 been suspended.

9 (c) The commission ~~[comptroller]~~ shall establish a
10 toll-free telephone number available to motor vehicle dealers and
11 leasing agents for the dealers and agents to call to verify that
12 incentives are available. The commission ~~[comptroller]~~ may provide
13 for issuing verification numbers over the telephone line.

14 (d) Reliance by a dealer or leasing agent on information
15 provided by the ~~[comptroller or]~~ commission is a complete defense
16 to an action involving or based on eligibility of a vehicle for an
17 incentive or availability of vehicles eligible for an incentive.

18 SECTION 12. Subchapter D, Chapter 386, Health and Safety
19 Code, is amended by adding Section 386.162 to read as follows:

20 Sec. 386.162. EXPIRATION. This subchapter expires August
21 31, 2015.

22 SECTION 13. Chapter 386, Health and Safety Code, is amended
23 by adding Subchapter D-1 to read as follows:

24 SUBCHAPTER D-1. DRAYAGE TRUCK INCENTIVE PROGRAM

25 Sec. 386.181. DEFINITION; RULES. (a) In this subchapter,
26 "drayage truck" means a truck that transports a load to or from a
27 seaport or rail yard.

1 (b) The commission may include more specific definitions in
2 the rules or guidelines developed to implement the program
3 established by this subchapter in order to reduce emissions in and
4 around seaports in a nonattainment area.

5 Sec. 386.182. COMMISSION DUTIES. (a) The commission shall
6 develop a purchase incentive program to encourage owners to replace
7 drayage trucks with pre-2007 model year engines with newer drayage
8 trucks and shall adopt guidelines necessary to implement the
9 program.

10 (b) The commission by rule shall establish criteria for the
11 models of drayage trucks that are eligible for inclusion in an
12 incentive program under this subchapter. The guidelines must
13 provide that a drayage truck owner is not eligible for an incentive
14 payment under this subchapter unless the truck being replaced
15 contains a pre-2007 model year engine and the replacement truck's
16 engine is from model year 2010 or later as determined by the
17 commission and that the truck operates at a seaport or rail yard.

18 Sec. 386.183. DRAYAGE TRUCK PURCHASE INCENTIVE. (a) To be
19 eligible for an incentive under this subchapter, a person must:

20 (1) purchase a replacement drayage truck that under
21 the guidelines adopted by the commission under Section 386.182 is
22 eligible for inclusion in the program for an incentive under this
23 subchapter; and

24 (2) agree to:

25 (A) register the truck in this state;

26 (B) operate the truck in and within a maximum
27 distance established by the commission of a seaport or rail yard in

1 a nonattainment area of this state for not less than 50 percent of
2 the vehicle's annual mileage or hours of operation, as determined
3 by the commission; and

4 (C) permanently remove a pre-2007 drayage truck
5 containing a pre-2007 engine owned by the person from operation in a
6 nonattainment area of this state by destroying the engine and
7 scrapping the truck after the purchase of the new truck in
8 accordance with guidelines established by the commission.

9 (b) To receive money under an incentive program provided by
10 this subchapter, the purchaser of a drayage truck eligible for
11 inclusion in the program must apply for the incentive in the manner
12 provided by law, rule, or guideline of the commission.

13 (c) Not more than one incentive may be provided for each
14 drayage truck purchased.

15 (d) An incentive provided under this subchapter may be used
16 to fund not more than 80 percent of the purchase price of the
17 drayage truck.

18 (e) The commission shall establish procedures to verify
19 that a person who receives an incentive:

20 (1) has operated in a seaport or rail yard and owned or
21 leased the drayage truck to be replaced for at least two years prior
22 to receiving the grant; and

23 (2) permanently destroys the engine and scraps the
24 drayage truck that contained the pre-2007 engine owned or leased by
25 the person, in accordance with guidelines established by the
26 commission, after the purchase of the new truck.

27 (f) The commission may modify this program to improve its

1 effectiveness or further the goals of Subchapter B.

2 SECTION 14. The heading to Subchapter E, Chapter 386,
3 Health and Safety Code, is amended to read as follows:

4 SUBCHAPTER E. EVALUATION OF UTILITY COMMISSION AND COMPTROLLER
5 ENERGY EFFICIENCY PROGRAMS [~~GRANT PROGRAM~~]

6 SECTION 15. Section 386.205, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 386.205. EVALUATION OF UTILITY COMMISSION AND
9 COMPTROLLER [~~STATE~~] ENERGY EFFICIENCY PROGRAMS. In cooperation
10 with the laboratory, the utility commission shall provide an annual
11 report to the commission that, by county, quantifies the reductions
12 of energy demand, peak loads, and associated emissions of air
13 contaminants achieved from [~~the~~] programs implemented by the state
14 energy conservation office [~~under this subchapter~~] and from
15 programs [~~those~~] implemented under Section 39.905, Utilities Code.

16 SECTION 16. Subsection (a), Section 386.252, Health and
17 Safety Code, as amended by Chapter 28 (S.B. 527), Acts of the 82nd
18 Legislature, Regular Session, 2011, is amended to read as follows:

19 (a) Money in the fund may be used only to implement and
20 administer programs established under the plan. Money appropriated
21 to the commission to be used for the programs under Section
22 386.051(b) [~~and the total appropriation~~] shall be allocated as
23 follows:

24 (1) not more than four percent may be used for the
25 clean school bus program under Chapter 390;

26 (2) not more than three percent [~~not more than 10~~
27 ~~percent may be used for on-road diesel purchase or lease~~

1 ~~incentives,~~

2 ~~[(3) a specified amount]~~ may be used for the new
3 technology implementation grant program under Chapter 391, from
4 which at least \$1 million will ~~[a defined amount may]~~ be set aside
5 for electricity storage projects related to renewable energy;

6 (3) ~~[(4)]~~ five percent shall be used for the clean
7 fleet program under Chapter 392;

8 (4) ~~[(5)]~~ not more than ~~[\$7 million shall be allocated~~
9 ~~in 2012 and 2013 and not more than]~~ \$3 million may ~~[shall]~~ be used by
10 the commission ~~[allocated in 2014 and in subsequent years]~~ to fund a
11 regional air monitoring program in commission Regions 3 and 4 to be
12 implemented under the commission's oversight, including direction
13 regarding the type, number, location, and operation of, and data
14 validation practices for, monitors funded by the program through a
15 regional nonprofit entity located in North Texas having
16 representation from counties, municipalities, higher education
17 institutions, and private sector interests across the area;

18 (5) not less than 16 percent shall be used for the
19 Texas natural gas vehicle grant program under Chapter 394;

20 (6) not more than five percent may be used to provide
21 grants for natural gas fueling stations under the clean
22 transportation triangle program under Section 394.010;

23 (7) not more than five percent may be used for the
24 Texas alternative fueling facilities program under Chapter 393;

25 (8) a specified amount may be used ~~[is to be allocated]~~
26 each year to support research related to air quality as provided by
27 Chapter 387;

1 (9) not more than [(7) up to] \$200,000 may be used [is
2 allocated] for a health effects study;

3 (10) [(8) up to] \$500,000 is to be deposited in the
4 state treasury to the credit of the clean air account created under
5 Section 382.0622 to supplement funding for air quality planning
6 activities in affected counties;

7 (11) at least \$4 million and up to four percent to a
8 maximum of \$7 million, whichever is greater, is allocated to the
9 commission for administrative costs;

10 (12) at least two percent and up to five percent of the
11 fund is to be used by the commission for the drayage truck incentive
12 program established under Subchapter D-1;

13 (13) not more than five percent may be used for the
14 light-duty motor vehicle purchase or lease incentive program
15 established under Subchapter D;

16 (14) [(9)] not more than \$216,000 is allocated to the
17 commission to contract with the Energy Systems Laboratory at the
18 Texas Engineering Experiment Station annually for the development
19 and annual computation of creditable statewide emissions
20 reductions obtained through wind and other renewable energy
21 resources for the state implementation plan;

22 (15) [(10) not more than \$3,400,000 is allocated to
23 the commission for administrative costs incurred by the commission;

24 [(11)] 1.5 percent of the money in the fund is
25 allocated for administrative costs incurred by the laboratory; and

26 (16) [(12)] the balance is to be used by [is allocated
27 to] the commission for the diesel emissions reduction incentive

1 program under Subchapter C as determined by the commission.

2 SECTION 17. Section 386.252, Health and Safety Code, is
3 amended by amending Subsections (b), (c), (d), and (e) and adding
4 Subsection (e-1) to read as follows:

5 (b) The commission may allocate unexpended money designated
6 for the clean fleet program under Chapter 392 to other programs
7 described under Subsection (a) after the commission allocates money
8 to recipients under the clean fleet program.

9 (c) The commission may allocate unexpended money designated
10 for the Texas alternative fueling facilities program under Chapter
11 393 to other programs described under Subsection (a) after the
12 commission allocates money to recipients under the alternative
13 fueling facilities program.

14 (d) The commission may reallocate money designated for the
15 Texas natural gas vehicle grant program under Chapter 394 to other
16 programs described under Subsection (a) if:

17 (1) the commission, in consultation with the governor
18 and the advisory board, determines that the use of the money in the
19 fund for that program will cause the state to be in noncompliance
20 with the state implementation plan to the extent that federal
21 action is likely; and

22 (2) the commission finds that the reallocation of some
23 or all of the funding for the program would resolve the
24 noncompliance.

25 (e) Under Subsection (d), the commission may not reallocate
26 more than the minimum amount of money necessary to resolve the
27 noncompliance.

1 (e-1) Money [~~money~~] allocated under Subsection (a) to a
2 particular program may be used for another program under the plan as
3 determined by the commission.

4 [~~(c) Money in the fund may be allocated to the clean school
5 bus program only if:~~

6 [~~(1) the money is available for that purpose after
7 money is allocated for the other purposes of the fund as required by
8 the state implementation plan; or~~

9 [~~(2) the amount of money deposited to the credit of the
10 fund in a state fiscal year exceeds the amount the comptroller's
11 biennial revenue estimate shows as the comptroller's estimated
12 amount to be deposited to the credit of the fund in that year.~~

13 [~~(d) The commission may allocate unexpended money
14 designated for the clean fleet program to other programs described
15 under Subsection (a) after the commission allocates money to
16 recipients under the clean fleet program.~~

17 [~~(e) The commission may allocate unexpended money
18 designated for the Texas alternative fueling facilities program to
19 other programs described under Subsection (a) after the commission
20 allocates money to recipients under the alternative fueling
21 facilities program.]~~

22 SECTION 18. Subsection (f), Section 386.252, Health and
23 Safety Code, as added by Chapter 892 (S.B. 385), Acts of the 82nd
24 Legislature, Regular Session, 2011, is amended to read as follows:

25 (f) Money in the fund may be used by the commission for
26 programs under Sections 386.051(b)(13), (b)(14), and (b-1) as may
27 be appropriated for those programs [~~Notwithstanding Subsection~~

1 ~~(a), the commission may reallocate money in the fund if:~~

2 ~~[(1) the commission, in consultation with the governor~~
3 ~~and the advisory board, determines that the use of the money in the~~
4 ~~fund for the program established under Chapter 394 will cause the~~
5 ~~state to be in noncompliance with the state implementation plan to~~
6 ~~the extent that federal action is likely; and~~

7 ~~[(2) the commission finds that the reallocation of~~
8 ~~some or all of the funding for the program established under Chapter~~
9 ~~394 would resolve the noncompliance].~~

10 SECTION 19. Section 386.252, Health and Safety Code, is
11 amended by amending Subsection (g) and adding Subsection (h) to
12 read as follows:

13 (g) If the legislature does not specify amounts or
14 percentages from the total appropriation to the commission to be
15 allocated under Subsection (a) or (f), the commission shall
16 determine the amounts of the total appropriation to be allocated
17 under each of those subsections, such that the total appropriation
18 is expended while maximizing emissions reductions ~~[Under~~
19 ~~Subsection (f), the commission may not reallocate more than the~~
20 ~~minimum amount of money necessary to resolve the noncompliance].~~

21 (h) Subject to the limitations outlined in this section and
22 any additional limitations placed on the use of the appropriated
23 funds, money allocated under this section to a particular program
24 may be used for another program under the plan as determined by the
25 commission.

26 SECTION 20. Section 391.002, Health and Safety Code, is
27 amended to read as follows:

1 Sec. 391.002. GRANT PROGRAM. (a) The commission shall
2 establish and administer a new technology implementation grant
3 program to assist the implementation of new technologies to reduce
4 emissions from facilities and other stationary sources in this
5 state. The commission may establish a minimum capital expenditure
6 threshold for projects under Subsection (b)(2). Under the program,
7 the commission shall provide grants or other financial incentives
8 for eligible projects to offset the incremental cost of emissions
9 reductions.

10 (b) Projects that may be considered for a grant under the
11 program include:

12 (1) advanced clean energy projects, as defined by
13 Section 382.003;

14 (2) new technology projects that reduce emissions of
15 regulated pollutants from point sources [~~and involve capital~~
16 ~~expenditures that exceed \$500 million~~]; and

17 (3) electricity storage projects related to renewable
18 energy, including projects to store electricity produced from wind
19 and solar generation that provide efficient means of making the
20 stored energy available during periods of peak energy use.

21 SECTION 21. Subsection (a), Section 392.007, Health and
22 Safety Code, is amended to read as follows:

23 (a) The amount the commission shall award for each vehicle
24 being replaced is up to[+]

25 [~~(1)~~] 80 percent, as determined by the commission, of
26 the total [~~incremental~~] cost for replacement of a heavy-duty or
27 light-duty diesel engine[+]

1 ~~[(A) manufactured prior to implementation of~~
2 ~~federal or California emission standards; and~~

3 ~~[(B) not certified to meet a specific emission~~
4 ~~level by either the United States Environmental Protection Agency~~
5 ~~or the California Air Resources Board;~~

6 ~~[(2) 70 percent of the incremental cost for~~
7 ~~replacement of a heavy-duty diesel engine certified to meet the~~
8 ~~federal emission standards applicable to engines manufactured in~~
9 ~~1990 through 1997;~~

10 ~~[(3) 60 percent of the incremental cost for~~
11 ~~replacement of a heavy-duty diesel engine certified to meet the~~
12 ~~federal emission standards applicable to engines manufactured in~~
13 ~~1998 through 2003;~~

14 ~~[(4) 50 percent of the incremental cost for~~
15 ~~replacement of a heavy-duty diesel engine certified to meet the~~
16 ~~federal emission standards applicable to engines manufactured in~~
17 ~~2004 and later;~~

18 ~~[(5) 80 percent of the incremental cost for~~
19 ~~replacement of a light-duty diesel vehicle;~~

20 ~~[(A) manufactured prior to the implementation of~~
21 ~~certification requirements; and~~

22 ~~[(B) not certified to meet either mandatory or~~
23 ~~voluntary emission certification standards;~~

24 ~~[(6) 70 percent of the incremental cost for~~
25 ~~replacement of a light-duty diesel vehicle certified to meet~~
26 ~~federal Tier 1 emission standards phased in between 1994 and 1997;~~
27 ~~and~~

1 ~~[(7) 60 percent of the incremental cost for~~
2 ~~replacement of a light-duty diesel vehicle certified to meet~~
3 ~~federal Tier 2 emission standards phased in between 2004 and 2009].~~

4 SECTION 22. Subsection (a), Section 394.007, Health and
5 Safety Code, as amended by Chapter 892 (S.B. 385), Acts of the 82nd
6 Legislature, Regular Session, 2011, is amended to read as follows:

7 (a) The commission shall develop a grant schedule that:

8 (1) assigns a standardized grant in an amount up to
9 ~~[between 60 and]~~ 90 percent of the incremental cost of a natural gas
10 vehicle purchase, lease, other commercial finance, or repowering;

11 (2) is based on:

12 (A) the certified emission level of nitrogen
13 oxides, or other pollutants as determined by the commission, of the
14 engine powering the natural gas vehicle; and

15 (B) the usage of the natural gas vehicle; and

16 (3) may take into account the overall emissions
17 reduction achieved by the natural gas vehicle.

18 SECTION 23. Section 394.010, Health and Safety Code, as
19 amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature,
20 Regular Session, 2011, is amended by amending Subsections (a), (b),
21 (c), and (d) and adding Subsection (f-1) to read as follows:

22 (a) To ensure that natural gas vehicles purchased, leased,
23 or otherwise commercially financed or repowered under the program
24 have access to fuel, and to build the foundation for a
25 self-sustaining market for natural gas vehicles in Texas, the
26 commission shall award grants to support the development of a
27 network of natural gas vehicle fueling stations along the

1 interstate highways connecting Houston, San Antonio, Dallas, and
2 Fort Worth, and in nonattainment areas and affected counties of the
3 state. In awarding the grants, the commission shall provide for:

4 (1) strategically placed natural gas vehicle fueling
5 stations in and between the Houston, San Antonio, and Dallas-Fort
6 Worth areas, and in nonattainment areas and affected counties of
7 the state, to enable a natural gas vehicle to travel in those areas
8 ~~[along that triangular area]~~ relying solely on natural gas fuel;

9 (2) grants to be dispersed through a competitive
10 bidding process to offset a portion of the cost of installation of
11 the natural gas dispensing equipment;

12 (3) contracts that require the recipient stations to
13 meet operational, maintenance, and reporting requirements as
14 specified by the commission; and

15 (4) a listing, to be maintained by the commission and
16 made available to the public online, of all natural gas vehicle
17 fueling stations that have received grant funding, including
18 location and hours of operation.

19 (b) The commission may not award more than ~~[+~~
20 ~~[(1) three station grants to any entity, or~~
21 ~~[(2)]~~ one grant for each station.

22 (c) Grants awarded under this section may not exceed:

23 (1) \$400,000 ~~[\$100,000]~~ for a compressed natural gas
24 station;

25 (2) \$400,000 ~~[\$250,000]~~ for a liquefied natural gas
26 station; or

27 (3) \$600,000 ~~[\$400,000]~~ for a station providing both

1 liquefied and compressed natural gas.

2 (d) Stations funded by grants under this section must be
3 publicly accessible [~~and located not more than three miles from an~~
4 ~~interstate highway system~~]. The commission shall give preference
5 to:

6 (1) stations providing both liquefied natural gas and
7 compressed natural gas at a single location; [~~and~~]

8 (2) stations located not more than one mile from an
9 interstate highway system; and

10 (3) stations located in the triangular area between
11 the Houston, San Antonio, and Dallas-Fort Worth areas.

12 (f-1) An application for a grant under this section must
13 include a certification that the applicant complies with laws,
14 rules, guidelines, and requirements applicable to taxation of fuel
15 provided by the applicant at each fueling facility owned or
16 operated by the applicant. The commission may terminate a grant
17 awarded under this section without further obligation to the grant
18 recipient if the commission determines that the recipient did not
19 comply with a law, rule, guideline, or requirement described by
20 this subsection. This subsection does not create a cause of action
21 to contest an application or award of a grant.

22 SECTION 24. Section 393.006, Health and Safety Code, as
23 amended by Chapter 892 (S.B. 385), Acts of the 82nd Legislature,
24 Regular Session, 2011, is amended to read as follows:

25 Sec. 393.006. AMOUNT OF GRANT. For each eligible facility
26 for which a recipient is awarded a grant under the program, the
27 commission shall award the grant in an amount equal to the lesser

1 of:

2 (1) 50 percent of the sum of the actual eligible costs
3 incurred by the grant recipient within deadlines established by the
4 commission to construct, reconstruct, or acquire the facility; or

5 (2) \$600,000 [~~\$500,000~~].

6 SECTION 25. The following provisions are repealed:

7 (1) Subsection (c), Section 386.051, Health and Safety
8 Code;

9 (2) Subdivision (1), Section 386.151, Health and
10 Safety Code;

11 (3) Section 386.154, Health and Safety Code;

12 (4) Subsection (a), Section 386.161, Health and Safety
13 Code;

14 (5) Sections 386.201, 386.202, and 386.203, Health and
15 Safety Code;

16 (6) Section 386.204, Health and Safety Code;

17 (7) Subsection (a), Section 386.252, Health and Safety
18 Code, as amended by Chapters 589 (Senate Bill No. 20) and 892
19 (Senate Bill No. 385), Acts of the 82nd Legislature, Regular
20 Session, 2011;

21 (8) Subsection (f), Section 386.252, Health and Safety
22 Code, as added by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
23 Legislature, Regular Session, 2011; and

24 (9) Chapters 393 and 394, Health and Safety Code, as
25 amended by Chapter 589 (Senate Bill No. 20), Acts of the 82nd
26 Legislature, Regular Session, 2011.

27 SECTION 26. This Act takes effect immediately if it

S.B. No. 1727

1 receives a vote of two-thirds of all the members elected to each
2 house, as provided by Section 39, Article III, Texas Constitution.
3 If this Act does not receive the vote necessary for immediate
4 effect, this Act takes effect September 1, 2013.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1727 passed the Senate on May 2, 2013, by the following vote: Yeas 29, Nays 1, one present not voting; and that the Senate concurred in House amendments on May 25, 2013, by the following vote: Yeas 28, Nays 2, one present not voting.

Secretary of the Senate

I hereby certify that S.B. No. 1727 passed the House, with amendments, on May 21, 2013, by the following vote: Yeas 107, Nays 39, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor