Revised August 2020
RG-524

Texas Emissions Reduction Plan: Guidelines for the Seaport and Rail Yard Areas Emissions Reduction Program

Air Grants Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

printed on
recycled paper

Texas Emissions Reduction Plan: Guidelines for the Seaport and Rail Yard Areas Emissions Reduction Program

Prepared by
Air Grants Division

RG-524 Revised
August 2020

tceq.texas.gov/assets/public/comm_exec/pubs/rg/rg-524.pdf

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*

Toby Baker, *Executive Director*

We authorize you to use or reproduce any original material contained in this publication—that is, any material we did not obtain from other sources. Please acknowledge the TCEQ as your source.

Copies of this publication are available for public use through the Texas State Library, other state depository libraries, and the TCEQ Library, in compliance with state depository law. For more information on TCEQ publications visit our website at:

tceq.texas.gov/publications

Published and distributed
by the
Texas Commission on Environmental Quality
P.O. Box 13087
Austin TX 78711-3087

TCEQ is an equal opportunity employer. The agency does not allow discrimination on the basis of race, color, religion, national origin, sex, disability, age, sexual orientation or veteran status. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting TCEQ at 512-239-0010 or 1-800-RELAY-TX (TDD), or by writing P.O. Box 13087, Austin, TX 78711-3087.

How is our customer service? tceq.texas.gov/customersurvey

Contents

Chapter 1 Summary 3
Purpose 3
Legislative and Regulatory Standards 4
Funding 4
How to Contact Us 4

Chapter 2 Glossary 7

Chapter 3 Eligible Seaports and Rail Yards 11

Chapter 4 Eligibility Criteria 15
Eligible Activities 15
Eligible Applicants 15
Drayage Trucks and Cargo Handling Equipment Eligible for Replacement or Repower 15
Drayage Trucks and Cargo Handling Equipment Eligible for Purchase 17
Engines or Motors Eligible for Purchase 18
Eligible Costs 19
Eligible Grant Amounts 20

Chapter 5 Program Procedures 21
Project Solicitation 21
Application Review and Selection 21
Application-Verification Visits 21
Awarding of Grants and Contracting 22
Reimbursement 22
Verification of Vehicle, Equipment, and Engine Disposition 22
Monitoring and Reporting 23
Commitments 23

Chapter 1
Summary

These guidelines contain the criteria for grants under the Texas Emissions Reduction Plan (TERP) Seaport and Rail Yard Areas Emissions Reduction (SPRY) Program administered by the Texas Commission on Environmental Quality.

Purpose

The TERP was established by the Texas Legislature in 2001 to create monetary incentives for projects to improve air quality in the state's nonattainment areas and other areas of the state with air quality concerns. The nonattainment areas have been determined to not meet certain federal National Ambient Air Quality Standards established by the United States Environmental Protection Agency (EPA).

The SPRY Program was established to provide incentives for replacement of vehicles operating at seaports and rail yards in nonattainment areas. As a program under the TERP, the TCEQ has determined that a primary purpose of the SPRY Program should be to reduce emissions of nitrogen oxides (NO_x) and other pollutants, including particulate matter (PM), at these facilities and in the nonattainment areas in general.

NO_x is usually a by-product of high-temperature combustion. Everyday functions like driving a motor vehicle contribute to the creation of NO_x. It can react with volatile organic compounds in the presence of sunlight to form ground-level ozone —a lung irritant that may cause health problems.

Large diesel engines, such as those installed on drayage trucks and cargo handling equipment, also emit PM consisting of a mixture of solid particles and liquid droplets found in the air. PM can also form in complicated reactions of atmospheric chemicals such as sulfur dioxide and NO_x that are emitted from vehicle engines and other sources. PM that is 2.5 microns in aerodynamic diameter or smaller can get deep into the lungs and is capable of causing health problems.

In many cases, vehicles used for drayage are older, higher-polluting vehicles that are no longer used for longer-haul operations. The concentration of these vehicles and cargo handling equipment operating at seaports and rail yards warranted the establishment of this separate program specifically for replacement of older drayage vehicles and cargo handling equipment with newer, less-polluting models.

As required under the statute, these guidelines establish the standards and criteria for grants issued under the SPRY Program. Along with the statutory and

regulatory provisions applicable to this program, recipients of incentive funding must adhere to the criteria herein.

In addition, the TCEQ may establish more specific criteria, through contracts or other funding mechanisms, consistent with these guidelines.

Legislative and Regulatory Standards

The SPRY Program is established under Chapter 386, Subchapter D-1, of the Texas Health and Safety Code (THSC). Rules for the program have been adopted by the commission in Title 30 Texas Administrative Code, Chapter 114 (30 TAC 114), Subchapter K, Division 8.

These guidelines were established and adopted in accordance with THSC 386.182. As authorized under THSC 386.183(2)(f), and 30 TAC 114.682(d), these guidelines may modify, further define, or otherwise limit the criteria in the statute and rules.

Other state law and regulations also apply to the SPRY Program. The applicable standards will be listed in the grant-solicitation documents and the grant contract.

Funding

The SPRY Program is funded through revenue deposited into the Texas Emissions Reduction Plan Fund. That revenue consists of fees and surcharges established by the Texas Legislature.

The amount of funds available for grants during each year varies depending on the legislative appropriations to the program. The TCEQ will periodically issue notices and information regarding the grant programs, including information on the amount of funds available.

How to Contact Us

For information about this and other TERP grant programs, interested parties should check the TERP website at terpgrants.org. Also linked from that page are electronic versions of this document, grant-application forms, and other documents, as well as other information that may be helpful to a potential applicant.

TCEQ personnel are available to answer questions and offer assistance with the grant programs. If you are unclear about whether a proposed project would qualify for a grant, please contact TCEQ personnel to discuss the project.

Program staff may be reached by calling 800-919-TERP (8377) from 8 a.m. to 5 p.m., Monday–Friday during days the TCEQ is open, by e-mail at terp@tceq.texas.gov, or by mail at:

Air Grants Division, MC 204
Texas Commission on Environmental Quality
PO Box 13087
Austin TX 78711-3087

Chapter 2
Glossary

Terms as they are defined in Texas Health and Safety Code, Chapter 386, and the TCEQ rules (30 TAC 114.620) apply to this program, except as such terms are further defined and have the meanings as explained below.

activity. Each individual replacement of a drayage truck.

activity life. The period over which the grant recipient commits to use the grant-funded vehicle or equipment in accordance with the terms of the grant contract. The standard minimum activity life is five years, although a different minimum activity life may be established by the TCEQ for a particular grant application period. The TCEQ will establish a start date for each activity, which will usually be as soon as the TCEQ has verified that the vehicle being replaced has been properly disposed of.

cargo handling equipment. Any heavy-duty non-road, self-propelled vehicle or land-based equipment used at a seaport or rail yard to lift or move cargo, such as containerized, bulk, or break-bulk goods. Equipment includes, but is not limited to, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, and aerial lifts.

cost-effectiveness. The total dollar amount expended divided by the total number of tons of reduced emissions of nitrogen oxides, particulate matter, and other pollutants (alone or in combination) attributable to that expenditure, as may be determined by the TCEQ.

drayage activities. The transport of cargo, such as containerized, bulk, or break-bulk goods.

drayage truck. A heavy-duty on-road or non-road vehicle used for drayage activities and that operates on or transgresses (i.e., passes) through a seaport or rail yard for the purpose of loading, unloading, or transporting cargo, including transporting empty containers and chassis. This term includes heavy-duty non-road, self-propelled vehicles or equipment meeting the definition of cargo handling equipment.

motor vehicle. A self-propelled device designed for transporting persons or property on a public highway that is required to be registered under Chapter 502, Texas Transportation Code.

non-road equipment. A piece of equipment, excluding a motor vehicle or on-road heavy-duty vehicle, that is powered by a non-road engine, including non-road and non-recreational equipment and vehicles; construction equipment; industrial

equipment; mining equipment; locomotives; marine vessels; and other categories of equipment with high-emitting engines.

non-road engine. An internal combustion engine that is in or on a piece of equipment that is self-propelled and performs another function, excluding:

- a vehicle that is used solely for competition,
- a piece of equipment that is intended to be propelled while performing its function, or
- a piece of equipment designed to be capable of being carried or moved from one location or another.

non-road yard truck. A non-road mobile utility vehicle (piece of non-road equipment) used to transport cargo containers with or without chassis; also known as a utility tractor rig, yard tractor, or terminal tractor.

on-road heavy-duty vehicle. An on-road motor vehicle that has a gross vehicle weight rating of 8,500 pounds or more. This definition does not include a vehicle over 8,500 pounds that is classified by the EPA as a medium-duty passenger vehicle subject to the federal emission standards for light-duty on-road vehicles.

on-road yard truck. An on-road heavy-duty vehicle similar in configuration and use to a non-road yard truck, but with an on-road engine and meeting regulatory standards for limited on-road use.

person. An individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity. This may include a corporation headquartered outside Texas that operates equipment or vehicles primarily in an eligible county in Texas.

project. One or more activities approved by the TCEQ under one grant contract.

rail yard. A rail facility where cargo is routinely transferred from drayage truck to train or vice versa, including structures that are devoted to receiving, handling, holding, consolidating, and loading or delivery of rail-borne cargo.

repower. To replace an old engine powering a vehicle or equipment with a new engine, a used engine, or a remanufactured engine, or electric motors, drives, or fuel cells.

seaport. Publicly or privately owned property associated with the primary movement of cargo or materials from oceangoing vessels or barges to shore or vice-versa, including structures and property devoted to receiving, handling, holding, consolidating, and loading or delivery of waterborne shipments. A seaport also includes publicly or privately owned property within a ship channel security district established under Texas Water Code, Chapter 68.

Uniform Grant Management Standards. Standards issued by the Texas comptroller of public accounts for use by state agencies in issuing and administering grants under the authority of the Uniform Grant and Contract Management Act, Texas Government Code, Chapter 783.

Chapter 3
Eligible Seaports and Rail Yards

Vehicles and cargo handling equipment funded under this program must operate at eligible seaports and rail yards located within the nonattainment areas in Texas designated under the Federal Clean Air Act, Section 107(d). The counties entirely or partially within a nonattainment area are listed in Table 3.1 (see also map, Figure 3.1). While this list is accurate at the time of publication, the boundaries of nonattainment areas may be subject to change and those changes will be considered in effect for this program regardless of whether the change is incorporated into these guidelines.

Table 3.1
Counties Eligible for Location of Seaports and Rail Yards under the SPRY Program

Brazoria	Ellis	Johnson	Rockwall
Chambers	El Paso	Kaufman	Tarrant
Collin	Fort Bend	Liberty	Waller
Dallas	Galveston	Montgomery	Wise
Denton	Harris	Parker	

The TCEQ may limit funding under a grant period to projects operating at seaports and rail yards in only some of the eligible counties.

Seaports eligible under this program include facilities involved in the transfer of cargo from vessel to drayage truck or vice versa, or a combination of drayage truck and rail transfers. This may include the on-site storage of cargo delivered by vessel or drayage truck, before the transfer to a drayage truck or vessel. Eligible seaports also include facilities that are included in a ship-channel security district established under Texas Water Code, Chapter 68.

Rail yards eligible under this program include facilities involved in the transfer of cargo from rail to drayage truck or vice versa, or a combination of drayage truck and vessel transfers. This may include the on-site storage of cargo delivered by rail or drayage truck, before the transfer to a drayage truck or to rail.

In general, major rail yards are operated by Class I railroad companies. Under Title 49, Code of Federal Regulations, Chapter 1201, a Class I railroad carrier is one with $250 million or more in annual operating revenues. The TCEQ may also include rail yards operated by Class II or III railroad companies, case by case, if it

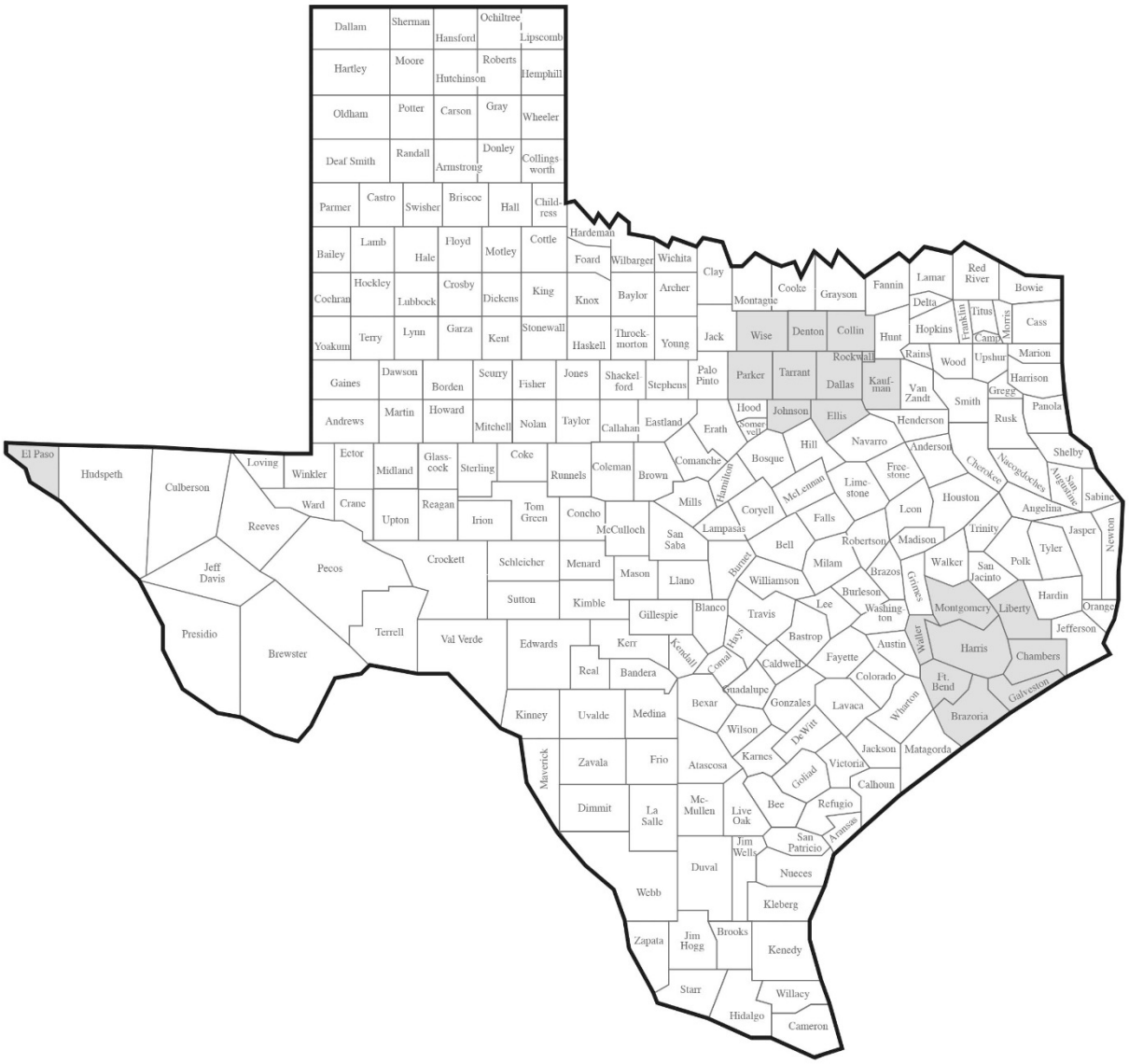
determines that those facilities include significant cargo transfer operations at the rail yard. This determination may include consideration of the frequency of average daily drayage-truck visits for transfer of cargo within a calendar month.

The TCEQ may periodically compile a list of seaports and rail yards that meet the definitions and criteria for this program and may require that a facility be included on the approved list before it considers a drayage truck operating at that facility for funding. This list may be made available on the TERP website at terpgrants.org and included with the grant solicitation. The TCEQ will have the final authority to determine if a seaport or rail yard is eligible.

Also, the TCEQ may limit funding under a grant period to projects operating at only some of the seaports or rail yards.

Figure 3.1

Counties Eligible for Location of Seaports and Rail Yards
(subject to change)



Chapter 4
Eligibility Criteria

This chapter outlines the criteria for project eligibility. The TCEQ may further define or limit the eligibility criteria and establish additional criteria in the solicitation materials and other grant documents.

Eligible Activities

Activities eligible for funding under this program include the replacement of a drayage truck or cargo handling equipment with another drayage truck or cargo handling equipment or the repower of a drayage truck or cargo handling equipment.

Eligible Applicants

A person is potentially eligible for incentive funding if, for at least the preceding two years, they have:

1. owned or leased a drayage truck or cargo handling equipment eligible to be replaced or owned a drayage truck or cargo handling equipment eligible to be repowered under the program; and

2. operated the drayage truck or cargo handling equipment in one or more of the designated seaports or rail yards for a minimum average number of calendar days for the preceding two years as established by the TCEQ in the grant-solicitation documents.

For particular funding periods, the TCEQ may limit eligibility to certain types of applicants.

Drayage Trucks and Cargo Handling Equipment Eligible for Replacement or Repower

Models of drayage trucks and cargo handling equipment eligible for replacement or repower under this program include:

1. a heavy-duty on-road vehicle with a gross vehicle weight rating (GVWR) over 26,000 pounds,

2. a non-road yard truck, and

3. other cargo-handling equipment.

To show ownership or lease of the drayage truck or cargo handling equipment being replaced or repowered all of the following apply:

- For an on-road drayage truck being replaced, the applicant must have continuously owned or leased the vehicle and have been listed as the owner on the title or the lessee on the lease agreement for the two years immediately preceding the application date. (*Note – ownership or lease by an affiliate or subsidiary of the applicant does not meet these requirements.*)

- For a non-road drayage truck and other cargo-handling equipment being replaced, the applicant must have continuously owned or leased the vehicle or cargo-handling equipment and have been listed as the owner on ownership documents or lessee on the lease agreement for the two years immediately preceding the application date. (*Note – ownership lease by an affiliate or subsidiary of the applicant does not meet these requirements.*)

- For a drayage truck or cargo-handling equipment being repowered, the applicant must have continuously owned the vehicle or equipment and have been listed as the owner on the title (on-road vehicles) or other ownership documents (non-road vehicles and equipment) for the two years immediately preceding the application date. (*Note – ownership by an affiliate or subsidiary of the applicant does not meet these requirements.*)

- The TCEQ may require documentation of ownership or leasing for the previous two years.

- The applicant must also have the authority to dispose of the drayage truck, cargo handling equipment, or engine being replaced.

- The drayage truck or cargo handling equipment must have been used in its primary function in the routine operations of the applicant in Texas for the two years immediately preceding the submission of the grant application.

- The applicant must have operated the drayage truck or cargo-handling equipment at one or more of the eligible seaports or rail yards over the two year period preceding the submission of an application for at least an average number of calendar days per 12-month period over the two years as established by the TCEQ in the grant-solicitation documents.

- Unless the vocational type of an on-road drayage truck is exempt from inspection and registration requirements, such as an on-road vehicle used as a non-road yard truck, the vehicle must currently be registered for operation in Texas and must have been continuously inspected and registered in Texas for the two years immediately preceding the application date.

- An apportioned registration for operation in several states will not normally be accepted as proof of continuous registration and operation in Texas, unless the applicant can document that the majority of the vehicle operation occurred in Texas over the previous two years.

- The drayage truck or cargo handling equipment must currently be used in its primary function in the routine operations of the applicant and be capable of performing its primary function for the same duration as the proposed activity life.

The TCEQ may waive the two-year ownership or lease requirement, case by case, where the ownership of the company has changed, the assets of the company have been purchased by another company, or the company has changed its name or incorporation status.

To document that the drayage truck or cargo handling equipment has been used at one or more eligible seaports or rail yards for the two years before submission of the application, the applicant must certify in the application the average number of calendar days during which the vehicle or equipment was operated at one or more of the eligible facilities over those two years. Operation must include using the vehicle or equipment in regular daily activity consistent the regular use of that type of vehicle or equipment in the routine operations of the applicant. The average historical operation at the eligible facilities may be used by the TCEQ to determine eligibility for the program as well as the eligible grant amount and the usage commitment over the activity life for the drayage truck or cargo handling equipment being purchased or repowered.

The TCEQ may require the applicant to provide records and other documentation of use of the drayage truck or cargo handling equipment at the eligible facilities.

Drayage Trucks and Cargo Handling Equipment Eligible for Purchase

Models of drayage trucks and cargo handling equipment eligible for purchase to replace an existing drayage truck or cargo handling equipment under the program include:

1. a heavy-duty on-road vehicle with a GVWR over 26,000 pounds,
2. a non-road yard truck, and
3. other cargo-handling equipment.

To be eligible for purchase under this program a drayage truck or cargo handling equipment must:

1. be powered by an electric motor or contain an engine certified to the current federal emissions standards applicable to that type of engine, as determined by the commission; and

2. emit NO_X at a rate that is at least 25% less than the emissions rate of the engine on the truck or equipment being replaced.

The NO_X emissions rate of the engines replaced or purchased under this program will be based on the emissions standard or family emissions limit to which the engine is certified by the United States Environmental Protection Agency or the California Air Resources Board or, for replacement of an uncontrolled engine, a baseline emissions rate established by the commission.

In general, the replacement drayage truck or cargo handling equipment must be of the same type, power range, weight category, and body and axle configuration as the drayage truck or cargo handling equipment being replaced. The TCEQ may accept vehicles or equipment of a different type, power range, weight category, or body and axle configuration to account for the latest technology or vehicle/equipment type used for specific drayage or other cargo handling purposes.

Some, but not all, of the situations the TCEQ may consider include:

- replacement of an on-road heavy-duty vehicle used solely for moving cargo in an eligible facility with an on-road or non-road yard truck;
- replacement of an on-road yard truck with a non-road yard truck, or vice versa; and
- replacement of certain types of cargo handling equipment used specifically for container handling with a different type of cargo handling equipment that is also used for container handling.

Engines or Motors Eligible for Purchase

To be eligible for purchase for repowering a drayage truck or cargo handling equipment under this program an engine or motor must:

1. be powered by electricity or be an engine certified to the current federal emissions standards applicable to that type of engine, as determined by the commission; and

2. emit NO_X at a rate that is at least 25% less than the NO_X emissions rate of the engine being replaced.

The NO_X emissions rate of the engines replaced or purchased under this program will be based on the emissions standard or family emissions limit to which the engine is certified or, for replacement of an uncontrolled engine, a baseline emissions rate established by the commission.

Eligible Costs

The grant recipient may be eligible for reimbursement of up to 80% of the purchase price of the replacement drayage truck or cargo handling equipment, or up to 80% of the cost of the engine repower, subject to the grant-amount limits established by the TCEQ. A finance lease, with a binding commitment to buy and retain ownership of the drayage truck or cargo handling equipment at the end of the lease, may be considered a purchase. Other types of leases are not eligible.

For replacement projects, the purchase price may include the invoice price, including taxes and delivery charges included in the price of the replacement drayage truck or cargo handling equipment. The cost to purchase and install a TCEQ-approved global positioning system may also be considered part of the purchase price.

For repower projects, costs that may be reimbursed, subject to approval by the TCEQ, include:

1. the invoice cost of the new engine or upgrade, including sales tax and delivery charges;
2. the invoice cost of additional equipment that must be installed with the new engine or upgrade;
3. associated supplies directly related to the installation of the engine or system;
4. the costs to remove and dispose of the old engine, if applicable;
5. installation costs;
6. reengineering costs, if the vehicle or equipment must be modified for the new engine to fit; and
7. other costs directly related to the project, including the purchase and installation of a global positioning system.

In some cases, the repower of a drayage truck or other cargo handling equipment to convert to operation using a new technology, such as electric drive, may include the complete remanufacturing of the vehicle or equipment to new condition. The TCEQ may consider additional costs, case-by-case, where the repower of the vehicle or equipment is part of a more complete remanufacture of the vehicle or equipment. Applicants should consult with TCEQ staff to determine eligibility of costs before applying for this type of repower activity.

In determining the purchase price or repower cost, the TCEQ may require that the salvage value of the drayage truck or cargo handling equipment or engine being replaced be subtracted from the invoice price. Unless an alternative approach is used for a particular grant round, the TCEQ may establish and use a default

salvage value for the drayage truck or cargo handling equipment or engine being replaced.

The TCEQ may further limit what is considered an eligible cost for purposes of a particular grant round.

To the extent applicable, the cost principles of the Uniform Grant and Contract Management Standards will apply to the determination of eligible costs

Eligible Grant Amounts

The TCEQ may consider applications for the full 80% of the eligible costs of the purchase of the new drayage truck, cargo handling equipment, or engine, or may limit the grant amounts to a lower percentage of eligible costs.

The TCEQ may also establish maximum limits on the eligible costs, based on average marketplace purchase prices or manufacturers' suggested retail prices for different weight categories, model years, and types of vehicles, equipment, or engines, or on other factors determined by the TCEQ to help meet the goals of the program and the TERP.

In establishing the criteria for a particular grant round, the TCEQ may set limits on the cost-effectiveness of a project, based on the emissions reductions projected to be achieved in and near the seaports or rail yards.

In addition, the TCEQ may establish and list in the solicitation documents standardized maximum eligible grant amounts based on predetermined default prices, the percentage of costs eligible for reimbursement, cost-effectiveness limits, or a combination of these and other factors.

Chapter 5
Program Procedures

This chapter contains the general procedures that will be used for applying for, awarding, and administering grants under this program. The TCEQ may adjust these procedures and develop more detailed ones, as needed, to ensure the effectiveness of the program.

Project Solicitation

Grant projects will be solicited through periodic or open-ended Requests for Grant Applications (RFGAs) and through other mechanisms to solicit grant applications. Copies of the RFGAs and the necessary application forms are made available at the TERP website terpgrants.org and directly from the TCEQ by calling toll free at 800-919-TERP (8377) during regular working hours (8 a.m. to 5 p.m., Monday through Friday), excluding holidays.

Application Review and Selection

The TCEQ will establish criteria for how grants will be selected for each grant round and will make the criteria available in the grant-solicitation documents. The TCEQ will review and evaluate grant applications according to the established criteria.

The TCEQ may either select and award grants based on the order of submission or may use competitive grant selection, including consideration of the comparative cost-effectiveness of the projects. Even when it uses the order of submission as a determinant of grant selection, the TCEQ may establish a priority order where applications meeting certain criteria may be selected and awarded first.

The determination of emissions reductions and calculation of the cost-effectiveness of a project may make use of default annual usage rates (mileage or hours of operation) established by the TCEQ or actual historical usage rates for the two years preceding the application. In addition, the TCEQ may place a priority on funding projects in specific areas or at specific facilities.

The TCEQ may limit the number of grants awarded to one applicant, one area, or projects at one facility, to ensure that a broad range of projects are funded. The TCEQ may also prioritize the selection and grant awards based on the average number of annual visits to an eligible seaport or rail yard.

Application-Verification Visits

Upon receipt of a grant application, the TCEQ may check the vehicle and equipment for condition, engine identification, and vehicle identification.

Awarding of Grants and Contracting

Projects selected for funding will be awarded a grant through the development and execution of a grant contract that is signed by the recipient and by an official of the TCEQ. Grant contracts may contain additional and more specific requirements than those contained in these guidelines. Grant recipients should review the contract's language carefully before accepting and signing it.

Each grant award and contract will be contingent upon the availability of funds to cover the grant. Grant contracts may be issued on a contingency basis, subject to the TCEQ's issuance of a follow-up Notice to Proceed, once sufficient funds are available.

Reimbursement

Grant payments will be reimbursements, meaning that the agency will remit payment **after** the eligible expense has been incurred by the recipient, including the vehicle having been delivered and the expense paid. Recipients will also have the option to assign their grant payments directly to the dealer or finance company. The grant recipient must submit both the reimbursement request and reporting forms. The grant contract and instructions accompanying the reimbursement forms will include more specific criteria for requesting and receiving payment.

Upon completion of all grant-funded purchases, the grant recipient will need to submit a final request for reimbursement of all remaining expenses. The final request must include a completed and signed release of claims.

The TCEQ will provide the grant recipient a TERP label or sticker to place on the grant-funded vehicles and equipment. The grant recipient must place the label or sticker on the grant-funded vehicle or equipment for the duration of the contract.

Verification of Vehicle, Equipment, and Engine Disposition

For replacement projects, the applicant must agree to destroy the old vehicle or equipment—including the engine—replaced under this program no later than 90 days after receiving reimbursement by the TCEQ. For repower projects, the applicant must agree to destroy the old engine no later than 90 days after receiving reimbursement by the TCEQ.

Unless the TCEQ agrees to an alternative method, the destruction must be carried out by complete crushing or other complete destruction of the vehicle, equipment, or engine, or by making a hole in the engine block on both sides large enough to prevent repairs (usually at least 3 inches) and permanently destroying the frame by cutting the frame rails or main structural components of the vehicle or equipment.

The applicant must certify the appropriate disposition of the engine (repowers) or the vehicle or equipment (replacements), including the engine, using forms supplied by the TCEQ. The TCEQ may require a certified or duplicate Texas Nonrepairable Vehicle Title as evidence that an on-road vehicle has been rendered permanently inoperable. Grantees may be required to return grant funds if they fail to meet the disposition requirements, including if the vehicle, equipment, or engine is later returned to operation.

Monitoring and Reporting

The grant recipient must agree to monitor and track the use of the grant-funded drayage truck or cargo handling equipment for the activity life designated in the grant contract.

The grant recipient will be required to submit monitoring reports to the TCEQ twice a year, unless the TCEQ authorizes an alternative reporting schedule.

The TCEQ may authorize grant recipients to use global positioning system units to monitor the grant-funded drayage truck or cargo handling equipment in lieu of filing reports on the location and use of the equipment. The TCEQ may also require the installation and use of a global positioning system (GPS) for all projects under a particular grant round or for specific projects, based on the risks associated with that project. With use of GPS, grant recipients must verify the accuracy of the GPS data on forms provided by the TCEQ on a schedule it has established. All applicants monitoring via GPS will be required to use a vendor the TCEQ selects.

The usage reports or GPS monitoring reports submitted by the grant recipient will document:

- the usage amount,
- the number of days of operation and use at the eligible facilities, and
- the percentage of use in the eligible areas over the required reporting period.

The TCEQ may, at its sole discretion, authorize an annual or longer reporting schedule, including suspending the reporting requirements, if a grant recipient is meeting the requirements and is otherwise complying with all program requirements.

Commitments

The intent of this program is to achieve reductions in emissions of NO_x and other pollutants at seaports and rail yards, as well as in the nonattainment areas and counties identified as “affected counties” in THSC 386.001(2) and TCEQ rules (30 TAC 114.629). Over the activity life of each grant-funded activity, the grant recipient commits the resulting emissions reductions to the TCEQ.

The recipient is responsible for performing the activities, as defined in the contract, necessary to achieve the emissions reductions at the designated seaports and rail yards and within the eligible geographic areas.

Unless the TCEQ has determined that the intent of the program has been met, recipients will be required to return all or a pro rata share of the grant funds to the TCEQ if the emissions reductions in the eligible geographic areas and at the seaports and rail yards over the activity life are not achieved.

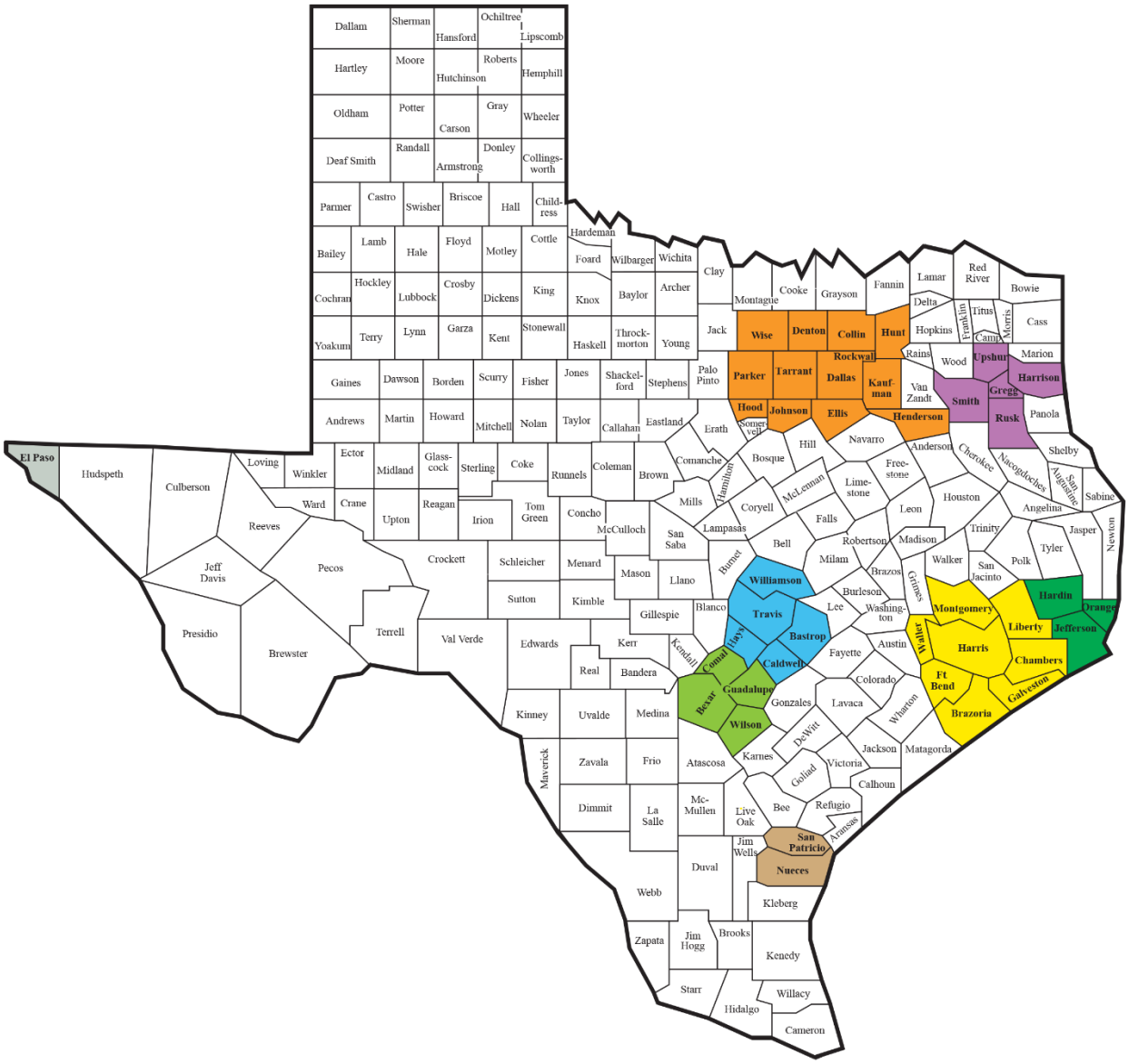
To achieve the emissions reductions at seaports and rail yards, the grant recipient must agree to operate the grant-funded drayage truck or cargo handling equipment at any eligible seaports and rail yards identified in accordance with the provisions in Chapter 3 for a minimum number of calendar days per 12-month period as determined by the TCEQ based on the priorities established for grant selection and award for that grant-solicitation period and included in the grant contract.

To achieve the emissions reductions in the nonattainment areas and affected counties, the grant recipient must agree to operate the grant-funded vehicle or equipment for at least 50 percent of the annual and total usage over the activity life in those counties. The 41 counties currently located within a nonattainment area or designated as an affected county are listed in Table 5.1 (see also map, Figure 5.1). While this list is accurate at the time of publication, affected counties and the boundaries of nonattainment areas are subject to change.

Table 5.1
Counties in Nonattainment Areas or Otherwise Designated as "Affected Counties" (subject to change)

Bastrop	Ellis	Hays	Nueces	Upshur
Bexar	El Paso	Henderson	Orange	Waller
Brazoria	Fort Bend	Hood	Parker	Williamson
Caldwell	Galveston	Hunt	Rockwall	Wilson
Chambers	Gregg	Jefferson	Rusk	Wise
Collin	Guadalupe	Johnson	San Patricio	
Comal	Hardin	Kaufman	Smith	
Dallas	Harris	Liberty	Tarrant	
Denton	Harrison	Montgomery	Travis	

Figure 5.1
Counties in Nonattainment Areas or Otherwise Designated as "Affected Counties" (subject to change)



The TCEQ may more narrowly limit the areas of use for a particular grant solicitation period to help best achieve the goals of the program and the TERP in general. The designated counties will be listed in the grant-solicitation documents and the grant contract.

The TCEQ may also allow a grant applicant to commit to a greater percentage of use in the eligible counties in order to qualify for a higher grant amount. The percentage-of-use commitment will be listed in the grant contract.

The calculation of emissions reductions in the designated counties will be based on a *usage amount* over the activity life in the eligible counties as established by the TCEQ for a particular grant-solicitation period. Unless otherwise established by the TCEQ for a particular grant application period, the usage amount will be based on annual mileage for on-road vehicles used for transporting cargo away from a seaport or rail yard and annual hours of operation for on-road and non-road yard trucks, other on-road vehicles used in the same manner as a purpose-built yard truck, and other cargo handling equipment. The TCEQ may establish default usage rates according to type of vehicle or equipment, or the TCEQ may base the calculations on actual historical usage rates and require a usage commitment based on actual miles or hours of operation.

The TCEQ may work with the grantee to implement other options for ensuring that the usage commitments will be met before it requires the return of grant funds. If the TCEQ requires the return of a pro rata share of the grant funds for underachievement of the annual commitment, the TCEQ may revise the commitment over the remaining activity life to a lower amount, corresponding to the lower grant amount.