

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE C. AIR QUALITY

For expiration of this chapter, see Section 395.015.

CHAPTER 395. GOVERNMENTAL ALTERNATIVE FUEL FLEET GRANT PROGRAM

Sec. 395.001. DEFINITIONS. In this chapter:

(1) "Alternative fuel" means compressed natural gas, liquefied natural gas, liquefied petroleum gas, hydrogen fuel cells, or electricity, including electricity to power fully electric motor vehicles and plug-in hybrid motor vehicles.

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

(3) "Incremental cost" has the meaning assigned by Section [386.001](#).

(4) "Motor vehicle" means a self-propelled device designed for transporting persons or property on a public highway that is required to be registered under Chapter [502](#), Transportation Code.

(5) "Plug-in hybrid motor vehicle" has the meaning assigned by Section [2158.001](#), Government Code.

(6) "Political subdivision" means a county, municipality, school district, junior college district, river authority, water district or other special district, or other political subdivision created under the constitution or a statute of this state.

(7) "Program" means the governmental alternative fuel fleet grant program established under this chapter.

(8) "State agency" has the meaning assigned by Section [2151.002](#), Government Code, and includes the commission.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.002. PROGRAM. (a) The commission shall establish and administer a governmental alternative fuel fleet grant program to assist an eligible applicant described by Section [395.003](#) in purchasing or leasing new motor vehicles that operate primarily on an alternative fuel.

(b) The program may provide a grant to an applicant described by Section [395.003](#) to:

(1) purchase or lease a new motor vehicle described by Section [395.004](#); or

(2) purchase, lease, or install refueling infrastructure or equipment or procure refueling services as described by Section [395.005](#) to store and dispense alternative fuel needed for a motor vehicle described by Subdivision (1) of this subsection.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.003. ELIGIBLE APPLICANTS. (a) A state agency or political subdivision is eligible to apply for a grant under the program if the entity operates a fleet of more than 15 motor vehicles, excluding motor vehicles that are owned and operated by a private company or other third party under a contract with the entity.

(b) A mass transit or school transportation provider or other public entity established to provide public or school transportation services is eligible for a grant under the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.004. MOTOR VEHICLE REQUIREMENTS. (a) A grant recipient may purchase or lease with money from a grant under the program a new motor vehicle that is originally manufactured

to operate using one or more alternative fuels or is converted to operate using one or more alternative fuels before the first retail sale of the vehicle, and that:

(1) has a dedicated system, dual-fuel system, or bi-fuel system; and

(2) if the motor vehicle is a fully electric motor vehicle or plug-in hybrid motor vehicle, has a United States Environmental Protection Agency rating of at least 75 miles per gallon equivalent or a 75-mile combined city and highway range.

(b) A grant recipient may not use money from a grant under the program to replace a motor vehicle, transit bus, or school bus that operates on an alternative fuel unless the replacement vehicle produces fewer emissions and has greater fuel efficiency than the vehicle being replaced.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.005. REFUELING INFRASTRUCTURE, EQUIPMENT, AND SERVICES. A grant recipient may purchase, lease, or install refueling infrastructure or equipment or procure refueling services with money from a grant under the program if:

(1) the purchase, lease, installation, or procurement is made in conjunction with the purchase or lease of a motor vehicle as described by Section [395.004](#) or the conversion of a motor vehicle to operate primarily on an alternative fuel;

(2) the grant recipient demonstrates that a refueling station that meets the needs of the recipient is not available within five miles of the location at which the recipient's vehicles are stored or primarily used; and

(3) for the purchase or installation of refueling infrastructure or equipment, the infrastructure or equipment will be owned and operated by the grant recipient, and for the lease of refueling infrastructure or equipment or the procurement of refueling services, a third-party service

provider engaged by the grant recipient will provide the infrastructure, equipment, or services.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.006. ELIGIBLE COSTS. (a) A motor vehicle lease agreement paid for with money from a grant under the program must have a term of at least three years.

(b) Refueling infrastructure or equipment purchased or installed with money from a grant under the program must be used specifically to store or dispense alternative fuel, as determined by the commission.

(c) A lease of or service agreement for refueling infrastructure, equipment, or services paid for with money from a grant under the program must have a term of at least three years.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.007. GRANT AMOUNTS. (a) The commission may establish standardized grant amounts based on the incremental costs associated with the purchase or lease of different categories of motor vehicles, including the type of fuel used, vehicle class, and other categories the commission considers appropriate.

(b) In determining the incremental costs and setting the standardized grant amounts, the commission may consider the difference in cost between a new motor vehicle operated using conventional gasoline or diesel fuel and a new motor vehicle operated using alternative fuel.

(c) The amount of a grant for the purchase or lease of a motor vehicle may not exceed the amount of the incremental cost of the purchase or lease.

(d) The commission may establish grant amounts to reimburse the full cost of the purchase, lease, installation, or procurement of refueling infrastructure, equipment, or services or may establish criteria for reimbursing a percentage of the cost.

(e) A grant under the program may be combined with funding from other sources, including other grant programs, except that a grant may not be combined with other funding or grants from the Texas emissions reduction plan. When combined with other funding sources, a grant may not exceed the total cost to the grant recipient.

(f) In providing a grant for the lease of a motor vehicle under this chapter, the commission shall establish criteria:

(1) to offset incremental costs through an up-front payment to lower the cost basis of the lease; or

(2) if determined appropriate by the commission, to provide for reimbursement of lease payments over no more than the period of availability of the contracted funds under applicable state law and regulation, which may be less than the required three-year lease term.

(g) In providing a grant for the lease of refueling infrastructure, equipment, or services, the commission shall establish criteria:

(1) to offset incremental costs through an up-front payment to lower the cost basis of the lease; or

(2) if determined appropriate by the commission, to provide for reimbursement of lease payments over no more than the period of availability of the contracted funds under applicable state law and regulation, which may be less than the required three-year lease term.

(h) Notwithstanding Subsection (d), the commission is not obligated to fund the full cost of the purchase, lease, installation, or procurement of refueling infrastructure, equipment, or services if those costs cannot be incurred and reimbursed over the period of availability of the funds under applicable state law and regulation.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.008. AVAILABILITY OF EMISSIONS REDUCTION CREDITS.

(a) A project that is funded from a grant under the program and that would generate marketable emissions reduction credits under a state or federal emissions reduction credit averaging, banking, or trading program is not eligible for funding under the program unless:

(1) the project includes the transfer of the credits, or the reductions that would otherwise be marketable credits, to the commission and, if applicable, the state implementation plan; and

(2) the credits or reductions, as applicable, are permanently retired.

(b) An emissions reduction generated by a purchase or lease under this chapter may be used to demonstrate conformity with the state implementation plan.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.009. USE OF GRANT MONEY. A grant recipient when using money from a grant under the program shall prioritize:

(1) the purchase or lease of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel, when replacing vehicles or adding vehicles to the fleet;

(2) the purchase of new motor vehicles, including new motor vehicles that are converted to operate on an alternative fuel, to replace vehicles that have the highest total mileage and do not use an alternative fuel; and

(3) to the extent feasible, obtaining, whether by purchase, purchase and conversion, or lease, motor vehicles that

use compressed natural gas, liquefied natural gas, or liquefied petroleum gas.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.010. GRANT PROCEDURES AND CRITERIA. (a) The commission shall establish specific criteria and procedures in order to implement and administer the program, including the creation and provision of application forms and guidance on the application process.

(b) The commission shall award a grant through a contract between the commission and the grant recipient.

(c) The commission shall provide an online application process for the submission of all required application documents.

(d) The commission may limit funding for a particular period according to priorities established by the commission, including limiting the availability of grants to specific entities, for certain types of vehicles and infrastructure, or to certain geographic areas to ensure equitable distribution of grant funds across the state.

(e) In awarding grants under the program, the commission shall prioritize projects in the following order:

- (1) projects that are proposed by a state agency;
- (2) projects that are in or near a nonattainment area;
- (3) projects that are in an affected county, as that term is defined by Section [386.001](#); and
- (4) projects that will produce the greatest emissions reductions.

(f) In addition to the requirements under Subsection (e), in awarding grants under the program, the commission shall consider:

- (1) the total amount of the emissions reduction that would be achieved from the project;

- (2) the type and number of vehicles purchased or leased;
- (3) the location of the fleet and the refueling infrastructure or equipment;
- (4) the number of vehicles served and the rate at which vehicles are served by the refueling infrastructure or equipment;
- (5) the amount of any matching funds committed by the applicant; and
- (6) the schedule for project completion.

(g) The commission may not award more than 10 percent of the total amount awarded under the program in any fiscal year for purchasing, leasing, installing, or procuring refueling infrastructure, equipment, or services.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.011. FUNDING. The legislature may appropriate money to the commission from the Texas emissions reduction plan fund established under Section [386.251](#) to administer the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.012. ADMINISTRATIVE COSTS. In each fiscal year, the commission may use up to 1.5 percent of the total amount of money allocated to the program in that fiscal year, but not more than \$1 million, for the administrative costs of the program.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.013. RULES. The commission may adopt rules as necessary to implement this chapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.014. REPORT REQUIRED. On or before November 1 of each even-numbered year, the commission shall submit to the governor, lieutenant governor, and members of the legislature a report that includes the following information regarding awards made under the program during the preceding state fiscal biennium:

- (1) the number of grants awarded under the program;
- (2) the recipient of each grant awarded;
- (3) the number of vehicles replaced;
- (4) the number, type, and location of any refueling infrastructure, equipment, or services funded under the program;
- (5) the total emissions reductions achieved under the program; and
- (6) any other information the commission considers relevant.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.

Sec. 395.015. EXPIRATION. This chapter expires on the last day of the state fiscal biennium during which the commission publishes in the Texas Register the notice required by Section [382.037](#).

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-1), eff. August 30, 2017.