

By: Watson

S.B. No. 1619

A BILL TO BE ENTITLED

AN ACT

relating to the Texas emissions reduction plan.

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

SECTION 1. Sections 386.001(2) and (3), Health and Safety Code, are amended to read as follows:

(2) "Affected county" includes:

(A) Bastrop County;

(A-1) Bell County;

(B) Bexar County;

(C) Caldwell County;

(D) Comal County;

(E) Ellis County;

(F) Gregg County;

(G) Guadalupe County;

(H) Harrison County;

(I) Hays County;

(J) Henderson County;

(K) Hood County;

(L) Hunt County;

(M) Johnson County;

(N) Kaufman County;

(N-1) McLennan County;

(O) Nueces County;

(P) Parker County;

(Q) Rockwall County;
(R) Rusk County;
(S) San Patricio County;
(T) Smith County;
(U) Travis County;
(V) Upshur County;
(W) Victoria County;
(W-1) Webb County;
(X) Williamson County;
(Y) Wilson County; and
(Z) any other county designated as an affected county by commission rule because of deteriorating air quality.

(3) "Commission" means the Texas [~~Natural Resource Conservation~~] Commission on Environmental Quality.

SECTION 2. Section [386.002](#), Health and Safety Code, is amended to read as follows:

Sec. 386.002. EXPIRATION. This chapter expires August 31, 2023 [~~2019~~].

SECTION 3. 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;

(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\(a\)](#);

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

(8) air quality planning activities as provided by Section [386.252\(a\)](#);

(9) a contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station for computation of creditable statewide emissions reductions as provided by Section [386.252\(a\)](#) [~~[386.252\(a\)\(14\)](#)~~];

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

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

(12) the natural gas vehicle grant program [~~and clean transportation triangle program~~] established under Chapter 394;

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

(14) other programs the commission may develop that

1 support congestion mitigation to reduce mobile source ozone
2 precursor emissions; and

3 (15) the drayage truck incentive program established
4 under Subchapter D-1.

5 SECTION 4. Section 386.104(j), Health and Safety Code, is
6 amended to read as follows:

7 (j) The executive director may ~~[shall]~~ waive any
8 eligibility requirements established under this section on a
9 finding of good cause, which may include a waiver for short lapses
10 in registration or operation attributable to economic conditions,
11 seasonal work, or other circumstances.

12 SECTION 5. Section 386.152, Health and Safety Code, is
13 amended by amending Subsection (b) and adding Subsection (d) to
14 read as follows:

15 (b) The program shall authorize statewide incentives for
16 the purchase or lease of new light-duty motor vehicles powered by
17 compressed natural gas, liquefied petroleum gas, or hydrogen fuel
18 cell or other electric drives for a purchaser or lessee who agrees
19 to register and operate the vehicle in this state for a minimum
20 period of time to be established by the commission.

21 (d) The commission by rule may revise the standards for the
22 maximum unloaded vehicle weight rating and gross vehicle weight
23 rating of an eligible vehicle to ensure that all of the vehicle
24 weight configurations available under one general vehicle model may
25 be eligible for an incentive.

26 SECTION 6. Sections 386.153(a), (b-1), (c), and (d), Health
27 and Safety Code, are amended to read as follows:

1 (a) A new light-duty motor vehicle powered by compressed
2 natural gas or liquefied petroleum gas is eligible for a \$5,000
3 [~~\$2,500~~] incentive if the vehicle:

4 (1) has four wheels;

5 (2) was originally manufactured to comply with and has
6 been certified by an original equipment manufacturer or
7 intermediate or final state vehicle manufacturer as complying with,
8 or has been altered to comply with, federal motor vehicle safety
9 standards, state emissions regulations, and any additional state
10 regulations applicable to vehicles powered by compressed natural
11 gas or liquefied petroleum gas;

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

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

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

20 (6) has, as applicable, a:

21 (A) compressed natural gas fuel system that
22 complies with the:

23 (i) 2013 NFPA 52 Vehicular Gaseous Fuel
24 Systems Code; and

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

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

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

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

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

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

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

(1) has four wheels;

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

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

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

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

(6) is propelled to a significant extent by an electric motor that draws electricity from a hydrogen fuel cell or from a battery that:

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

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

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

(d) The incentive under Subsection (c) is limited to 2,000 vehicles for each ~~[the]~~ state fiscal biennium ~~[beginning September 1, 2013]~~.

SECTION 7. Section 386.155, Health and Safety Code, is amended to read as follows:

Sec. 386.155. MANUFACTURER'S REPORT. (a) At the beginning of but not later than July 1 of each year preceding the vehicle model year, a manufacturer of motor vehicles shall provide to the commission a list of the new vehicle models that the manufacturer intends to sell in this state during that model year that meet the incentive requirements ~~[emissions standards]~~ established ~~[by the schedules set out]~~ under Section 386.153. The manufacturer may supplement the list provided to the commission under this section as necessary to include additional new vehicle models the manufacturer intends to sell in this state during the model year.

(b) The commission may supplement the information provided under Subsection (a) with additional information on available vehicle models, including information provided by manufacturers of systems to convert new motor vehicles to operate on natural gas or

1 liquefied petroleum gas before sale as a new vehicle.

2 SECTION 8. Section 386.156, Health and Safety Code, is
3 amended to read as follows:

4 Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On
5 August 1 each year the commission shall publish a list of new
6 ~~[model]~~ motor vehicle models ~~[vehicles]~~ eligible for inclusion in
7 an incentive under this subchapter ~~[as listed for the commission~~
8 ~~under Section 386.155]~~. The commission shall publish supplements
9 to that list as necessary to include additional new vehicle models.

10 (b) The commission shall publish the list of eligible motor
11 vehicle models ~~[vehicles]~~ on the commission's Internet website.

12 SECTION 9. Section 386.158(b), Health and Safety Code, is
13 amended to read as follows:

14 (b) A lease incentive for a new light-duty motor vehicle
15 shall be prorated based on a three-year ~~[four-year]~~ lease term.

16 SECTION 10. Section 386.160(c), Health and Safety Code, is
17 amended to read as follows:

18 (c) The commission may require the submission of forms and
19 documentation as needed to verify eligibility for an incentive
20 under this subchapter ~~[In addition to other forms developed and~~
21 ~~published under this section, the commission shall develop and~~
22 ~~publish a verification form by which, with information provided by~~
23 ~~the dealer or leasing agent, the commission can verify the sale of a~~
24 ~~vehicle covered by this subchapter. The verification form shall~~
25 ~~include at least the name of the purchaser, the vehicle~~
26 ~~identification number of the vehicle involved, the date of the~~
27 ~~purchase, and the name of the new motor dealer or leasing agent~~

~~involved in the transaction. At the time of sale or lease of a vehicle eligible for an incentive under this subchapter, the dealer or leasing agent shall complete the verification form supplied to the dealer by the commission. The purchaser or lessee shall include the completed verification form as part of the purchaser's application for an incentive. The dealer shall maintain a copy of the completed verification form for at least two years from the date of the transaction].~~

SECTION 11. The heading to Section 386.161, Health and Safety Code, is amended to read as follows:

Sec. 386.161. ~~[SUSPENSION OF]~~ PURCHASE OR LEASE INCENTIVES INFORMATION.

SECTION 12. Subchapter D, Chapter 386, Health and Safety Code, is amended by adding Section 386.1611 to read as follows:

Sec. 386.1611. RESERVATION OF INCENTIVES. The commission may provide for dealers and leasing agents to reserve for a limited time period incentives for vehicles that are not readily available and must be ordered, if the dealer or leasing agent has a purchase or lease order signed by an identified customer.

SECTION 13. Section 386.162, Health and Safety Code, is amended to read as follows:

Sec. 386.162. EXPIRATION. This subchapter expires August 31, 2023 ~~[2015]~~.

SECTION 14. Section 386.252, Health and Safety Code, is amended by amending Subsection (a) and adding Subsections (g-1) and (g-2) to read as follows:

(a) Money in the fund may be used only to implement and

1 administer programs established under the plan. Money
2 appropriated to the commission to be used for the programs under
3 Section 386.051(b) shall be allocated as follows:

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

6 (2) not more than three percent may be used for the new
7 technology implementation grant program under Chapter 391, from
8 which at least \$1 million will be set aside for electricity storage
9 projects related to renewable energy;

10 (3) five percent shall be used for the clean fleet
11 program under Chapter 392;

12 (4) not more than \$3 million may be used by the
13 commission to fund a regional air monitoring program in commission
14 Regions 3 and 4 to be implemented under the commission's oversight,
15 including direction regarding the type, number, location, and
16 operation of, and data validation practices for, monitors funded by
17 the program through a regional nonprofit entity located in North
18 Texas having representation from counties, municipalities, higher
19 education institutions, and private sector interests across the
20 area;

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

23 (6) not more than 10 ~~[five]~~ percent may be used ~~[to~~
24 ~~provide grants for natural gas fueling stations under the clean~~
25 ~~transportation triangle program under Section 394.010,~~

26 ~~[(7) not more than five percent may be used]~~ for the
27 Texas alternative fueling facilities program under Chapter 393, of

1 which a specified amount may be used for fueling stations to provide
2 natural gas fuel;

3 (7) ~~[(8)]~~ a specified amount may be used each year to
4 support research related to air quality as provided by Chapter 387;

5 (8) ~~[(9)]~~ not more than \$200,000 may be used for a
6 health effects study[+

7 ~~[(10) \$500,000 is to be deposited in the state treasury~~
8 ~~to the credit of the clean air account created under Section~~
9 ~~382.0622 to supplement funding for air quality planning activities~~
10 ~~in affected counties];~~

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

14 (10) ~~[(12)]~~ at least two percent and up to five
15 percent ~~[of the fund]~~ is to be used by the commission for the
16 drayage truck incentive program established under Subchapter D-1;

17 (11) ~~[(13)]~~ not more than five percent may be used for
18 the light-duty motor vehicle purchase or lease incentive program
19 established under Subchapter D;

20 (12) ~~[(14)]~~ not more than \$216,000 is allocated to the
21 commission to contract with the Energy Systems Laboratory at the
22 Texas A&M Engineering Experiment Station annually for the
23 development and annual computation of creditable statewide
24 emissions reductions obtained through wind and other renewable
25 energy resources for the state implementation plan;

26 ~~[(15) 1.5 percent of the money in the fund is allocated~~
27 ~~for administrative costs incurred by the laboratory,]~~ and

1 (13) [~~(16)~~] the balance is to be used by the
2 commission for the diesel emissions reduction incentive program
3 under Subchapter C as determined by the commission.

4 (g-1) To supplement funding for air quality planning
5 activities in affected counties, \$500,000 from the fund is to be
6 deposited annually in the state treasury to the credit of the clean
7 air account created under Section 382.0622.

8 (g-2) Money in the fund may be allocated for administrative
9 costs incurred by the laboratory.

10 SECTION 15. Section 390.006, Health and Safety Code, is
11 amended to read as follows:

12 Sec. 390.006. EXPIRATION. This chapter expires August 31,
13 2023 [~~2019~~].

14 SECTION 16. Section 391.002(b), Health and Safety Code, is
15 amended to read as follows:

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

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

20 (2) new technology projects that reduce emissions of
21 regulated pollutants from stationary [~~point~~] sources, including
22 projects that reduce emissions from oil and gas production,
23 storage, and transmission activities through:

24 (A) the replacement, repower, or retrofit of
25 stationary compressor engines; or

26 (B) the installation of systems to reduce or
27 eliminate the flaring of gas or the burning of gas using other

1 combustion control devices; and

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

6 SECTION 17. Section 391.205(a), Health and Safety Code, is
7 amended to read as follows:

8 (a) Except as provided by Subsection (c), in awarding grants
9 under this chapter the commission shall give preference to projects
10 that:

11 (1) involve the transport, use, recovery for use, or
12 prevention of the loss of natural resources originating or produced
13 in this state;

14 (2) contain an energy efficiency component; or

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

17 SECTION 18. Section 391.304, Health and Safety Code, is
18 amended to read as follows:

19 Sec. 391.304. EXPIRATION. This chapter expires August 31,
20 2023 ~~[2019]~~.

21 SECTION 19. Section 392.001(1), Health and Safety Code, is
22 amended to read as follows:

23 (1) "Alternative fuel" means a fuel other than
24 gasoline or diesel fuel, including electricity, compressed natural
25 gas, liquefied ~~[liquefied]~~ natural gas, hydrogen, propane, or a
26 mixture of fuels containing at least 85 percent methanol by volume.

27 SECTION 20. Section 392.003(a), Health and Safety Code, is

amended to read as follows:

(a) A vehicle is a qualifying vehicle that may be considered for a grant under the program if during the eligibility period established by the commission ~~[calendar year]~~ the entity purchases a new on-road vehicle that:

(1) is certified to current federal emissions standards;

(2) replaces a diesel-powered on-road vehicle of the same weight classification and use; and

(3) is a hybrid vehicle or fueled by an alternative fuel.

SECTION 21. Section 392.004(d), Health and Safety Code, is amended to read as follows:

(d) The commission shall minimize, to the maximum extent possible, the amount of paperwork required for an application. ~~[An applicant may be required to submit a photograph or other documentation of a vehicle identification number, registration information, inspection information, tire condition, or engine block identification only if the photograph or documentation is requested by the commission after the commission has decided to award a grant to the applicant under this chapter.]~~

SECTION 22. Section 392.005, Health and Safety Code, is amended by amending Subsections (b), (c), and (i) and adding Subsection (c-1) to read as follows:

(b) To be eligible for a grant under the program, a project must:

(1) result in a reduction in emissions of nitrogen

1 oxides or other pollutants, as established by the commission, of at
2 least 25 percent, based on:

3 (A) the baseline emission level set by the
4 commission under Subsection (g); and

5 (B) the certified emission rate of the new
6 vehicle; and

7 (2) replace a vehicle that:

8 (A) is an on-road vehicle that has been owned,
9 leased, or otherwise commercially financed and registered and
10 operated by the applicant in Texas for at least the two years
11 immediately preceding the submission of a grant application;

12 (B) satisfies any minimum average annual mileage
13 or fuel usage requirements established by the commission;

14 (C) satisfies any minimum percentage of annual
15 usage requirements established by the commission; and

16 (D) is in operating condition and has at least
17 five ~~[two]~~ years of remaining useful life, as determined in
18 accordance with criteria established by the commission.

19 (c) As a condition of receiving a grant, the qualifying
20 vehicle must be continuously owned, registered, and operated in the
21 state by the grant recipient until the earlier of the fifth
22 anniversary of the activity start date established by the
23 commission ~~[the date of reimbursement of the grant-funded expenses]~~

24 or ~~[until]~~ the date the vehicle has been in operation for 400,000
25 miles after the activity start date established by the commission
26 ~~[of reimbursement]~~. Not less than 75 percent of the annual use of

27 the qualifying vehicle, either mileage or fuel use as determined by

the commission, must occur in the state.

(c-1) For purposes of Subsection (c), the commission shall establish the activity start date based on the date the commission accepts verification of the disposition of the vehicle being replaced.

(i) The executive director may ~~[shall]~~ waive the requirements of Subsection (b)(2)(A) on a finding of good cause, which may include a waiver for short lapses in registration or operation attributable to economic conditions, seasonal work, or other circumstances.

SECTION 23. Section 392.008, Health and Safety Code, is amended to read as follows:

Sec. 392.008. EXPIRATION. This chapter expires August 31, 2023 ~~[2017]~~.

SECTION 24. Section 393.001, Health and Safety Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Alternative fuel" means a fuel other than gasoline or diesel fuel, other than biodiesel fuel, including electricity, compressed natural gas, liquefied ~~[liquified]~~ natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume.

(1-a) "Clean transportation triangle" means:

(A) counties containing or intersected by a portion of an interstate highway connecting the cities of Houston, San Antonio, Dallas, and Fort Worth;

(B) counties located within the triangular area

formed by the interstate highways described by Paragraph (A);

(C) counties in this state all or part of which
are included in a nonattainment area designated under Section
107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as
amended; and

(D) counties designated as affected counties
under Section 386.001.

SECTION 25. Section 393.002, Health and Safety Code, is
amended to read as follows:

Sec. 393.002. PROGRAM. (a) The commission shall establish
and administer the Texas alternative fueling facilities program to
provide fueling facilities for alternative fuel in the clean
transportation triangle ~~[nonattainment areas]~~. Under the program,
the commission shall provide a grant for each eligible facility to
offset the cost of those facilities.

(b) An entity that constructs or ~~[r]~~ reconstructs~~[, or
acquires]~~ an alternative fueling facility is eligible to
participate in the program.

(c) To ensure that alternative fuel vehicles have access to
fuel and to build the foundation for a self-sustaining market for
alternative fuels in Texas, the commission shall provide for
strategically placed fueling facilities in the clean
transportation triangle to enable an alternative fuel vehicle to
travel in those areas relying solely on the alternative fuel.

(d) The commission shall maintain a listing to be made
available to the public online of all vehicle fueling facilities
that have received grant funding, including location and hours of

1 operation.

2 SECTION 26. Section 393.003, Health and Safety Code, is
3 amended by amending Subsections (a) and (b) and adding Subsections
4 (d) and (e) to read as follows:

5 (a) An entity operating in this state that constructs or ~~[7]~~
6 reconstructs~~[, or acquires]~~ a facility to ~~[store, compress, or]~~
7 dispense alternative fuels may apply for and receive a grant under
8 the program.

9 (b) The commission may ~~[adopt guidelines to]~~ allow a
10 regional planning commission, council of governments, or similar
11 regional planning agency created under Chapter 391, Local
12 Government Code, or a private nonprofit organization to apply for
13 and receive a grant to improve the ability of the program to achieve
14 its goals.

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

25 (e) The commission shall disperse grants under the program
26 through a competitive application selection process to offset a
27 portion of the eligible costs.

SECTION 27. Section 393.004, Health and Safety Code, is amended to read as follows:

Sec. 393.004. ELIGIBILITY OF FACILITIES FOR GRANTS. (a) In addition to the requirements of this chapter, the commission shall establish additional eligibility and prioritization criteria as needed to implement the program ~~[The commission by rule shall establish criteria for prioritizing facilities eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate].~~

(b) To be eligible for a grant under the program, the entity receiving the grant must agree to make the alternative fueling facility accessible and available to the public ~~[persons not associated with the entity]~~ at times designated by the commission in the grant contract ~~[agreement]~~.

(c) The commission may not award more than one grant for each facility.

(d) The commission may give preference to or otherwise limit grant selections to:

(1) fueling facilities providing specific types of alternative fuels;

(2) fueling facilities in a specified area or location; and

(3) fueling facilities meeting other specified prioritization criteria established by the commission.

(e) For fueling facilities to provide natural gas, the commission shall give preference to:

(1) facilities providing both liquefied natural gas

1 and compressed natural gas at a single location;

2 (2) facilities located not more than one mile from an
3 interstate highway system; and

4 (3) facilities located in the triangular area in and
5 between the Houston, San Antonio, and Dallas-Fort Worth areas [A
6 recipient of a grant under this chapter is not eligible to receive a
7 second grant under this chapter for the same facility].

8 SECTION 28. Section 393.005, Health and Safety Code, is
9 amended to read as follows:

10 Sec. 393.005. RESTRICTION ON USE OF GRANT. (a) A
11 recipient of a grant under this chapter shall use the grant only to
12 pay the costs of the facility for which the grant is made. The
13 recipient may not use the grant to pay the recipient's:

14 (1) administrative expenses;

15 (2) expenses for the purchase of land or an interest in
16 land; or

17 (3) expenses for equipment or facility improvements
18 that are not directly related to the delivery, storage,
19 compression, or dispensing of the alternative fuel at the facility.

20 (b) Each grant must be awarded using a contract that
21 requires the recipient to meet operational, maintenance, and
22 reporting requirements as specified by the commission.

23 SECTION 29. Section 393.006, Health and Safety Code, is
24 amended to read as follows:

25 Sec. 393.006. AMOUNT OF GRANT. (a) Grants awarded under
26 this chapter for a facility to provide alternative fuels other than
27 natural gas may not exceed [For each eligible facility for which a

~~recipient is awarded a grant under the program, the commission shall award the grant in an amount equal to]~~ the lesser of:

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

(2) \$600,000.

(b) Grants awarded under this chapter for a facility to provide natural gas may not exceed:

(1) \$400,000 for a compressed natural gas facility;

(2) \$400,000 for a liquefied natural gas facility; or

(3) \$600,000 for a facility providing both liquefied and compressed natural gas.

SECTION 30. Section 393.007, Health and Safety Code, is amended to read as follows:

Sec. 393.007. EXPIRATION. This chapter expires August 31, 2023 ~~[2018]~~.

SECTION 31. Sections 394.001(1), (4), and (5), Health and Safety Code, are amended to read as follows:

(1) "Clean transportation triangle" has the meaning assigned by Section 393.001 ~~["Advisory board" means the Texas Emissions Reduction Plan Advisory Board]~~.

(4) "Heavy-duty motor vehicle" means a motor vehicle that ~~[with]~~:

(A) has a gross vehicle weight rating of more than 8,500 pounds; and

(B) is certified to or has an engine certified to the United States Environmental Protection Agency's emissions

standards for heavy-duty vehicles or engines.

(5) "Incremental cost" has the meaning assigned by
Section 386.001 [~~means the difference between the manufacturer's~~
~~suggested retail price of a baseline vehicle, the documented dealer~~
~~price of a baseline vehicle, cost to lease or otherwise~~
~~commercially finance a baseline vehicle, cost to repower with a~~
~~baseline engine, or other appropriate baseline cost established by~~
~~the commission, and the actual cost of the natural gas vehicle~~
~~purchase, lease, or other commercial financing, or repower~~].

SECTION 32. Section 394.003(a), Health and Safety Code, is
amended to read as follows:

(a) A vehicle is a qualifying vehicle that may be considered
for a grant under the program if during the eligibility period
established by the commission [~~calendar year~~] the entity:

(1) purchased, leased, or otherwise commercially
financed the vehicle as a new on-road heavy-duty or medium-duty
motor vehicle that:

(A) is a natural gas vehicle;

(B) is certified to current federal emissions
standards;

(C) replaces an on-road heavy-duty or
medium-duty motor vehicle of the same weight classification and
use; and

(D) is certified to or powered by an engine
certified to:

(i) emit not more than 0.2 grams of nitrogen
oxides per brake horsepower hour; [~~or~~]

(ii) meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle; or

(iii) meet or exceed the United States Environmental Protection Agency's chassis-certified heavy-duty vehicle emission standard of:

(a) 0.2 grams of nitrogen oxides per mile for vehicles with a gross vehicle weight rating of 8,501 to 10,000 pounds; or

(b) 0.4 grams of nitrogen oxides per mile for vehicles with a gross vehicle weight rating of 10,001 to 14,000 pounds; or

(2) repowered the on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that:

(A) is certified to current federal emissions standards; and

(B) is:

(i) a heavy-duty engine that is certified to emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; ~~[or]~~

(ii) certified to meet or exceed the United States Environmental Protection Agency's Bin 5 standard for light-duty engines when powering the vehicle; or

(iii) certified to meet or exceed the United States Environmental Protection Agency's chassis-certified heavy-duty vehicle emission standard of:

(a) 0.2 grams of nitrogen oxides per

mile for vehicles with a gross vehicle weight rating of 8,501 to 10,000 pounds when powering the vehicle; or

(b) 0.4 grams of nitrogen oxides per mile for vehicles with a gross vehicle weight rating of 10,001 to 14,000 pounds when powering the vehicle.

SECTION 33. Section 394.005, Health and Safety Code, is amended by amending Subsections (a), (b), (c), (g), and (i) and adding Subsection (c-1) to read as follows:

(a) The commission ~~[by rule]~~ shall establish criteria for prioritizing qualifying vehicles eligible to receive grants under this chapter. The commission shall review and revise the criteria as appropriate ~~[after consultation with the advisory board]~~.

(b) To be eligible for a grant under the program:

(1) the use of the qualifying vehicle must be projected to result in a reduction in emissions of nitrogen oxides of at least 25 percent as compared to the motor vehicle or engine being replaced, based on:

(A) the baseline emission level set by the commission under Subsection (g); and

(B) the certified emission rate of the new vehicle; and

(2) the qualifying vehicle must:

(A) replace a heavy-duty or medium-duty motor vehicle that:

(i) is an on-road vehicle that has been owned, leased, or otherwise commercially financed and registered and operated by the applicant in Texas for at least the two years

1 immediately preceding the submission of a grant application;

2 (ii) satisfies any minimum average annual
3 mileage or fuel usage requirements established by the commission;

4 (iii) satisfies any minimum percentage of
5 annual usage requirements established by the commission; and

6 (iv) is in operating condition and has at
7 least four [~~two~~] years of remaining useful life, as determined in
8 accordance with criteria established by the commission; or

9 (B) be a heavy-duty or medium-duty motor vehicle
10 repowered with a natural gas engine that:

11 (i) is installed in an on-road vehicle that
12 has been owned, leased, or otherwise commercially financed and
13 registered and operated by the applicant in Texas for at least the
14 two years immediately preceding the submission of a grant
15 application;

16 (ii) satisfies any minimum average annual
17 mileage or fuel usage requirements established by the commission;

18 (iii) satisfies any minimum percentage of
19 annual usage requirements established by the commission; and

20 (iv) is installed in an on-road vehicle
21 that, at the time of the vehicle's repowering, was in operating
22 condition and had at least four [~~two~~] years of remaining useful
23 life, as determined in accordance with criteria established by the
24 commission.

25 (c) As a condition of receiving a grant, the qualifying
26 vehicle must be continuously owned, leased, or otherwise
27 commercially financed and registered and operated in the state by

the grant recipient until the earlier of the fourth anniversary of the activity start date established by the commission ~~[the date of reimbursement of the grant-funded expenses]~~ or ~~[until]~~ the date the vehicle has been in operation for 400,000 miles after the activity start date established by the commission ~~[of reimbursement]~~. Not less than 75 percent of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the commission, must occur in the clean transportation triangle [+

~~[(1) the counties any part of which are included in the area described by Section 394.010(a); or~~

~~[(2) counties designated as nonattainment areas within the meaning of Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407)].~~

(c-1) For purposes of Subsection (c), the commission shall establish the activity start date based on the date the commission accepts verification of the disposition of the vehicle or engine.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced or repowered by using the emission certification for the engine or vehicle being replaced. The commission may consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. The commission may consider and establish baseline emission rates for additional pollutants of concern~~[, as determined by the commission after consultation with the advisory board]~~.

(i) The executive director may ~~[shall]~~ waive the

1 requirements of Subsection (b)(2)(A)(i) on a finding of good cause,
2 which may include short lapses in registration or operation due to
3 economic conditions, seasonal work, or other circumstances.

4 SECTION 34. Section 394.006, Health and Safety Code, is
5 amended to read as follows:

6 Sec. 394.006. RESTRICTION ON USE OF GRANT. A recipient of
7 a grant under this chapter shall use the grant to pay the
8 incremental costs of the replacement or vehicle repower for which
9 the grant is made, which may include a portion of the initial cost
10 of the natural gas vehicle or natural gas engine, including the cost
11 of the natural gas fuel system and installation [~~and the reasonable~~
12 ~~and necessary expenses incurred for the labor needed to install~~
13 ~~emissions-reducing equipment~~]. The recipient may not use the
14 grant to pay the recipient's administrative expenses.

15 SECTION 35. Section 394.007(c), Health and Safety Code, is
16 amended to read as follows:

17 (c) A person may not receive a grant under this chapter
18 that, when combined with any other grant, tax credit, or other
19 governmental incentive, exceeds the incremental cost of the vehicle
20 or vehicle repower for which the grant is awarded. A person shall
21 return to the commission the amount of a grant awarded under this
22 chapter that, when combined with any other grant, tax credit, or
23 other governmental incentive, exceeds the incremental cost of the
24 vehicle or vehicle repower for which the grant is awarded.

25 SECTION 36. Sections 394.008(a) and (b), Health and Safety
26 Code, are amended to read as follows:

27 (a) The commission shall establish [~~adopt~~] procedures for:

(1) awarding grants under this chapter to reimburse eligible costs [~~in the form of rebates~~]; and

(2) streamlining the grant application, contracting, reimbursement, and reporting process for qualifying natural gas vehicle purchases or repowers.

(b) Procedures established [~~adopted~~] under this section must:

(1) provide for the commission to compile and regularly update a listing of potentially eligible [~~preapproved~~] natural gas vehicles and engines powered by natural gas that are certified to:

(A) [~~powered by natural gas engines certified to~~] emit not more than 0.2 grams of nitrogen oxides per brake horsepower hour; [~~or~~]

(B) [~~certified to~~] the United States Environmental Protection Agency's light-duty Bin 5 standard or better; or

(C) meet or exceed the United States Environmental Protection Agency's chassis-certified heavy-duty vehicle emission standard of:

(i) 0.2 grams of nitrogen oxides per mile for vehicles with a gross vehicle weight rating of 8,501 to 10,000 pounds; or

(ii) 0.4 grams of nitrogen oxides per mile for vehicles with a gross vehicle weight rating of 10,001 to 14,000 pounds;

(2) if a federal standard for the calculation of

emissions reductions exists, provide a method to calculate the reduction in emissions of nitrogen oxides, volatile organic compounds, carbon monoxide, particulate matter, and sulfur compounds for each replacement or repowering;

(3) assign a standardized grant ~~[rebate]~~ amount for each qualifying vehicle or engine repower under Section 394.007;

(4) allow for processing applications ~~[rebates]~~ on an ongoing first-come, first-served basis;

~~(5) [provide for contracts between the commission and participating dealers under Section 394.009];~~

~~[(6) allow grant recipients to assign their grant funds to participating dealers to offset the purchase or lease price];~~

~~[(7)]~~ require grant applicants to identify natural gas fueling stations that are available to fuel the qualifying vehicle in the area of its use;

(6) ~~[(8)]~~ provide for payment not later than the 30th day after the date the request for reimbursement for an approved grant is received;

(7) ~~[(9)]~~ provide for application submission and application status checks using procedures established by the commission, which may include application submission and status checks to be made over the Internet; and

(8) ~~[(10)]~~ consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

SECTION 37. Section 394.012, Health and Safety Code, is amended to read as follows:

Sec. 394.012. EXPIRATION. This chapter expires August 31, 2023 [2017].

SECTION 38. Sections 386.161(b), 386.252(e-1), 394.009, 394.010, and 394.011, Health and Safety Code, are repealed.

SECTION 39. The changes in law made by this Act apply only to a Texas emissions reduction plan grant awarded on or after the effective date of this Act. A grant awarded before the effective date of this Act is governed by the law in effect on the date the award was made, and the former law is continued in effect for that purpose.

SECTION 40. This Act takes effect August 31, 2015.