

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE C. AIR QUALITY

For expiration of this chapter, see Section 386.002.

CHAPTER 386. TEXAS EMISSIONS REDUCTION PLAN

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 386.001. DEFINITIONS. In this chapter:

(1) "Account" means the Texas emissions reduction plan account established under Section [386.251](#).

(2) "Affected county" includes:

- (A) Bastrop 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;
- (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) Williamson County;
- (X) Wilson County; and
- (Y) any other county designated as an affected

county by commission rule because of deteriorating air quality.

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

(4) Repealed by Acts 2005, 79th Leg., Ch. 1125, Sec. 22, eff. September 1, 2005.

(5) "Fund" means the Texas emissions reduction plan fund established under Section [386.250](#).

(6) "Incremental cost" means the cost of an applicant's project less a baseline cost that would otherwise be incurred by an applicant in the normal course of business. Incremental costs may include added lease or fuel costs as well as additional capital costs.

(7) "Laboratory" means the Energy Systems Laboratory at the Texas Engineering Experiment Station of The Texas A&M University System.

(8) "Nonattainment area" means an area so designated under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended.

(9) "Plan" means the Texas emissions reduction plan.

(10) "Site" means the total of all stationary sources located on one or more contiguous or adjacent properties, which are under common control of the same person or persons under common control.

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

(11) "Utility commission" means the Public Utility Commission of Texas.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 22, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 14, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(b-2),

eff. August 30, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(r-2)(1), eff. August 30, 2017.

Acts 2019, 86th Leg., R.S., Ch. 127 (H.B. [1627](#)), Sec. 1, eff. May 23, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. [3745](#)), Sec. 1.01, eff. September 1, 2021.

Sec. 386.002. 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 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 3, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. [12](#)), Sec. 2.01, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 15, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(c), eff. August 30, 2017.

#### SUBCHAPTER B. TEXAS EMISSIONS REDUCTION PLAN

Sec. 386.051. TEXAS EMISSIONS REDUCTION PLAN. (a) The utility commission, the commission, and the comptroller shall establish and administer the Texas emissions reduction plan in accordance with this chapter.

(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(d);
- (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);
- (10) the Texas clean fleet program established under Chapter 392;
- (11) the Texas alternative fueling facilities program established under Chapter 393;
- (12) the Texas natural gas vehicle grant 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 support congestion mitigation to reduce mobile source ozone precursor emissions;
- (15) the seaport and rail yard areas emissions reduction program established under Subchapter D-1;
- (16) conducting research and other activities associated with making any necessary demonstrations to the United States Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event;
- (17) studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected

counties as provided by Section 386.252(a);

(18) the governmental alternative fuel fleet grant program established under Chapter 395;

(19) remittance of funds to the state highway fund for use by the Texas Department of Transportation for congestion mitigation and air quality improvement projects in nonattainment areas and affected counties; and

(20) the Texas hydrogen infrastructure, vehicle, and equipment grant program established under Subchapter G.

(b-1) Under the plan, the commission may establish and administer other programs, including other grants or funding programs, as determined by the commission to be necessary or effective in fulfilling its duties and achieving the objectives described under Section 386.052. The commission may apply the criteria and requirements applicable to the programs under Subsection (b) to programs established under this subsection, or the commission may establish separate criteria and requirements as necessary to achieve the commission's objectives. The additional programs shall be consistent with and comply with all applicable laws, regulations, and guidelines pertaining to the use of state funds, the awarding and administration of grants and contracts, and achieving reductions in ozone precursors or particulate matter. Under this subsection, the commission may place a priority on programs that address the following goals:

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

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

(c) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1230, Sec. 25(1), eff. June 14, 2013.

(d) Equipment purchased before September 1, 2001, is not eligible for a grant or other funding under the plan.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 3, eff. Oct. 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 766 (H.B. [3469](#)), Sec. 1, eff. June 17, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 5, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 28 (S.B. [527](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. [1727](#)), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. [1727](#)), Sec. 25(1), eff. June 14, 2013.

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

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. [4472](#)), Sec. 1, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. [4885](#)), Sec. 1, eff. September 1, 2023.

Sec. 386.0515. AGRICULTURAL PRODUCT TRANSPORTATION PROJECTS.

(a) In this section:

(1) "Agricultural product transportation" means the transportation of a raw agricultural product from the place of production using a heavy-duty truck to:

- (A) a nonattainment area;
- (B) an affected county;
- (C) a destination inside the clean transportation zone; or
- (D) a county adjacent to a county described by Paragraph (B) or that contains an area described by Paragraph (A) or (C).

(2) "Clean transportation zone" has the meaning

assigned by Section 393.001.

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

(c) The determining factor for eligibility for participation in a program established under Chapter 392 or 394 for a project relating to agricultural product transportation is the overall accumulative net reduction in emissions of oxides of nitrogen in a nonattainment area, an affected county, or the clean transportation zone.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 2, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(c-2), eff. August 30, 2017.

Sec. 386.052. COMMISSION DUTIES.

(a) In administering the plan established under this chapter and in accordance with the requirements of this chapter, the commission:

- (1) shall:
  - (A) manage plan funds and oversee the plan;
  - (B) produce guidelines, protocols, and criteria for eligible projects;
  - (C) develop methodologies for evaluating project cost-effectiveness;
  - (D) prepare reports regarding the progress and effectiveness of the plan; and
  - (E) take all appropriate and necessary actions so that emissions reductions achieved through the plan are credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan; and

(2) may hire staff and consultants needed to complete the commission's duties under this section and ensure timely review of applications and reimbursement of grant applicants' eligible project costs.

(b) Appropriate commission objectives include:

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

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

(3) achieving cost-saving and multiple benefits by reducing emissions of other pollutants;

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

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

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 766 (H.B. [3469](#)), Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. [12](#)), Sec. 2.02, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 6, eff. September 1, 2009.

Sec. 386.053. GUIDELINES AND CRITERIA. (a) The commission shall adopt grant guidelines and criteria consistent with the requirements of this chapter.

(b) Guidelines must include protocols to calculate projected emissions reductions, project cost-effectiveness, and safeguards to ensure that funded projects generate emissions reductions not otherwise required by state or federal law.

(c) The commission shall make draft guidelines and criteria available to the public and the United States Environmental Protection Agency before the 30th day preceding the date of final adoption and shall hold at least one public meeting to consider



public comments on the draft guidelines and criteria before final adoption. The public meeting shall be held in the affected state implementation plan area, and if the guidelines affect more than one state implementation plan area, a public meeting shall be held in each affected state implementation plan area affected by the guidelines.

(d) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the plan to achieve its goals. Revisions may include, among other changes, adding additional pollutants, adding stationary engines or engines used in stationary applications, adding vehicles and equipment that use fuels other than diesel, or adjusting eligible program categories, as appropriate, to ensure that incentives established under this chapter achieve the maximum possible emissions reductions. The commission shall make a proposed revision available to the public before the 30th day preceding the date of final adoption of the revision and shall hold at least one public meeting to consider public comments on the proposed revision before final adoption.

(e) Because the legislature finds that the current state of air quality in the state jeopardizes the state's ability to meet federal air quality requirements, the commission and the comptroller may adopt emergency rules under Section 2001.034, Government Code, with abbreviated notice, to carry out any rulemaking necessary to implement this chapter.

(f) Except as provided by Subsection (e), the rulemaking requirements of Chapter 2001, Government Code, do not apply to the adoption or revision of guidelines and criteria under this section. Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.03, eff. June 8, 2007.

Sec. 386.054. MONITORING PROCEDURES. (a) The commission shall develop procedures for monitoring whether the emissions reductions projected for projects awarded grants under this chapter are actually achieved. Monitoring procedures may include project reviews and contract requirements that the grant recipient provide information semiannually about the project. If the commission requires an annual report, the report shall contain a minimum amount of information required from a recipient and the report format shall be simple and convenient.

(b) Monitoring and reviewing procedures must be sufficient to enable emissions reductions generated by funded projects to be fully credited to air quality plans.

(c) The commission may revise monitoring and review procedures from time to time as necessary or appropriate to enhance the effectiveness of the plan.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Sec. 386.055. AVAILABILITY OF EMISSIONS REDUCTION CREDITS GENERALLY. (a) A project funded under a program established under this chapter may not be used for credit under any state or federal emissions reduction credit averaging, banking, or trading program.

(b) An emissions reduction generated by a program established under this chapter:

(1) may not be used as a marketable emissions reduction credit or, except as provided by Section [386.056](#), to offset any emissions reduction obligation; and

(2) may be used to demonstrate conformity with the state implementation plan.

(c) A project involving a new emissions reduction measure that would otherwise generate marketable credits under state or federal emissions reduction credit averaging, banking, or trading programs is not eligible for funding under a program established under this chapter unless:

(1) the project includes the transfer of the reductions that would otherwise be marketable credits to the state implementation plan or the owner or operator as provided by Section

386.056; and

(2) the reductions are permanently retired.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Sec. 386.056. AVAILABILITY OF EMISSIONS REDUCTIONS IN CERTAIN NONATTAINMENT AREAS. (a) An owner or operator of a site located in the Houston-Galveston or Dallas-Fort Worth nonattainment area may use emissions reductions generated by a program established under this chapter to offset the requirements of commission rules relating to control of air pollution from oxides of nitrogen if:

(1) the owner or operator of the site contributes to the fund \$75,000 for each ton of emissions that is used, not to exceed 25 tons annually and not to exceed one-half ton per day;

(2) the owner or operator of the site demonstrates to the commission's satisfaction that the site will be in full compliance with the commission's emissions reduction rules not later than the fifth anniversary of the date on which the emissions reductions would otherwise be required;

(3) emissions from the site are reduced by at least 80 percent from the established baseline; and

(4) the commission approves a petition by the owner or operator that demonstrates that it is technically infeasible to comply with the commission's emissions reduction requirements above 80 percent.

(b) Funds collected under this section shall be used to generate emissions reductions needed to meet the commission's attainment demonstration.

(c) The commission shall verify that emissions reductions generated from funds collected under this section occur in the same nonattainment area in which the site that purchased the emissions reductions is located.

(d) The commission shall assure that the emissions reductions funded under the programs authorized by this subchapter used to offset commission requirements under this section benefit the community in which the site using the emissions reductions is

located. If there are no eligible emissions reduction projects within the community, the commission may authorize projects in an adjacent community. In this subsection, "community" means a justice of the peace precinct.

(e) The commission shall assure that emission reduction credits may be received in the Houston-Galveston nonattainment area for energy efficiency and urban heat island programs in connection with the State Implementation Plan for the eight-hour ozone standard.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1095 (H.B. [2129](#)), Sec. 2, eff. September 1, 2005.

Sec. 386.057. REVIEW AND REPORTING REQUIREMENTS. (a) The commission annually shall review programs established under the plan, including each project funded under the plan, the amount granted for the project, the emissions reductions attributable to the project, and the cost-effectiveness of the project.

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

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

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

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

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

(c) For projects funded as part of the infrastructure program under Subchapter C, the report must:

(1) describe and evaluate:

(A) the infrastructure facilities funded under that subchapter;

(B) the degree to which the funded facilities are supporting on-road or non-road diesel projects;

(C) the amount of fuel or electricity dispensed for each facility; and

(D) associated emissions reductions and cost-effectiveness; and

(2) make a finding regarding the need for additional appropriations from the account to improve the ability of the program to achieve its goals.

(d) The report must:

(1) account for money received, money disbursed as grants, money reserved for grants based on project approvals, and any recommended transfer of money between allocations and must estimate future demand for grant funds under the plan;

(2) describe the overall effectiveness of the plan in delivering the emissions reductions that may be credited to air quality plans;

(3) evaluate the effectiveness of the plan in soliciting and evaluating project applications, providing awards in a timely manner, and monitoring project implementation;

(4) describe adjustments made to project selection criteria and recommend any further needed changes or adjustments to the grant programs, including changes in grant award criteria, administrative procedures, or statutory provisions that would enhance the plan's effectiveness and efficiency;

(5) describe adjustments made to the maximum cost-effectiveness amount and award amount;

(6) evaluate the benefits of addressing additional pollutants as part of the plan; and

(7) include legislative recommendations necessary to improve the effectiveness of the plan.

(e) Not later than October 1 of each year, the Texas Department of Transportation shall report to the commission the following information for all congestion mitigation and air quality improvement projects in nonattainment areas and affected counties that are planned to be funded, or received initial funding during the preceding 10 years, from money received by the department under

this chapter:

(1) projects to mitigate congestion and improve air quality that are currently planned;

(2) projects to mitigate congestion and improve air quality that have been completed;

(3) estimated emissions reductions for all planned and completed congestion mitigation projects; and

(4) estimated cost per ton analysis of reduced emissions of nitrogen oxides, particulate matter, or volatile organic compounds for each congestion mitigation project planned or completed.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 22, eff. September 1, 2005.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 7, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(d), eff. August 30, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. [3745](#)), Sec. 1.02, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. [4472](#)), Sec. 2, eff. September 1, 2021.

#### SUBCHAPTER C. DIESEL EMISSIONS REDUCTION INCENTIVE PROGRAM

Sec. 386.101. DEFINITIONS. In this subchapter:

(1) "Cost-effectiveness" means the total dollar amount expended divided by the total number of tons of oxides of nitrogen emissions reduction attributable to that expenditure. Cost-effectiveness for the program as a whole and for particular projects under the program is calculated as provided by Sections [386.105](#) and [386.106](#).

(2) "Fuel cell" means an electrochemical device that uses fuel and oxidant to continuously generate electricity.

(3) "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.

(4) "Non-road diesel" means a vehicle or piece of equipment, excluding a motor vehicle or on-road diesel, that is powered by a non-road engine, including:

(A) non-road nonrecreational equipment and vehicles;

(B) construction equipment;

(C) locomotives;

(D) marine vessels; and

(E) other high-emitting diesel engine categories established by the commission.

(5) "Non-road engine" means an internal combustion engine that is:

(A) in or on a piece of equipment that is self-propelled or that propels itself and performs another function, excluding a vehicle that is used solely for competition;

(B) in or on a piece of equipment that is intended to be propelled while performing its function; or

(C) designed to be and capable of being carried or moved from one location to another.

(6) "On-road diesel" means an on-road diesel-powered motor vehicle that has a gross vehicle weight rating of 8,500 pounds or more.

(7) "Program" means the diesel emissions reduction incentive program established under this subchapter.

(8) "Qualifying fuel" includes any liquid or gaseous fuel or additives registered or verified by the United States Environmental Protection Agency that is ultimately dispensed into a motor vehicle or on-road or non-road diesel that provides reductions of emissions of oxides of nitrogen beyond reductions required by state or federal law.

(9) "Repower" means to replace an old engine powering an on-road or non-road diesel with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells.

(10) "Retrofit" means to equip an engine and fuel

system with new emissions-reducing parts or technology verified by the United States Environmental Protection Agency after manufacture of the original engine and fuel system.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 3, eff. June 20, 2003.

Sec. 386.102. PROGRAM. (a) The commission shall establish and administer a diesel emissions reduction incentive program. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from high-emitting diesel sources in nonattainment areas and affected counties of the state. The commission shall determine the eligibility of projects.

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

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

(c) A project listed in Subsection (b) is not eligible if it is required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document. This subsection does not apply to:

- (1) an otherwise qualified project, regardless of the fact that the state implementation plan assumes that the change in



equipment, vehicles, or operations will occur, if on the date the grant is awarded the change is not required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document; or

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

(e) To improve the success of the program the commission:

(1) shall establish cost-effective limits for grants awarded under the program to an owner or operator of a locomotive or marine vessel that are lower than the cost-effectiveness limits applied to other emissions reductions grants;

(2) shall determine the maximum amount of reductions available from the locomotive and marine sectors and develop strategies to facilitate the maximum amount of reductions in these sectors; and

(3) shall include in the report required by Section [386.057](#)(b) that is due not later than December 1, 2006, an analysis of the cost-effectiveness of the grants in these sectors.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 4, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 6, eff. September 1, 2005.

Sec. 386.103. APPLICATION FOR GRANT. (a) Any person as defined by Section [382.003](#) that owns one or more on-road or non-road diesels that operate primarily within a nonattainment area or affected county of this state or that otherwise contributes to the state inventory of emissions of oxides of nitrogen may apply for a grant under the program. The commission may adopt guidelines to allow a person other than the owner to apply for and receive a grant in order to improve the ability of the program to achieve its goals.

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

(1) a detailed description of the proposed project;

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

(3) other information the commission may require.

(c) To reduce the administrative burden for the commission and applicants, the commission may streamline the application process by:

(1) reducing data entry and the copying and recopying of applications; and

(2) developing, maintaining, and periodically updating a system to accept applications electronically through the commission's Internet website.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 5, eff. June 20, 2003.

Amended by:

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

Sec. 386.104. ELIGIBILITY REQUIREMENTS. (a) The commission shall establish criteria for setting priorities for projects eligible to receive grants under this subchapter. The commission shall review and may modify the criteria and priorities as appropriate.

(b) A proposed project as described in Section [386.102](#) must meet the requirements of this section to be eligible for a grant under the program.

(c) Except as otherwise provided by this subsection, for a proposed project as described by Section [386.102](#)(b), not less than 75 percent of vehicle miles traveled or hours of operation projected for the five years immediately following the award of a grant must be projected to take place in a nonattainment area or affected county of this state. The commission may set the minimum percentage of vehicle miles traveled or hours of operation required

to take place in a nonattainment area or affected county at a percentage and for a period that is different from the percentage and period specified by this subsection, provided that the commission may not set the minimum percentage at a level that is less than 55 percent. The commission may allow vehicle travel on highways and roadways, or portions of a highway or roadway, designated by the commission and located outside a nonattainment area or affected county to count towards the percentage of use requirement in this subsection.

(c-1) For a proposed project involving a marine vessel or engine, the vessel or engine must be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county of this state for a sufficient percentage of time over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section [386.105](#). The percentage determined by the commission under this subsection may not be less than 55 percent.

(c-2) For a proposed project involving non-road equipment used for natural gas recovery purposes, the equipment must be operated in a nonattainment area or affected county for a sufficient amount of use over the lifetime of the project, as determined by the commission, to meet the cost-effectiveness requirements of Section [386.105](#).

(d) Each proposed project must meet the cost-effectiveness requirements of Sections [386.105](#) and [386.106](#).

(e) A proposed repower project must exceed commission requirements relating to baseline emissions levels of the engines being replaced under the project.

(f) A proposed retrofit, repower, replacement, or add-on equipment project must document, in a manner acceptable to the commission, a reduction in emissions of oxides of nitrogen of at least 30 percent compared with the baseline emissions adopted by the commission for the relevant engine year and application. After study of available emissions reduction technologies and after public notice and comment, the commission may revise the minimum percentage reduction in emissions of oxides of nitrogen required by this subsection to improve the ability of the program to achieve its

goals.

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

(g) If a baseline emissions standard does not exist for on-road or non-road diesels in a particular category, the commission, for purposes of this subchapter, shall establish an appropriate baseline emissions level for comparison purposes.

(h) The commission may approve payments to offset the incremental cost, over the expected lifetime of the motor vehicle or on-road or non-road diesel, of the use of qualifying fuel in a motor vehicle or on-road or non-road diesel if the proposed project as a whole, including the incremental fuel cost, meets the requirements of this subchapter. The commission shall develop an appropriate method for converting incremental fuel costs over the lifetime of the motor vehicle or on-road or non-road diesel into an initial cost for purposes of determining cost-effectiveness as required by Section [386.105](#).

(i) If the commission determines that a heavy-duty motor vehicle or engine under this chapter must be decommissioned, the commission shall require the decommissioning to be carried out by crushing the vehicle, by making a hole in the engine block and permanently destroying the frame of the vehicle, or by another

method approved by the commission that permanently removes the vehicle from operation in this state. The commission shall provide a means for an applicant to propose an alternative method for complying with the requirements of this subsection. The commission shall enforce the requirements of this subsection.

(j) The executive director may waive any eligibility requirements established under this section 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.

(k) The commission shall consider an application under this chapter for the replacement of a vehicle that has been owned, leased, or otherwise commercially financed by the applicant. If the commission determines that a heavy-duty motor vehicle or engine that is leased or otherwise commercially financed must be decommissioned, the commission shall ensure that the applicant has a legal right to decommission the vehicle or engine before awarding a grant to the applicant.

(l) The commission shall consider an application for a vehicle replacement or a fleet expansion for a project with an activity life of five years or more, or 400,000 miles, whichever is earlier.

(m) The commission shall provide a form that minimizes, to the maximum extent possible, the amount of paperwork required.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 6, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. [12](#)), Sec. 2.04, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 16, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 835 (H.B. [3399](#)), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. [1727](#)), Sec. 4, eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(d-2),

eff. August 30, 2017.

Acts 2019, 86th Leg., R.S., Ch. 766 (H.B. 1346), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. 4472), Sec. 3, eff. September 1, 2021.

Sec. 386.105. CALCULATION OF COST-EFFECTIVENESS. (a) In calculating cost-effectiveness, one-time grants of money at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by the commission, taking into account the interest rate on bonds, interest earned by state funds, and other factors the commission considers appropriate.

(b) The commission shall establish reasonable methodologies for evaluating project cost-effectiveness consistent with Subsection (a) and with accepted methods.

(c) The commission shall develop protocols for calculating oxides of nitrogen emissions reductions not otherwise required by state or federal law in nonattainment areas and affected counties of this state from representative project types over the life of the projects.

(d) The commission may include in cost-effectiveness determinations only reductions in oxides of nitrogen emissions that are achieved in nonattainment areas and affected counties of this state.

(e) The commission may allow for the apportionment of credits associated with a project between the plan and another program or entity if the part of the credit assigned to the program that is part of the plan still meets any applicable cost-effectiveness criteria.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 7, eff. June 20, 2003.

Sec. 386.106. COST-EFFECTIVENESS CRITERIA; DETERMINATION OF GRANT AMOUNT. (a) Except as otherwise provided by statute, the commission may not award a grant that, net of taxes, provides an

amount that exceeds the incremental cost of the proposed project.

(b) The commission shall adopt guidelines for capitalizing incremental lease costs so those costs may be offset by a grant under this subchapter.

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

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 8, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.05, eff. June 8, 2007.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 5, eff. June 14, 2013.

Sec. 386.107. ADJUSTMENT TO MAXIMUM COST-EFFECTIVENESS AMOUNT AND AWARD AMOUNT. After study of available emissions reduction technologies and costs and after public notice and comment, the commission may change the values of the maximum grant award criteria established in Section 386.106 to account for inflation or to improve the ability of the program to achieve its goals.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e), eff. August 30, 2017.

Sec. 386.108. INFRASTRUCTURE PROJECTS. (a) The commission shall provide funding under Section 386.252(a) for infrastructure projects.

(b) To implement the requirement of Subsection (a), the

commission shall:

(1) solicit applications for a balanced mix of projects involving fueling and electrification infrastructure that is linked to motor vehicle and on-road and non-road diesel projects and consistent with program goals;

(2) coordinate infrastructure projects with motor vehicle and on-road and non-road diesel projects representing a broad range of fuels, technologies, and applications as appropriate and consistent with the goals of this chapter;

(3) adopt guidelines and criteria for infrastructure projects to be funded under the program; and

(4) oversee, monitor, and evaluate the use of grants awarded under this program and report on the effectiveness of this grant program in relation to the purposes and goals of this chapter. Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 28 (S.B. 527), Sec. 2, eff. September 1, 2011.

Sec. 386.109. ELIGIBLE INFRASTRUCTURE PROJECTS. (a) The commission may consider for funding under Section 386.108:

(1) the purchase and installation at a site of equipment that is designed primarily to dispense qualifying fuel, other than standard gasoline or diesel, or the purchase of on-site mobile fueling equipment;

(2) infrastructure projects, including auxiliary power units, designed to dispense electricity to:

(A) motor vehicles;

(B) on-road and non-road diesels; and

(C) marine vessels;

(3) a project that involves a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine; and

(4) a project to reduce air pollution and engine idling by relieving congestion through rail relocation or



improvement at a rail intersection that is located in a nonattainment or near nonattainment area.

(b) The commission may provide funding to other state agencies to implement projects under Subsection (a)(3), including funding for the lease, purchase, or installation of idle reduction technologies and facilities at rest areas and other public facilities on major highway transportation routes located in areas eligible for funding or for marine vessels operating on water routes eligible for funding. Funding under this subsection may include reasonable operational costs determined by the commission to be needed for the initial start-up and proper operation of the idle reduction technologies. The state agency leasing, owning, or operating the idle reduction facility constructed with funds provided under this subsection may, but is not required to, charge reasonable fees for the provision of idle reduction services provided that those fees are used to directly offset the cost of providing the services.

(c) In evaluating a request for funding of an eligible infrastructure project, the commission shall encourage the use of a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine at the state's ports and border crossings in affected areas.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.06, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1165 (H.B. 160), Sec. 2, eff. June 15, 2007.

Reenacted by Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 12.012, eff. September 1, 2009.

Sec. 386.110. APPLICATION PACKAGE FOR INFRASTRUCTURE PROJECTS. (a) The commission shall develop a simple, standardized application package for infrastructure project grants under this subchapter. The package must include:

- (1) an application form;
- (2) a brief description of:
  - (A) the program;
  - (B) the projects that are eligible for available funding;
  - (C) the selection criteria and evaluation process; and
  - (D) the required documentation;
- (3) the name of a person or office to contact for more information;
- (4) an example of the contract that an applicant will be required to execute before receiving a grant; and
- (5) any other information the commission considers useful to inform the applicant and expedite the application process.

(b) The application form shall require as much information as the commission determines is necessary to properly evaluate each project but shall otherwise minimize the information required.

(c) The commission may not require an applicant, as part of the application process, to calculate tons of emissions reduced or cost-effectiveness.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Sec. 386.111. APPLICATION REVIEW PROCEDURES. (a) The commission shall review an application for a grant for a project authorized under this subchapter, including an application for a grant for an infrastructure project, immediately on receipt of the application. If the commission determines that an application is incomplete, the commission shall notify the applicant with an explanation of what is missing from the application. The commission shall evaluate the completed application according to the appropriate project criteria. Subject to available funding, the commission shall make a final determination on an application as soon as possible.

(b) The commission shall make every effort to expedite the application review process and to award grants to qualified

projects in a timely manner. To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

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

(d) Subject to availability of funds, the commission shall award a grant under this subchapter in conjunction with the execution of a contract that obligates the commission to make the grant and the recipient to perform the actions described in the recipient's grant application. The contract must incorporate provisions for recapturing grant money in proportion to any loss of emissions reductions or underachievement in dispensing qualifying fuel compared with the volume of emissions reductions or amount of fuel dispensed that was projected in awarding the grant. Grant money recaptured under the contract provision shall be deposited in the fund and reallocated for other projects under this subchapter.

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

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 7, eff. September 1, 2005.

Sec. 386.112. ON-ROAD DIESEL PURCHASE OR LEASE INCENTIVE.

(a) The commission shall develop a purchase or lease incentive program for new on-road diesels and shall adopt rules necessary to implement the program and to reimburse a purchaser or lessee of a new on-road diesel that is eligible for reimbursement of incremental costs under this subchapter.

(b) The program shall authorize statewide incentives for the reimbursement of incremental costs for the purchase or lease, according to the schedule provided by Section [386.113](#), of new

on-road diesels that are certified by the United States Environmental Protection Agency or the California Air Resources Board to an emissions standard provided by Section 386.113 if the purchaser or lessee of the on-road diesel agrees to register the vehicle in this state and to operate the on-road diesel in this state for not less than 75 percent of the on-road diesel's annual mileage.

(c) Only one incentive will be provided for each new on-road diesel. The incentive shall be provided to the purchaser if the on-road diesel is not purchased for the purpose of leasing the on-road diesel to another person, or to the lessee and not to the purchaser if the on-road diesel is purchased for the purpose of leasing the on-road diesel to another person. A lease incentive for a new on-road diesel shall be prorated based on an eight-year lease term.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 9, eff. June 20, 2003.

Sec. 386.113. ON-ROAD DIESEL PURCHASE OR LEASE INCENTIVE SCHEDULE. A new on-road diesel is eligible for reimbursement of incremental costs according to the following schedule:

Incentive emissions standard		Reimbursement amount
(oxides of nitrogen)		
Date of manufacture	Date of manufacture	
(2001)	(10/1/02-9/30/06)	
2.5 g/bhp-hr NOx	1.2 g/bhp-hr NOx	up to \$15,000
1.5 g/bhp-hr NOx	0.5 g/bhp-hr NOx	up to \$25,000
0.0 g/bhp-hr NOx	0.0 g/bhp-hr NOx	up to \$25,000

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Sec. 386.114. MODIFICATION OF INCENTIVE EMISSIONS STANDARDS. After evaluating new technologies and after public notice and comment, the commission may change the incentive emissions standards established by Section 386.113 to improve the

ability of the program to achieve its goals.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e), eff. August 30, 2017.

Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After evaluating the availability of vehicles meeting the emissions standards and after public notice and comment, the commission may expand the program to include other on-road vehicles, regardless of fuel type used, that meet the emissions standards, have a gross vehicle weight rating of greater than 8,500 pounds, and are purchased or leased in lieu of a new on-road diesel.

Added by Acts 2003, 78th Leg., ch. 1331, Sec. 10, eff. June 20, 2003.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e), eff. August 30, 2017.

Sec. 386.116. SMALL BUSINESS INCENTIVES. (a) In this section, "small business" means a business owned by a person who:

(1) owns and operates not more than five vehicles, one of which is:

(A) an on-road diesel; or

(B) a non-road diesel; and

(2) has owned the vehicle described by Subdivision (1)(A) or (B) for more than two years.

(b) The commission shall develop a method of providing fast and simple access to grants under this subchapter for a small business. The method must:

(1) create a separate small business grant program; or

(2) require the commission to give special consideration to small businesses when implementing another program established under this subchapter.

(c) The commission shall publicize and promote the availability of grants under this subchapter for small businesses

to encourage the use of vehicles that produce fewer emissions.

(d) The commission shall include in the biennial plan report required by Section 386.057(b) a report of commission actions and results under this section.

Added by Acts 2003, 78th Leg., ch. 1331, Sec. 10, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 8, eff. September 1, 2005.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-1), eff. August 30, 2017.

Sec. 386.117. REBATE GRANTS. (a) The commission shall adopt a process for awarding grants under this subchapter in the form of rebates to streamline the grant application, contracting, reimbursement, and reporting processes for certain projects. The process adopted under this section must:

(1) designate certain types of projects, such as repowers, replacements, and retrofits, as eligible for rebates;

(2) project standardized oxides of nitrogen emissions reductions for each designated project type;

(3) assign a standardized rebate amount for each designated project type;

(4) allow for processing rebates on an ongoing first-come, first-served basis; and

(5) consolidate, simplify, and reduce the administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting processes for designated project types.

(b) The commission may limit or expand the designated project types as necessary to further the goals of the program.

(c) The commission may award rebate grants as a pilot project for a specific region or may award the grants statewide.

(d) The commission may administer the rebate grants or may designate another entity to administer the grants.

(e) The commission shall:

(1) investigate the requirements for establishing an

Internet-based application process for rebate grants and report those requirements to the legislature not later than December 31, 2007; or

(2) implement an Internet-based application process for rebate grants not later than June 1, 2008.

(f) The commission or its designee shall notify potential applicants of any changes to the rebate grant process by its e-mail list service and posting those changes on its Internet website at least 30 days before the changes become effective.

Added by Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 9, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.07, eff. June 8, 2007.

#### SUBCHAPTER D. MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM

Sec. 386.151. DEFINITIONS. In this subchapter:

(1) "Light-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating of less than 10,000 pounds.

(2) "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.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.152. APPLICABILITY. The provisions of this subchapter relating to a lessee do not apply to a person who rents or leases a light-duty motor vehicle for a term of 30 days or less.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.153. COMMISSION DUTIES REGARDING LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE PROGRAM. (a) The commission shall develop a purchase or lease incentive program for new light-duty motor vehicles and shall adopt rules necessary to

implement the program.

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

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

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

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.154. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE REQUIREMENTS. (a) A new light-duty motor vehicle powered by compressed natural gas or liquefied petroleum gas is eligible for a \$5,000 incentive if the vehicle:

(1) has four wheels;

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

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

(4) has a dedicated or bi-fuel compressed natural gas or liquefied petroleum gas fuel system:

(A) installed prior to first sale or within 500 miles of operation of the vehicle following first sale; and



(B) with a range of at least 125 miles as estimated, published, and updated by the United States Environmental Protection Agency;

(5) has, as applicable, a:

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

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

(ii) American National Standard for Basic Requirements for Compressed Natural Gas Vehicle (NGV) Fuel 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

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

(c) The incentive under Subsection (a) is limited to 1,000 vehicles for each state fiscal biennium.

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

(5) 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

(6) 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.

(e) The incentive under Subsection (d) is limited to 2,000 vehicles for each state fiscal biennium.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(e-2), eff. August 30, 2017.

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, an intermediate or final state vehicle manufacturer, or a manufacturer of compressed natural gas or liquefied petroleum gas systems shall provide to the commission a list of the new vehicle or natural gas or liquefied petroleum gas systems models that the manufacturer intends to sell in this state during that model year that meet the incentive requirements established under Section [386.154](#). The manufacturer or installer 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 or installers of systems to convert new motor vehicles to operate on natural gas or liquefied petroleum gas before sale as a new vehicle or within 500 miles of operation of the vehicle following first

sale.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.156. LIST OF ELIGIBLE MOTOR VEHICLES. (a) On August 1 of each year the commission shall publish a list of new motor vehicle models eligible for inclusion in an incentive under this subchapter. The commission shall publish supplements to that list as necessary to include additional new vehicle models.

(b) The commission shall publish the list of eligible motor vehicle models on the commission's Internet website.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.157. LIGHT-DUTY MOTOR VEHICLE PURCHASE OR LEASE INCENTIVE. (a) A person who purchases or leases a new light-duty motor vehicle described by Section 386.154 and listed under Section 386.156(a) is eligible to apply for an incentive under this subchapter.

(b) A lease incentive for a new light-duty motor vehicle shall be prorated based on a three-year lease term.

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

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.158. COMMISSION TO ACCOUNT FOR MOTOR VEHICLE PURCHASE OR LEASE INCENTIVES. (a) The commission by rule shall develop a method to administer and account for the motor vehicle purchase or lease incentives authorized by this subchapter and to pay incentive money to the purchaser or lessee of a new motor vehicle, on application of the purchaser or lessee as provided by this subchapter.

(b) The commission shall develop and publish forms and

instructions for the purchaser or lessee of a new motor vehicle to use in applying to the commission for an incentive payment under this subchapter. The commission shall make the forms available to new motor vehicle dealers and leasing agents. Dealers and leasing agents shall make the forms available to their prospective purchasers or lessees.

(c) The commission may require the submission of forms and documentation as needed to verify eligibility for an incentive under this subchapter.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.159. PURCHASE OR LEASE INCENTIVES INFORMATION.

(a) The commission shall establish a toll-free telephone number available to motor vehicle dealers and leasing agents for the dealers and agents to call to verify that incentives are available. The commission may provide for issuing verification numbers over the telephone line.

(b) Reliance by a dealer or leasing agent on information provided by the commission is a complete defense to an action involving or based on eligibility of a vehicle for an incentive or availability of vehicles eligible for an incentive.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

Sec. 386.160. 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.

Added by Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(e-2), eff. August 30, 2017.

SUBCHAPTER D-1. SEAPORT AND RAIL YARD AREAS EMISSIONS REDUCTION PROGRAM

Sec. 386.181. DEFINITIONS; RULES. (a) In this subchapter:

(1) "Cargo handling equipment" means 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.

(2) "Drayage truck" means a heavy-duty on-road or non-road vehicle that is used for drayage activities and that operates in or transgresses through a seaport or rail yard for the purpose of loading, unloading, or transporting cargo, including transporting empty containers and chassis.

(3) "Repower" means to replace an old engine powering a vehicle with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells.

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

Added by Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. [1727](#)), Sec. 13, eff. June 14, 2013.

Amended by:

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

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. [1731](#)), Sec. 8(f-2), eff. August 30, 2017.

Sec. 386.182. COMMISSION DUTIES. (a) The commission shall:

(1) develop a purchase incentive program to encourage owners to:

(A) replace older drayage trucks and cargo handling equipment with newer drayage trucks and cargo handling equipment; or

(B) repower drayage trucks and cargo handling equipment; and

(2) adopt guidelines necessary to implement the program described by Subdivision (1).

(b) The commission by rule and guideline shall establish criteria for the engines and the models of drayage trucks and cargo

handling equipment that are eligible for inclusion in an incentive program under this subchapter.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 13, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(g), eff. August 30, 2017.

Sec. 386.183. DRAYAGE TRUCK AND CARGO HANDLING EQUIPMENT PURCHASE INCENTIVE. (a) To be eligible for an incentive under this subchapter, a person must:

(1) purchase a replacement drayage truck, piece of cargo handling equipment, or engine that under Subsection (a-1)(1)(A) or (2)(A), as applicable, and the guidelines adopted by the commission under Section 386.182 is eligible for inclusion in the program for an incentive under this subchapter; and

(2) agree to:

(A) register the drayage truck in this state, if the replacement or repowered vehicle is an on-road drayage truck;

(B) operate the replacement or repowered drayage truck or cargo handling equipment in and within a maximum distance established by the commission of a seaport or rail yard in a nonattainment area of this state for not less than 50 percent of the truck's or equipment's annual mileage or hours of operation, as determined by the commission; and

(C) permanently remove the drayage truck, cargo handling equipment, or engine replaced under the program from operation in a nonattainment area of this state by destroying the engine in accordance with guidelines established by the commission and, if the incentive is for a replacement drayage truck or cargo handling equipment, scrapping the truck or equipment after the purchase of the replacement truck or equipment in accordance with guidelines established by the commission.

(a-1) To be eligible for purchase under this program:

(1) a drayage truck or cargo handling equipment must:

(A) 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

(B) emit oxides of nitrogen at a rate that is at least 25 percent less than the rate at which the truck or equipment being replaced under the program emits such pollutants; and

(2) an engine repowering a drayage truck or cargo handling equipment must:

(A) be an electric motor or an engine certified to the current federal emissions standards applicable to that type of engine, as determined by the commission; and

(B) emit oxides of nitrogen at a rate that is at least 25 percent less than the rate at which the former engine in the truck or equipment being repowered under the program emits such pollutants.

(b) To receive money under an incentive program provided by this subchapter, the purchaser of a drayage truck, piece of cargo handling equipment, or engine eligible for inclusion in the program must apply for the incentive in the manner provided by law, rule, or guideline of the commission.

(c) Not more than one incentive may be provided for each drayage truck or piece of cargo handling equipment purchased or repowered.

(d) An incentive provided under this subchapter may be used to fund not more than 80 percent of, as applicable, the purchase price of:

(1) the drayage truck or cargo handling equipment; or

(2) the engine and any other eligible costs associated with repowering the drayage truck or cargo handling equipment, as determined by the commission.

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

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

(2) as applicable:

(A) after purchase of the replacement drayage

truck or cargo handling equipment, permanently destroys the engine and scraps the truck or equipment replaced under the program in accordance with guidelines established by the commission; or

(B) after repowering the drayage truck or cargo handling equipment, permanently destroys the engine that was contained in the truck or equipment in accordance with guidelines established by the commission.

(f) The commission may modify this program to improve its effectiveness or further the goals of Subchapter B.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 13, eff. June 14, 2013.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(g-1), eff. August 30, 2017.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(g-2), eff. August 30, 2017.

#### SUBCHAPTER E. EVALUATION OF UTILITY COMMISSION ENERGY EFFICIENCY PROGRAMS

Sec. 386.205. EVALUATION OF UTILITY COMMISSION ENERGY EFFICIENCY PROGRAMS. In cooperation with the laboratory, the utility commission shall provide an annual report to the commission that, by county, quantifies the reductions of energy demand, peak loads, and associated emissions of air contaminants achieved from programs implemented under Section 39.905, Utilities Code.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 15, eff. June 14, 2013.

Acts 2019, 86th Leg., R.S., Ch. 573 (S.B. 241), Sec. 1.28, eff. September 1, 2019.

#### SUBCHAPTER F. TEXAS EMISSIONS REDUCTION PLAN FUND AND ACCOUNT

Sec. 386.250. TEXAS EMISSIONS REDUCTION PLAN FUND.



(a) The Texas emissions reduction plan fund is established as a trust fund outside the state treasury to be held by the comptroller and administered by the commission as trustee. Money in the fund may be spent without legislative appropriation and may be used only as provided by this chapter. Interest and other earnings on the balance of the fund shall be credited to the fund.

(b) The fund consists of:

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

(A) Section 386.056;

(B) Sections 151.0515 and 152.0215, Tax Code; and

(C) Sections 501.138, 502.358, and 548.5055, Transportation Code; and

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

(c) Not later than the 30th day after the last day of each state fiscal biennium, the commission shall transfer the unencumbered balance of the fund remaining on the last day of the state fiscal biennium to the credit of the state highway fund for use by the Texas Department of Transportation for projects described by Section 386.051(b)(19).

Added by Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 1.04, eff. September 1, 2021.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. 4472), Sec. 4, eff. September 1, 2021.

Sec. 386.251. TEXAS EMISSIONS REDUCTION PLAN ACCOUNT.

(a) The Texas emissions reduction plan account is an account in the state treasury.

(b) The account is administered by the commission for the benefit of the plan established under this chapter. The account is exempt from the application of Section 403.095, Government Code. Interest earned on the account shall be credited to the account.

(c) The account consists of its accumulated balance.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1,

2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1125 (H.B. [2481](#)), Sec. 10, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. [12](#)), Sec. 2.08, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. [1796](#)), Sec. 8, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 1296 (H.B. [2357](#)), Sec. 244, eff. January 1, 2012.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. [3745](#)), Sec. 1.05, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. [4472](#)), Sec. 5, eff. September 1, 2021.

Sec. 386.252. USE OF FUND AND ACCOUNT. (a) Money in the fund and account may be used only to implement and administer programs established under the plan. Subject to the reallocation of funds by the commission under Subsection (h) and after remittance to the state highway fund under Subsection (a-1), money from the fund and account to be used for the programs under Section [386.051](#)(b) shall initially be allocated as follows:

(1) four percent may be used for the clean school bus program under Chapter [390](#);

(2) eight percent total may be used between the Texas hydrogen infrastructure, vehicle, and equipment grant program established under Subchapter G and the new technology implementation grant program under Chapter [391](#), from which at least \$1 million will be set aside for electricity storage projects related to renewable energy and not more than \$8 million may be used for the Texas hydrogen infrastructure, vehicle, and equipment grant program;

(3) five percent may be used for the Texas clean fleet program under Chapter [392](#);

(4) not more than \$3 million may be used by the commission to fund a regional air monitoring program in commission Regions 3 and 4 to be implemented under the commission's oversight,

including direction regarding the type, number, location, and operation of, and data validation practices for, monitors funded by the program through a regional nonprofit entity located in North Texas having representation from counties, municipalities, higher education institutions, and private sector interests across the area;

(5) 7.5 percent may be used for the Texas natural gas vehicle grant program under Chapter 394;

(6) not more than \$6 million may be used for the Texas alternative fueling facilities program under Chapter 393, of which a specified amount may be used for fueling stations to provide natural gas fuel, except that money may not be allocated for the Texas alternative fueling facilities program for the state fiscal year ending August 31, 2019;

(7) not more than \$750,000 may be used each year to support research related to air quality as provided by Chapter 387;

(8) not more than \$200,000 may be used for a health effects study;

(9) at least \$6 million but not more than 15 percent may be used by the commission for administrative costs, including all direct and indirect costs for administering the plan, costs for conducting outreach and education activities, and costs attributable to the review or approval of applications for marketable emissions reduction credits;

(10) six percent may be used by the commission for the seaport and rail yard areas emissions reduction program established under Subchapter D-1;

(11) 2.5 percent may be used for the light-duty motor vehicle purchase or lease incentive program established under Subchapter D;

(12) not more than \$500,000 may be used by the commission to contract with the Energy Systems Laboratory at the Texas A&M Engineering Experiment Station annually for the development and annual computation of creditable statewide emissions reductions for the state implementation plan that are obtained through:

(A) wind and other renewable energy resources;

(B) energy efficiency programs administered by the Public Utility Commission of Texas or the State Energy Conservation Office; or

(C) the implementation of advanced building energy codes;

(13) not more than \$500,000 may be used for studies of or pilot programs for incentives for port authorities located in nonattainment areas or affected counties to encourage cargo movement that reduces emissions of nitrogen oxides and particulate matter; and

(14) the balance is to be used by the commission for the diesel emissions reduction incentive program under Subchapter C as determined by the commission.

(a-1) The commission shall remit not less than 35 percent of the amount deposited to the credit of the fund to the state highway fund for use by the Texas Department of Transportation for projects described by Section [386.051\(b\)\(19\)](#).

(b) Money in the fund and account may be used by the commission for programs under Sections [386.051\(b\)\(13\)](#), [\(b\)\(14\)](#), and [\(b-1\)](#).

(c) If the legislature does not specify amounts or percentages from the total appropriation to the commission to be allocated under Subsection (a) or (b), the commission shall determine the amounts of the total appropriation to be allocated under each of those subsections, such that the total appropriation is expended while maximizing emissions reductions.

(d) To supplement funding for air quality planning activities in affected counties, \$500,000 from the fund is to be deposited annually in the state treasury to the credit of the clean air account created under Section [382.0622](#).

(e) Money in the fund and account may be used for administrative costs incurred by the Energy Systems Laboratory at the Texas A & M Engineering Experiment Station.

(f) Not more than \$2.5 million from the fund and account may be used by the commission to conduct research and other activities associated with making any necessary demonstrations to the United States Environmental Protection Agency to account for the impact of

foreign emissions or an exceptional event.

(g) The commission may use money from the fund and account to award grants under the governmental alternative fuel fleet grant program established under Chapter 395, except that the commission may not use for that purpose more than three percent of the balance of the fund as of September 1 of each state fiscal year of the biennium for the governmental alternative fuel fleet grant program in that fiscal year.

(h) Subject to the limitations outlined in this section, money allocated under this section to a particular program may be used for another program under the plan as determined by the commission, based on demand for grants for eligible projects under particular programs after the commission solicits projects to which to award grants according to the initial allocation provisions of this section.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 12, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 766 (H.B. 3469), Sec. 3, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 1095 (H.B. 2129), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 11, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1125 (H.B. 2481), Sec. 12, eff. September 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 262 (S.B. 12), Sec. 2.09, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1125 (H.B. 1796), Sec. 23, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1232 (S.B. 1759), Sec. 4, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 28 (S.B. 527), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 589 (S.B. 20), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 589 (S.B. 20), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 1, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 2, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 10.003(a), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 16, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 17, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 18, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 19, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 25(7), eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 25(8), eff. June 14, 2013.

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(h), eff. August 30, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 1.06, eff. September 1, 2021.

Acts 2019, 86th Leg., R.S., Ch. 1301 (H.B. 3745), Sec. 1.07, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 1043 (H.B. 4472), Sec. 6, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. 4885), Sec. 2, eff. September 1, 2023.

SUBCHAPTER G. TEXAS HYDROGEN INFRASTRUCTURE, VEHICLE, AND  
EQUIPMENT GRANT PROGRAM

Sec. 386.301. DEFINITIONS. In this subchapter:

(1) "Hydrogen vehicle or equipment" means a heavy-duty motor vehicle or piece of heavy-duty equipment that uses hydrogen

to operate the vehicle or equipment, including through the use of hydrogen fuel cells or an internal combustion engine that runs on hydrogen.

(2) "Program" means the Texas hydrogen infrastructure, vehicle, and equipment grant program established under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. 4885), Sec. 3, eff. September 1, 2023.

Sec. 386.302. PROGRAM. (a) The commission shall establish and administer the Texas hydrogen infrastructure, vehicle, and equipment grant program to encourage the adoption of hydrogen infrastructure, vehicles, and equipment. Under the program, the commission shall provide funding for eligible projects to offset the incremental cost of projects that reduce emissions of oxides of nitrogen from high-emitting sources in nonattainment areas and affected counties of this state. The commission shall determine the eligibility of projects.

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

(1) implementation of hydrogen infrastructure projects;

(2) purchase or lease of on-road or non-road hydrogen vehicles or equipment;

(3) replacement of on-road or non-road heavy-duty vehicles or equipment with newer on-road or non-road hydrogen vehicles or equipment; and

(4) the repower or conversion of on-road or non-road heavy-duty vehicles or equipment with a powertrain that runs on or is powered by hydrogen.

(c) A project listed in Subsection (b) is not eligible if it is required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document. This subsection does not apply to:

(1) an otherwise qualified project, regardless of the fact that the state implementation plan assumes that the change in vehicles, equipment, or operations will occur, if on the date the

grant is awarded the change is not required by any state or federal law, rule or regulation, memorandum of agreement, or other legally binding document; or

(2) the purchase of a hydrogen vehicle or equipment or facility required only by local law or regulation or by corporate or controlling board policy of a public or private entity.

(d) The commission shall prioritize the awarding of grants under this subchapter in the following order:

(1) projects to replace on-road heavy-duty vehicles with newer on-road hydrogen vehicles;

(2) projects to purchase, lease, repower, or convert on-road heavy-duty vehicles with a powertrain that runs on or is powered by hydrogen;

(3) projects to implement hydrogen refueling infrastructure that will be accessible and available to the public at times designated by the grant contract;

(4) projects to replace non-road heavy-duty vehicles with newer non-road hydrogen vehicles; and

(5) projects to purchase, lease, repower, or convert non-road heavy-duty vehicles with a powertrain that runs on or is powered by hydrogen.

(e) Subject to Subsection (d), in awarding grants under this subchapter, the commission shall give preference to the most cost-effective projects that will result in the greatest reduction in emissions of oxides of nitrogen.

(f) The commission shall establish additional eligibility and prioritization criteria as needed to implement the program.

Added by Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. [4885](#)), Sec. 3, eff. September 1, 2023.

Sec. 386.303. APPLICATION PACKAGE. (a) The commission shall develop a simple, standardized application package for grants under this subchapter. The package must include:

(1) an application form;

(2) a brief description of:

(A) the program;

(B) the projects that are eligible for available



funding;

(C) the selection criteria and evaluation process; and

(D) the required documentation;

(3) the name of a person or office to contact for more information;

(4) an example of the contract that an applicant will be required to execute before receiving a grant; and

(5) any other information the commission considers useful to inform the applicant and expedite the application process.

(b) The application form shall require as much information as the commission determines is necessary to properly evaluate each project but shall otherwise minimize the information required.

Added by Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. 4885), Sec. 3, eff. September 1, 2023.

Sec. 386.304. APPLICATION REVIEW PROCEDURES. (a) The commission shall review an application for a grant for a project authorized under this subchapter. If the commission determines that an application is incomplete, the commission shall notify the applicant with an explanation of what is missing from the application. The commission shall evaluate the completed application according to the appropriate project criteria. Subject to available funding, the commission shall make a final determination on an application as soon as possible.

(b) The commission shall make every effort to expedite the application review process and to award grants to qualified projects in a timely manner. To the extent possible, the commission shall coordinate project review and approval with any timing constraints related to project purchases or installations to be made by an applicant.

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

(d) Subject to availability of funds, the commission shall award a grant under this subchapter in conjunction with the execution of a contract that obligates the commission to make the grant and the recipient to perform the actions described in the recipient's grant application. The contract must incorporate provisions for recapturing grant money in proportion to any loss of emissions reductions compared with the volume of emissions reductions that was projected in awarding the grant. Grant money recaptured under the contract provision shall be deposited in the fund and reallocated for other projects under this chapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 889 (H.B. [4885](#)), Sec. 3, eff. September 1, 2023.