

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE C. AIR QUALITY

For expiration of this chapter, see Section 392.008.

CHAPTER 392. TEXAS CLEAN FLEET PROGRAM

Sec. 392.001. DEFINITIONS. In this chapter:

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

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

(3) "Golf cart" has the meaning assigned by Section [551.401](#), Transportation Code.

(4) "Hybrid vehicle" means a vehicle with at least two different energy converters and two different energy storage systems on board the vehicle for the purpose of propelling the vehicle.

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

(6) "Light-duty motor vehicle" has the meaning assigned by Section [386.151](#).

(7) "Motor vehicle" has the meaning assigned by Section [386.151](#).

(8) "Neighborhood electric vehicle" means a motor vehicle that:

(A) is originally manufactured to meet, and does meet, the equipment requirements and safety standards established for "low-speed vehicles" in Federal Motor Vehicle Safety Standard No. 500 (49 C.F.R. Section 571.500);

(B) is a slow-moving vehicle, as defined by Section [547.001](#), Transportation Code, that is able to attain a speed of more than 20 miles per hour but not more than 25 miles per hour in one mile on a paved, level surface;

(C) is a four-wheeled motor vehicle;

(D) is powered by electricity or alternative

power sources;

(E) has a gross vehicle weight rating of less than 3,000 pounds; and

(F) is not a golf cart.

(9) "Program" means the Texas clean fleet program established under this chapter.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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

Acts 2019, 86th Leg., R.S., Ch. 1233 (H.B. 1548), Sec. 4, eff. June 14, 2019.

Sec. 392.002. PROGRAM. (a) The commission shall establish and administer the Texas clean fleet program to encourage a person that has a fleet of diesel-powered vehicles to replace them with alternative fuel or hybrid vehicles. Under the program, the commission shall provide grants for eligible projects to offset the incremental cost of projects for fleet owners.

(b) An entity that places 10 or more qualifying vehicles in service for use entirely in this state during a calendar year is eligible to participate in the program.

(c) Notwithstanding Subsection (b), an entity that submits a grant application for 10 or more qualifying vehicles is eligible to participate in the program even if the commission denies approval for one or more of the vehicles during the application process.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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

Sec. 392.003. QUALIFYING VEHICLES. (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 the entity purchases a new on-road vehicle that:

(1) is certified to the appropriate current federal emissions standards as determined by the commission;

(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.

(b) A vehicle is not a qualifying vehicle if the vehicle:

(1) is a neighborhood electric vehicle;

(2) has been used as a qualifying vehicle to qualify for a grant under this chapter for a previous reporting period or by another entity; or

(3) has qualified for a similar grant or tax credit in another jurisdiction.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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

Sec. 392.004. APPLICATION FOR GRANT. (a) An entity operating in this state that operates a fleet of at least 75 vehicles may apply for and receive a grant under the program.

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

(c) An application for a grant under this chapter must be made on a form provided by the commission and must contain the information required by the commission.

(d) The commission shall minimize, to the maximum extent possible, the amount of paperwork required for an application.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011,

82nd Leg., R.S., Ch. 91 (S.B. 1303), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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

Sec. 392.005. ELIGIBILITY OF PROJECTS FOR GRANTS. (a) The commission by rule shall establish criteria for prioritizing projects 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, a project must:

(1) result in a reduction in emissions of nitrogen oxides or other pollutants, as established by the commission, of at least 25 percent, 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) replace a vehicle that:

(A) 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 immediately preceding the submission of a grant application;

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

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

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

(c) As a condition of receiving a grant, the qualifying vehicle must be continuously owned, registered, and operated in the state by the grant recipient until the earlier of the fifth anniversary of the activity start date established by the commission or the date the vehicle has been in operation for 400,000 miles after the activity start date established by the

commission. 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 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.

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the contract requirements, including submission of reports on at least an annual basis, or more frequently as determined by the commission.

(e) The commission by contract may require the return of all or a portion of grant funds for a grant recipient's noncompliance with the usage and percentage of use requirements under this section.

(f) A vehicle or engine replaced under this program must be rendered permanently inoperable 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 of complying with the requirements of this subsection. The commission shall enforce the requirements of this subsection.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road vehicles being replaced. The commission may consider and establish baseline emission rates for additional pollutants of concern, as determined by the commission.

(h) Mileage requirements established by the commission under Subsection (b)(2)(B) may differ by vehicle weight categories and type of use.

(i) The executive director may 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.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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

Sec. 392.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the project for which the grant is made, which may include the initial cost of the alternative fuel vehicle and the reasonable and necessary expenses incurred for the labor needed to install emissions-reducing equipment. The recipient may not use the grant to pay the recipient's administrative expenses.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(30), eff. September 1, 2011.

Sec. 392.007. AMOUNT OF GRANT.

(a) The amount the commission shall award for each vehicle being replaced is up to 80 percent, as determined by the commission, of the total cost for replacement of a heavy-duty or light-duty diesel engine.

(b) The commission may revise the standards for determining grant amounts, as needed to reflect changes to federal emission standards and decisions on pollutants of concern.

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. [1727](#)), Sec. 21, eff. June 14, 2013.

Sec. 392.008. 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](#).

Redesignated from Health and Safety Code, Chapter 391 by Acts 2011, 82nd Leg., R.S., Ch. 91 (S.B. [1303](#)), Sec. 27.001(30), eff. September 1, 2011.

Amended by:

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