

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE C. AIR QUALITY

For expiration of this chapter, see Section 394.012.

CHAPTER 394. TEXAS NATURAL GAS VEHICLE GRANT PROGRAM

Sec. 394.001. DEFINITIONS. In this chapter:

(1) "Certified" includes:

(A) new vehicle or new engine certification by the United States Environmental Protection Agency; or

(B) certification or approval by the United States Environmental Protection Agency of a system to convert a vehicle or engine to operate on an alternative fuel and a demonstration by the emissions data used to certify or approve the vehicle or engine, if the commission determines the testing used to obtain the emissions data is consistent with the testing required for approval of an alternative fuel conversion system for new and relatively new vehicles or engines under 40 C.F.R. Part 85.

(1-a) "Clean transportation zone" has the meaning assigned by Section [393.001](#).

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

(3) "Executive director" means the executive director of the Texas Commission on Environmental Quality.

(4) "Heavy-duty motor vehicle" means a motor vehicle that:

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

(B) is certified to or has an engine certified to the United States Environmental Protection Agency's emissions standards for heavy-duty vehicles or engines.

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

(6) "Medium-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating of more than 8,500 pounds that:

(A) is certified to the United States Environmental Protection Agency's light-duty emissions standard;

or

(B) has an engine certified to the United States Environmental Protection Agency's light-duty emissions standard.

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

(7-a) "Natural gas engine" means an engine that operates:

(A) solely on natural gas, including compressed natural gas, liquefied natural gas, or liquefied petroleum gas; or

(B) on a combination of diesel fuel and natural gas, including compressed natural gas, liquefied natural gas, or liquefied petroleum gas, and is capable of achieving at least 60 percent displacement of diesel fuel with natural gas.

(8) "Natural gas vehicle" means a motor vehicle that is powered by a natural gas engine.

(9) "Program" means the Texas natural gas vehicle grant program established under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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

Acts 2017, 85th Leg., R.S., Ch. 755 (S.B. 1731), Sec. 8(r-2)(3), eff. August 30, 2017.

Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 9.002, eff. September 1, 2019.

Sec. 394.002. PROGRAM. The commission shall establish and administer the Texas natural gas vehicle grant program to encourage an entity that has a heavy-duty or medium-duty motor vehicle to repower the vehicle with a natural gas engine or replace the vehicle with a natural gas vehicle. Under the program, the commission shall provide grants for eligible heavy-duty motor vehicles and medium-duty motor vehicles to offset the incremental cost for the entity of repowering or replacing the heavy-duty or medium-duty motor vehicle.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3,

eff. September 1, 2011.

Sec. 394.003. 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:

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

(A) is a new natural gas vehicle or, subject to Subsection (c), a used natural gas vehicle;

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

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

(2) repowered the on-road motor vehicle to a natural gas vehicle powered by a natural gas engine that is certified to the appropriate current federal emissions standards as determined by the commission.

(b) A heavy-duty or medium-duty motor vehicle is not a qualifying vehicle if the vehicle or the natural gas engine powering the vehicle:

(1) has been awarded a grant under this chapter for a previous reporting period; or

(2) has received a similar grant or tax credit in another jurisdiction if that grant or tax credit program is relied on for credit in the state implementation plan.

(c) A used natural gas vehicle that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle must be of model year 2017 or later, provided that the model year may not be more than six years older than the current model year at the time of the submission of the grant application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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

eff. August 30, 2017.

Acts 2021, 87th Leg., R.S., Ch. 450 (H.B. 963), Sec. 1, eff. September 1, 2021.

Sec. 394.004. APPLICATION FOR GRANT. (a) Only an entity operating in this state that operates a heavy-duty or medium-duty motor vehicle may apply for and receive a grant under this chapter.

(b) 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.

(c) The commission, after consulting stakeholders, shall:

(1) simplify the application form; and

(2) minimize, to the maximum extent possible, documentation required for an application.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Sec. 394.005. ELIGIBILITY FOR GRANTS. (a) The commission shall establish criteria for prioritizing qualifying vehicles 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:

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

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

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

(2) the qualifying vehicle must:

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

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

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

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

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

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

(i) is owned by the applicant;

(ii) is an on-road vehicle that has been:

(a) owned, leased, or otherwise commercially financed and operated in Texas as a fleet vehicle for at least the two years immediately preceding the submission of a grant application; and

(b) registered in a county located in the clean transportation zone for at least the two years immediately preceding the submission of a grant application; and

(iii) otherwise satisfies the mileage, usage, and useful life requirements established under Paragraph (A) as determined by documentation associated with the vehicle; or

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

(i) is installed in 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;

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

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

(iv) is installed in an on-road vehicle that, at the time of the vehicle's repowering, was in operating condition and had 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, leased, or otherwise commercially financed and registered and operated in the state by the grant recipient until the earlier of the fourth anniversary of the activity start date established by the commission 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 clean transportation zone.

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

(d) The commission shall include and enforce the usage provisions in the grant contracts. The commission shall monitor compliance with the ownership, leasing, and usage 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 heavy-duty or medium-duty motor vehicle 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, or be permanently removed from operation in this state. The commission shall establish criteria for ensuring the permanent destruction or permanent removal of the engine or vehicle. The commission shall enforce the destruction and removal requirements. For purposes of this subsection, "permanent removal" means the permanent export of the vehicle or engine to a destination outside of the United States, Canada, or the United Mexican States.

(g) The commission shall establish baseline emission levels for emissions of nitrogen oxides for on-road heavy-duty or medium-duty motor vehicles being replaced or repowered by using the

emission certification for the engine or vehicle being replaced. The commission may consider deterioration of the emission performance of the engine of the vehicle being replaced in establishing the baseline emission level. The commission may consider and establish baseline emission rates for additional pollutants of concern.

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

(i) The executive director may waive the requirements of Subsection (b)(2)(A)(i) or (B)(ii) on a finding of good cause, which may include short lapses in registration or operation due to economic conditions, seasonal work, or other circumstances.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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

Acts 2021, 87th Leg., R.S., Ch. 450 (H.B. 963), Sec. 2, eff. September 1, 2021.

Sec. 394.006. RESTRICTION ON USE OF GRANT. A recipient of a grant under this chapter shall use the grant to pay the incremental costs of the replacement or vehicle repower for which the grant is made, which may include a portion of the initial cost of the natural gas vehicle or natural gas engine, including the cost of the natural gas fuel system and installation. The recipient may not use the grant to pay the recipient's administrative expenses.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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

Sec. 394.007. AMOUNT OF GRANT. (a) The commission shall develop a grant schedule that:

(1) assigns a standardized grant in an amount up to 90

percent of the incremental cost of a natural gas vehicle purchase, lease, other commercial finance, or repowering;

(2) is based on:

(A) the certified emission level of nitrogen oxides, or other pollutants as determined by the commission, of the engine powering the natural gas vehicle; and

(B) the usage of the natural gas vehicle; and

(3) may take into account the overall emissions reduction achieved by the natural gas vehicle.

(b) Not less than 60 percent of the total amount of grants awarded under this chapter for the purchase and repowering of motor vehicles must be awarded to motor vehicles with a gross vehicle weight rating of at least 33,001 pounds. The minimum grant requirement under this subsection does not apply if the commission does not receive enough grant applications to satisfy the requirement for motor vehicles described by this subsection that are eligible to receive a grant under this chapter.

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

(d) The commission shall reduce the amount of a grant awarded under this chapter as necessary to keep the combined incentive total at or below the incremental cost of the vehicle for which the grant is awarded if the grant recipient is eligible to receive an automatic incentive at or before the time a grant is awarded under this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 1230 (S.B. 1727), Sec. 22, eff. June 14, 2013.

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



eff. August 30, 2017.

Sec. 394.008. GRANT PROCEDURES. (a) The commission shall establish procedures for:

(1) awarding grants under this chapter to reimburse eligible costs;

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

(3) preapproving the award of grants to applicants who propose to purchase and replace motor vehicles described by Section [394.005\(b\)\(2\)\(B\)](#).

(b) Procedures established under this section must:

(1) provide for the commission to compile and regularly update a listing of potentially eligible natural gas vehicles and natural gas engines that are certified to the appropriate current federal emissions standards as determined by the commission;

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

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

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

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

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

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

(8) consolidate, simplify, and reduce the

administrative work for applicants and the commission associated with grant application, contracting, reimbursement, and reporting requirements.

(c) The commission, or its designee, shall oversee the grant process and is responsible for final approval of any grant.

(d) Grant recipients are responsible for meeting all grant conditions, including reporting and monitoring as required by the commission through the grant contract.

Added by Acts 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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

Sec. 394.012. 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 2011, 82nd Leg., R.S., Ch. 892 (S.B. 385), Sec. 3, eff. September 1, 2011.

Amended by:

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