

Texas Chapter 114 - Control of Air Pollution From Motor Vehicles

SUBCHAPTER K : MOBILE SOURCE INCENTIVE PROGRAMS

DIVISION 3 : TEXAS CLEAN SCHOOL BUS PROGRAM

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SUBCHAPTER K: MOBILE SOURCE INCENTIVE PROGRAMS
DIVISION 4: TEXAS CLEAN SCHOOL BUS PROGRAM
§§114.640, 114.642, 114.644, 114.646, 114.648

STATUTORY AUTHORITY

The new sections are adopted under Texas Water Code, §5.102, which provides the commission with the general powers to carry out its duties under the Texas Water Code; §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the Texas Water Code and other laws of this state; and §5.105, which authorizes the commission by rule to establish and approve all general policy of the commission. The new sections are also adopted under Texas Health and Safety Code, Texas Clean Air Act, §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the Texas Clean Air Act; §382.011, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air; §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; Chapter 386, which establishes the TERP; and Chapter 390, which establishes the Clean School Bus Program. Finally, the new sections are adopted as part of the implementation of House Bill 3469, 79th Legislature, 2005.

The new sections implement Texas Clean Air Act, §§382.002, 382.011, 382.012, 382.017, 386.051, and House Bill 3469, 79th Legislature, 2005.

§114.640. Definitions.

Unless specifically defined in the Texas Clean Air Act (TCAA) or in the rules of the commission, the terms used in this subchapter have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms that are defined by the TCAA and

§§3.2, 101.1, and 114.1 of this title (relating to Definitions), the following words and terms, when used in this division shall have the following meanings, unless the context clearly indicates otherwise.

(1) **Diesel exhaust**--One or more of the air pollutants emitted from an engine by the combustion of diesel fuel, including particulate matter, nitrogen oxides, volatile organic compounds, air toxics, and carbon monoxide.

(2) **Incremental cost**--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.

(3) **Qualifying fuel**--Includes any liquid or gaseous fuel or additive registered or verified by the United States Environmental Protection Agency, other than standard gasoline or diesel, that is ultimately dispensed into a school bus that provides reductions of emissions of particulate matter.

(4) **Repower**--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.

(5) **Retrofit**--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.

§114.642. Applicability.

(a) Any school district or charter school in this state that operates one or more diesel-fueled school buses or a transportation system provided by a countywide school district may apply for and receive a grant under the program.

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

§114.644. Clean School Bus Program Requirements.

(a) Eligible projects include:

- (1) diesel oxidation catalysts for school buses built before 1994;
- (2) diesel particulate filters for school buses built from 1994 to 1998;
- (3) the purchase and use of emission-reducing add-on equipment for school buses, including devices that reduce crankcase emissions;
- (4) the use of qualifying fuel; and
- (5) other technologies that the commission finds will bring about significant emissions reductions.

(b) The commission may limit funding under a particular funding round to certain areas of the state, types of applicants, and/or types of projects. The commission may place a priority on funding for projects conducted in areas that do not attain certain national ambient air quality standards.

(c) Prior to each funding period, the commission may establish priorities and other criteria for reductions in diesel exhaust emissions to be achieved by projects funded during that period, including designation of additional pollutants to be addressed. A proposed project must achieve a reduction in emissions of diesel exhaust compared with the baseline emissions according to the percentage reduction level and other priorities established by the commission. The commission may also establish maximum levels for the funding awarded in relation to the emission reductions projected to be achieved by a project, in order to maximize the use of available funds.

(d) A school bus proposed for retrofit must be used on a regular, daily route to and from a school and have at least five years of useful life remaining unless the applicant agrees to remove the retrofit device at the end of the life of the bus and reinstall the device on another bus.

(e) For a proposed project that includes a replacement of equipment or a repower, the old equipment or engine must be recycled, scrapped, or otherwise permanently removed from the State of Texas.

(f) An application for a grant under this program is only eligible if it is made on the form provided by the commission and contains the information required by the commission.

(g) A recipient of a grant under this division shall use the grant to pay incremental costs of the project for which the grant is made, which may include 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.

(h) Projects funded with a grant from this program may not be used for credit under any state or federal emissions reduction credit averaging, banking, or trading program except as provided under Texas Health and Safety Code, §386.056.

(i) A proposed project as listed in subsection (a) of this section 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 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 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.

(j) If a grant recipient fails to meet the terms of a project grant or the conditions of this division, the executive director can require that the grant recipient return some or all of the grant funding to the extent that emission reductions are not achieved or cannot be demonstrated.

§114.646. Monitoring, Recordkeeping, and Reporting Requirements.

Grant recipients must meet the reporting requirements of their grant, which must occur no less frequently than annually.

§114.648. Implementation Schedule.

This division expires August 31, 2013.