

Texas Commission on Environmental Quality

4 Chapter 114 - Control of Air Pollution from Motor Vehicles

4K Subchapter K : Mobile Sources Incentive Programs

4K5 DIVISION 5 : TEXAS CLEAN FLEET PROGRAM EMISSIONS

Approved by EPA January 31, 2014 (79 FR 5290), effective April 1, 2014 (TXd149), Regulations.gov docket EPA-R06-OAR-2006-0885 [TX053].

Sections 650, 651, 652, 653, 654:

As adopted by TCEQ March 28, 2012 effective April 19, 2012 (4-77).

Approved by EPA January 31, 2014 (79 FR 5290), effective April 1, 2014 (TXd149), Regulations.gov document EPA-R06-OAR-2006-0885-0008 [TX053.08]

Sections 655, 656, 657, 658:

As adopted by TCEQ February 24, 2010 effective March 18, 2010 (4-75).

Approved by EPA January 31, 2014 (79 FR 5290), effective April 1, 2014 (TXd149), Regulations.gov document EPA-R06-OAR-2006-0885-0007 [TX053.07]

Struck-out text not in SIP.

Outline:

§114.650. Definitions. 4-79, TXd149

§114.651. Applicability. 4-79, TXd149

§114.652. Qualifying Vehicles. 4-79, TXd149

§114.653. Grant Eligibility. 4-79, TXd149

§114.654. Usage and Disposition. 4-79, TXd149

§114.655. Grant Restrictions. 4-75, TXd149

§114.656. Eligible Grant Amounts. 4-75, TXd149

§114.657. Reporting Requirements. 4-75, TXd149

§114.658. Implementation Schedule. 4-75, TXd149

*****end outline tx4K5d149*****v5v****

*** tx 114K5 *** TXd149 *** EPA-R06-OAR-2006-0885 *** TX053 *** v5v ***

SUBCHAPTER K: MOBILE SOURCE INCENTIVE PROGRAMS
DIVISION 5: TEXAS CLEAN FLEET PROGRAM
§§114.650 - 114.654

Statutory Authority

~~The amendments are adopted under Texas Water Code (TWC), §5.102, which provides the commission with the general powers to carry out its duties under the TWC; TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC and other laws of this state; and TWC, §5.105, which authorizes the commission by rule to establish and approve all general policy of the commission. These amendments are also adopted under Texas Health and Safety Code (THSC), Texas Clean Air Act, §382.017, which authorizes the commission to adopt rules consistent with the policy and purposes of the THSC; THSC, §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; and THSC, §382.012, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air. Finally, these amendments are adopted under THSC, Chapter 391, and are part of the implementation of House Bill 3399.~~

~~The amendments implement THSC, §§391.002, 391.004, and 391.005.~~

§114.650. 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 will have the following meanings, unless the context clearly indicates otherwise.

(1) Alternative fuel--A fuel, other than gasoline or diesel fuel. When used in this division, this definition is limited to the following: electricity, compressed natural gas, liquefied natural gas, hydrogen, propane, or a mixture of fuels containing at least 85% methanol by volume.

(2) Eligible entity--Any person or entity with a fleet of 75 or more vehicles that:

(A) are registered in Texas; and

(B) include at least 20 vehicles that are eligible for replacement.

(3) Golf cart--A motor vehicle designed by the manufacturer primarily for transporting persons on a golf course.

(4) Heavy-duty vehicle--A motor vehicle with a gross vehicle weight rating greater than 8,500 pounds and containing an engine certified to the United States Environmental Protection Agency's heavy-duty engine standards.

(5) Hybrid vehicle--A motor 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.

(6) Light-duty motor vehicle--A motor vehicle with a gross vehicle weight rating of less than 10,000 pounds and certified to the United States Environmental Protection Agency's light-duty vehicle emission standards.

(7) Motor vehicle--A self-propelled device designed for transporting persons or property on a public highway that is required to be registered under Texas Transportation Code, Chapter 502.

(8) Neighborhood electric vehicle--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 Code of Federal Regulations §571.500);

(B) is a slow-moving vehicle, as defined by Texas Transportation Code, §547.001 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--The Texas Clean Fleet Program established under this division.

§114.651. Applicability.

(a) Any eligible entity that will replace 20 or more on-road diesel vehicles within a twelve-month period with qualifying vehicles may apply for a grant under the Texas Clean Fleet Program to offset the cost of replacing those vehicles with alternative fuel or hybrid vehicles.

(b) Notwithstanding subsection (a) of this section, an entity that submits a grant application for 20 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.

(c) 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.

§114.652. Qualifying Vehicles.

(a) A qualifying vehicle is one that:

(1) is certified to current federal emissions standards;

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

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

(b) As a condition of receiving a grant the qualifying vehicle must be continuously owned, registered, and operated in Texas by the grant recipient until the earlier of the fifth anniversary of the date of reimbursement of the grant-funded expenses or until the date the vehicle has been in operation for 400,000 miles after the date of reimbursement.

(c) A vehicle is not a qualifying vehicle if it:

(1) is a neighborhood electric vehicle;

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

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

§114.653. Grant Eligibility.

(a) To be eligible for a grant under the program a project must result in a reduction in emissions of nitrogen oxides of at least 25%, based on:

(1) the baseline emission level set by the executive director; and

(2) the certified emission rate of the new vehicle or engine.

(b) The vehicle being replaced must:

(1) be 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;

(2) satisfy any minimum average annual mileage or fuel usage requirements established by the executive director;

(3) satisfy any minimum percentage of annual usage requirements established by the executive director; and

(4) be in operating condition with at least two years of remaining useful life, as determined in accordance with criteria established by the executive director.

(c) At the discretion of the executive director, projects that result in a 25% reduction in other pollutants may be considered eligible for funding under this program.

(d) The executive director may establish additional criteria for purposes of prioritizing projects for selection. Such criteria may include, but are not limited to:

(1) nonattainment status of the primary location in which the eligible vehicles are used; or

(2) cost per ton benefits of the overall emissions being reduced.

(e) The executive director shall waive the requirements of subsection (b)(1) of 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. In determining good cause and deciding whether to grant a waiver, the executive director shall ensure that the emissions reductions that will be attributed to the project will still be valid and, where applicable, meet the conditions for assignment for credit to the state implementation plan.

§114.654. Usage and Disposition.

(a) Not less than 75% of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the executive director, must occur in Texas.

(b) 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 executive director that permanently removes the vehicle from operation in this state. The executive director shall provide a means for an applicant to propose an alternative method for complying with the requirements of this subsection.

~~(a) Not less than 75% of the annual use of the qualifying vehicle, either mileage or fuel use as determined by the executive director, must occur in Texas.~~

~~(b) A vehicle or engine replaced under this program must be rendered permanently inoperable in accordance with criteria established by the executive director.~~

§114.655. Grant Restrictions.

A recipient of a grant under this division shall use the grant to pay the costs of the project for which the grant is made, which may include the initial cost of the alternative fuel or hybrid vehicle. The recipient shall not use the grant to pay the recipient's administrative expenses.

§114.656. Eligible Grant Amounts.

(a) The eligible grant amount for each heavy-duty on-road vehicle being replaced is determined as follows:

(1) 80% of the cost for replacement of a vehicle with an engine manufactured prior to 1988 and certified to meet the federal emissions standards, if any, applicable to the year of manufacture;

(2) 70% of the cost for replacement of a vehicle with an engine manufactured after 1987 and before 1998 and certified to meet the federal emission standards applicable to the year of manufacture;

(3) 60% of the cost for replacement of a vehicle with an engine manufactured after 1997 and before 2004 and certified to meet the federal emission standards applicable to year of manufacture;

and

(4) 50% of the cost for replacement of a vehicle with an engine manufactured after 2003 and certified to meet the federal emission standards applicable to the year of manufacture.

(b) The eligible grant amount for each light-duty on-road vehicle being replaced is determined as follows:

(1) 80% of the cost for replacement of a light-duty diesel vehicle of a model year prior to 1994 and certified to meet the federal emissions standards, if any, applicable to the model year of the vehicle;

(2) 70% of the cost for replacement of a light-duty diesel vehicle of a model year after 1993 and before 2004 and certified to meet the federal emission standards applicable to the model year of the vehicle; and

(3) 60% of the cost for replacement of a light-duty diesel vehicle of a model year after 2003 and certified to meet the federal emission standards applicable to the model year of the vehicle .

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

(d) To be eligible for replacement, vehicles and engines imported into the United States from another country must have met all applicable emissions certification requirements for importation.

§114.657. Reporting Requirements.

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

§114.658. Implementation Schedule.

This division expires on August 31, 2017.