



RG-524
Revised August 2016

Texas Emissions Reduction Plan: Guidelines for the Drayage Truck Incentive Program

printed on
recycled paper

Air Quality Division

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Texas Emissions Reduction Plan: Guidelines for the Drayage Truck Incentive Program

Prepared by
Air Quality Division
www.tceq.texas.gov/publications/rg/rg-524.html

RG-524
Revised August 2016



Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*

Richard A. Hyde, P.E., *Executive Director*

We authorize you to use or reproduce any original material contained in this publication—that is, any material we did not obtain from other sources. Please acknowledge the TCEQ as your source.

Copies of this publication are available for public use through the Texas State Library, other state depository libraries, and the TCEQ Library, in compliance with state depository law. For more information on TCEQ publications call 512-239-0028 or visit our website at:

tceq.texas.gov/publications

Published and distributed
by the
Texas Commission on Environmental Quality
P.O. Box 13087
Austin TX 78711-3087

The TCEQ is an equal opportunity employer. The agency does not allow discrimination on the basis of race, color, religion, national origin, sex, disability, age, sexual orientation or veteran status. In compliance with the Americans with Disabilities Act, this document may be requested in alternate formats by contacting the TCEQ at 512-239-0028, Fax 512-239-4488, or 1-800-RELAY-TX (TDD), or by writing P.O. Box 13087, Austin, TX 78711-3087.

How is our customer service? tceq.texas.gov/customersurvey

Contents

Chapter 1 Summary	1
Purpose	1
Legislative and Regulatory Standards	2
Funding	2
How to Contact Us.....	2
Chapter 2 Glossary	5
Chapter 3 Eligible Seaports and Rail Yards.....	7
Chapter 4 Eligibility Criteria	11
Eligible Activities.....	11
Eligible Applicants	11
Drayage Trucks Eligible for Replacement.....	11
Drayage Trucks Eligible for Purchase.....	13
Eligible Costs.....	14
Eligible Grant Amounts.....	14
Chapter 5 Program Procedures	15
Project Solicitation.....	15
Application Review and Selection	15
Application-Verification Visits.....	16
Awarding of Grants and Contracting.....	16
Reimbursement	16
Verification of Vehicle, Equipment, and Engine Disposition.....	16
Monitoring and Reporting	17
Commitments	17

Chapter 1

Summary

These guidelines contain the criteria for grants under the Texas Emissions Reduction Plan (TERP) Drayage Truck Incentive Program (DTIP), administered by the Texas Commission on Environmental Quality.

Purpose

The TERP was established by the Texas Legislature in 2001 to create monetary incentives for projects to improve air quality in the state's nonattainment areas and other areas of the state with air quality concerns. The nonattainment areas have been determined to not meet certain federal National Ambient Air Quality Standards established by the United States Environmental Protection Agency (EPA).

The DTIP was established to provide incentives for replacement of vehicles operating at seaports and rail yards in nonattainment areas. As a program under the TERP, the TCEQ has determined that a primary purpose of the DTIP should be to reduce emissions of nitrogen oxides (NO_x) and other pollutants, including particulate matter (PM), at these facilities and in the nonattainment areas in general.

NO_x is usually a by-product of high-temperature combustion. Everyday functions like driving a motor vehicle contribute to the creation of NO_x. It can react with volatile organic compounds in the presence of sunlight to form ground-level ozone—a lung irritant that may cause health problems.

Large diesel engines, such as those installed on drayage vehicles, also emit PM consisting of a mixture of solid particles and liquid droplets found in the air. PM can also form in complicated reactions of atmospheric chemicals such as sulfur dioxide and NO_x that are emitted from vehicle engines and other sources. PM that is 2.5 microns in aerodynamic diameter or smaller can get deep into the lungs and is capable of causing health problems.

In many cases, vehicles used for drayage are older, higher-polluting vehicles that are no longer used for longer-haul operations. The concentration of these vehicles operating at seaports and rail yards warranted the establishment of this separate program specifically for replacement of older drayage vehicles with newer, less-polluting models.

As required under the statute, these guidelines establish the standards and criteria for grants issued under the DTIP. Along with the statutory and regulatory provisions applicable to this program, recipients of incentive funding must adhere to the criteria herein.

In addition, the TCEQ may establish more specific criteria, through contracts or other funding mechanisms, consistent with these guidelines.

Legislative and Regulatory Standards

The DTIP is established under Chapter 386, Subchapter D-1, of the Texas Health and Safety Code (THSC). Rules for the program have been adopted by the commission in Title 30 Texas Administrative Code, Chapter 114 (30 TAC 114), Subchapter K, Division 8.

These guidelines were established and adopted in accordance with THSC 386.182. As authorized under THSC 386.183(2)(f), and 30 TAC 114.682(d), these guidelines may modify, further define, or otherwise limit the criteria in the statute and rules.

Other state law and regulations also apply to the DTIP. The applicable standards will be listed in the grant-solicitation documents and the grant contract.

Funding

The DTIP is funded through revenue deposited into the Texas Emissions Reduction Plan Fund. That revenue consists of fees and surcharges established by the Texas Legislature.

The amount of funds available for grants during each year varies depending on the legislative appropriations to the program. The TCEQ will periodically issue notices and information regarding the grant programs, including information on the amount of funds available.

How to Contact Us

For information about this and other TERP grant programs, interested parties should check the TERP website at <www.terpgrants.org>. Also linked from that page are electronic versions of this document, grant-application forms, and other documents, as well as other information that may be helpful to a potential applicant.

TCEQ personnel are available to answer questions and offer assistance with the grant programs. If you are unclear about whether a proposed project would qualify for a grant, please feel free to contact TCEQ personnel to discuss the project.

Program staffers may be reached by calling 800-919-TERP (8377) from 8 a.m. to 5 p.m., Monday-Friday during days the TCEQ is open, by e-mail at <terp@tceq.texas.gov>, or by mail at:

Implementation Grants Section, MC 204
Air Quality Division
Texas Commission on Environmental Quality
PO Box 13087
Austin TX 78711-3087

Chapter 2

Glossary

Terms as they are defined in Texas Health and Safety Code, Chapter 386, and the TCEQ rules (30 TAC 114.620) apply to this program, except as such terms are further defined and have the meanings as explained below.

activity. Each individual replacement of a drayage truck.

activity life. The period over which the grant recipient commits to use the grant-funded vehicle or equipment in accordance with the terms of the grant contract. The standard minimum activity life is five years, although a different minimum activity life may be established by the TCEQ for a particular grant application period. The TCEQ will establish a start date for each activity, which will usually be as soon as the TCEQ has verified that the vehicle being replaced has been properly disposed of.

cargo handling equipment. Any heavy-duty non-road, self-propelled vehicle or equipment used at a seaport or rail yard to lift or move cargo, such as containerized, bulk, or break-bulk goods. Equipment includes, but is not limited to, rubber-tired gantry cranes, yard trucks, top handlers, side handlers, reach stackers, forklifts, loaders, and aerial lifts.

cost-effectiveness. The total dollar amount expended divided by the total number of tons of reduced emissions of nitrogen oxides, particulate matter, and other pollutants (alone or in combination) attributable to that expenditure, as may be determined by the TCEQ.

drayage activities. The transport of cargo, such as containerized, bulk, or break-bulk goods.

drayage truck. A heavy-duty on-road or non-road vehicle used for drayage activities and that operates on or transgresses (i.e., passes) through a seaport or rail yard for the purpose of loading, unloading, or transporting cargo, including transporting empty containers and chassis. This term includes heavy-duty non-road, self-propelled vehicles or equipment meeting the definition of cargo handling equipment.

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

non-road equipment. A piece of equipment, excluding a motor vehicle or on-road heavy-duty vehicle, that is powered by a non-road engine, including non-road and non-recreational equipment and vehicles; construction equipment; industrial equipment; mining equipment; locomotives; marine vessels; and other categories of equipment with high-emitting engines.

non-road engine. An internal combustion engine that is in or on a piece of equipment that is self-propelled and performs another function, excluding:

- a vehicle that is used solely for competition,
- a piece of equipment that is intended to be propelled while performing its function, or
- a piece of equipment designed to be capable of being carried or moved from one location or another.

non-road yard truck. A non-road mobile utility vehicle (piece of non-road equipment) used to transport cargo containers with or without chassis; also known as a utility tractor rig, yard tractor, or terminal tractor.

on-road heavy-duty vehicle. An on-road motor vehicle that has a gross vehicle weight rating of 8,500 pounds or more. This definition does not include a vehicle over 8,500 pounds that is classified by the EPA as a medium-duty passenger vehicle subject to the federal emission standards for light-duty on-road vehicles.

on-road yard truck. An on-road heavy-duty vehicle similar in configuration and use to a non-road yard truck, but with an on-road engine and meeting regulatory standards for limited on-road use.

person. An individual, corporation, organization, government or governmental subdivision or agency, business trust, partnership, association, or any other legal entity. This may include a corporation headquartered outside Texas that operates equipment or vehicles primarily in an eligible county in Texas.

project. One or more activities approved by the TCEQ under one grant contract.

rail yard. A rail facility where cargo is routinely transferred from drayage truck to train or vice versa, including structures that are devoted to receiving, handling, holding, consolidating, and loading or delivery of rail-borne cargo.

seaport. Publically or privately owned property associated with the primary movement of cargo or materials from oceangoing vessels or barges to shore or vice-versa, including structures and property devoted to receiving, handling, holding, consolidating, and loading or delivery of waterborne shipments. A seaport also includes publically- or privately-owned property within a ship channel security district established under Texas Water Code, Chapter 68.

Uniform Grant Management Standards. Standards issued by the Texas comptroller of public accounts for use by state agencies in issuing and administering grants under the authority of the Uniform Grant and Contract Management Act, Texas Government Code, Chapter 783.

Chapter 3

Eligible Seaports and Rail Yards

Vehicles funded under this program must operate at eligible seaports and rail yards located within the nonattainment areas in Texas designated under the Federal Clean Air Act, Section 107(d). The counties entirely or partially within a nonattainment area are listed in Table 3.1 (see also map, Figure 3.1). While this list is accurate at the time of publication, the boundaries of nonattainment areas may be subject to change and those changes will be considered in effect for this program regardless of whether the change is incorporated into these guidelines.

Table 3.1
Counties Eligible for Location of
Seaports and Rail Yards under the DTIP

Brazoria	Ellis	Johnson	Rockwall
Chambers	El Paso	Kaufman	Tarrant
Collin	Fort Bend	Liberty	Waller
Dallas	Galveston	Montgomery	Wise
Denton	Harris	Parker	

The TCEQ may limit funding under a grant period to projects operating at seaports and rail yards in only some of the counties based on decisions about allocating funds for that grant period.

Seaports eligible under this program include facilities involved in the transfer of cargo from vessel to drayage truck or vice versa, or a combination of drayage truck and rail transfers. This may include the on-site storage of cargo delivered by vessel or drayage truck, before the transfer to a drayage truck or vessel. Eligible seaports also include facilities that are included in a ship-channel security district established under Texas Water Code, Chapter 68.

Rail yards eligible under this program include facilities involved in the transfer of cargo from rail to drayage truck or vice versa, or a combination of drayage truck and vessel transfers. This may include the on-site storage of cargo delivered by rail or drayage truck, before the transfer to a drayage truck or to rail.

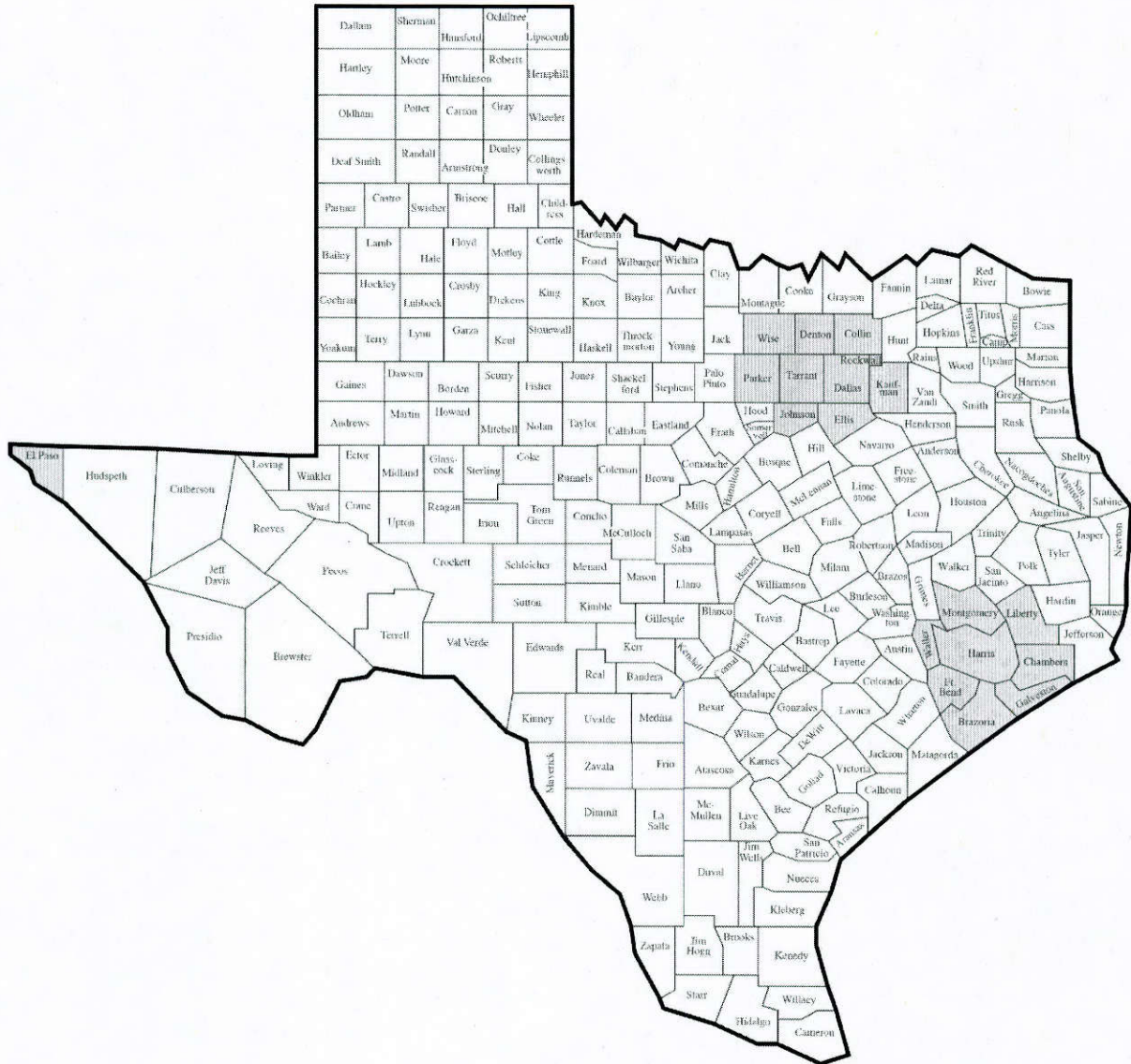
In general, major rail yards are operated by Class I railroad companies. Under Title 49, Code of Federal Regulations, Chapter 1201, a Class I railroad carrier is one with \$250 million or more in annual operating revenues. The TCEQ may also include rail yards operated by Class II or III railroad companies, case by case, if it determines that those facilities include significant cargo transfer operations at the rail yard. This determination may include consideration of the frequency of average daily drayage-truck visits for transfer of cargo within a calendar month.

The TCEQ may periodically compile a list of seaports and rail yards that meet the definitions and criteria for this program and may require that a facility be

included on the approved list before it considers a drayage truck operating at that facility for funding. This list may be made available on the TERP website at <www.terpgrants.org> and included with the grant solicitation. The TCEQ will have the final authority to determine if a seaport or rail yard is eligible.

Also, the TCEQ may limit funding under a grant period to projects operating at only some of the seaports or rail yards that meet the criteria based on decisions made for that grant period.

Figure 3.1
Counties Eligible for Location of Seaports and Rail Yards under the DTIP
 (subject to change)



Chapter 4

Eligibility Criteria

This chapter outlines the criteria for project eligibility. The TCEQ may further define or limit the eligibility criteria and establish additional criteria in the solicitation materials and other grant documents.

Eligible Activities

Activities eligible for funding under this program involve the replacement of a drayage truck with another drayage truck that is eligible for purchase.

Eligible Applicants

A person is potentially eligible for incentive funding if, for at least the preceding two years, they have:

1. owned or leased a drayage truck eligible to be replaced under the program; and
2. operated the truck in one or more of the designated seaports or rail yards for a minimum average number of visits per year for the preceding two years as established by the TCEQ in the grant-solicitation documents.

For particular funding periods, the TCEQ may limit eligibility to certain types of applicants.

Drayage Trucks Eligible for Replacement

Models of drayage trucks eligible for replacement under this program include:

1. a heavy-duty on-road vehicle with a gross vehicle weight rating (GVWR) over 26,000 pounds,
2. a non-road yard truck, and
3. other cargo-handling equipment.

A drayage truck being replaced must have an engine model year 2006 or earlier.

An applicant must have continuously owned or leased the drayage truck for at least two years preceding the submission of an application and must have operated the truck at one or more of the eligible seaports or rail yards over that

two-year period for at least an average number of visits per 12-month period over the two years as established by the TCEQ in the grant-solicitation documents. Each combined entry and exit to and from the seaport or rail yard will be considered a visit. For drayage trucks operating permanently at a seaport or rail yard, each day of operation at the facility will be considered a visit.

The applicant must also have the authority to dispose of the vehicle and engine being replaced.

To document the ownership or lease of the truck, all of the following apply:

- For an on-road vehicle, the applicant must be named as the owner on the front of the vehicle title or lessee on the lease documents. The TCEQ may also require documentation that the applicant was listed on the title or lease documents for the previous two years.
- For a non-road yard truck and other cargo-handling equipment, the TCEQ may require documentation of ownership or leasing for the previous two years.
- For on-road vehicles, non-road yard trucks, and other cargo-handling equipment, the TCEQ may require other documentation, as determined by the TCEQ, that the applicant has authority to dispose of the vehicle and engine being replaced.
- An on-road vehicle used for on-road purposes must currently be registered for operation in Texas in the applicant's name and must have been continuously registered and operated for the majority of use in Texas for the previous two years. An apportioned registration for operation in several states will not normally be accepted as proof of continuous registration and operation in Texas, unless the applicant can document that the majority of the vehicle operation occurred in Texas over the previous two years. A non-road yard truck must also have been operated for the majority of use in Texas for the previous two years.
- An on-road vehicle used for on-road purposes must have a current safety inspection (if a safety inspection is required for that vehicle and use) and must have continuously had an up-to-date safety inspection over the preceding two years.
- An on-road vehicle used for non-road purposes may be considered, case by case, if it was solely used at an eligible seaport or rail yard for cargo handling for the previous two years.

The TCEQ may waive the two-year ownership or lease requirement, case by case, where the ownership of the company has changed, the assets of the company have been purchased by another company, or the company has changed its name or incorporation status.

The drayage truck must be in good operating condition and capable of performing its primary function.

To document that the drayage truck has been used at one or more eligible seaports or rail yards for the two years before submission of the application, the

applicant must certify in the application the average number of visits to the eligible facilities over those two years. The average historical operation at the eligible facilities may be used by the TCEQ to determine eligibility for the program as well as the eligible grant amount and the usage commitment over the activity life for the drayage truck being purchased.

The TCEQ may require the applicant to provide records and other documentation of use of the drayage truck at the eligible facilities.

Drayage Trucks Eligible for Purchase

Models of drayage trucks eligible for purchase to replace an existing drayage truck under the program include:

1. a heavy-duty on-road vehicle with a GVWR over 26,000 pounds,
2. a non-road yard truck, and
3. other cargo-handling equipment.

A drayage truck to be purchased must have an engine model year of 2010 or later. In addition, a diesel engine on a non-road yard truck or other cargo-handling equipment must be certified under an EPA certificate of conformity to meet the final Tier 4 non-road engine emission standards for both NO_x and PM. The Tier 4 standards for non-road engines were phased in from 2012 through 2014 for engines 75 to 174 hp and from 2011 through 2014 for engines 175 to 750 hp. Therefore, the eligibility of non-road yard trucks and other cargo-handling equipment for purchase will need to be considered case by case.

For both on-road and non-road engines, the engine on the drayage truck being purchased must be certified by the EPA to lower NO_x and PM emission standards or family emission limits (FELs) than the emission standards or FELs to which the engine on the drayage truck being replaced is certified.

In general, the replacement drayage truck must be of the same type, weight category, and body and axle configuration as the drayage truck being replaced. The TCEQ may accept, in particular cases, vehicles of a different type, weight category, or body and axle configuration to account for the latest technology used for specific drayage purposes.

Some, but not all, of the situations the TCEQ may consider include:

- replacement of an on-road heavy-duty vehicle used solely for moving cargo in an eligible facility with a non-road yard truck,
- replacement of an on-road heavy-duty vehicle configured for long-haul transport with an on-road heavy-duty vehicle manufactured and configured as an on-road yard truck, and
- replacement of a non-road yard truck with an on-road heavy-duty vehicle manufactured and configured as an on-road yard truck.

Eligible Costs

The grant recipient may be eligible for reimbursement of up to 80 percent of the purchase price of the replacement drayage truck, subject to the grant-amount limits established by the TCEQ. A finance lease, with a binding commitment to buy and retain ownership of the drayage truck at the end of the lease, may be considered a purchase, subject to approval by the TCEQ. Other types of leases are not eligible.

The purchase price may include the invoice price, including taxes and delivery charges included in the price of the replacement drayage truck. The cost to purchase and install a TCEQ-approved global positioning system may also be considered part of the purchase price.

In determining the purchase price, the TCEQ may require that the salvage value of the drayage truck being replaced be subtracted from the invoice price. Unless an alternative approach is used for a particular grant round, the TCEQ may establish and use a default salvage value of \$1,000 for the drayage truck being replaced.

The TCEQ may further limit what is considered an eligible cost for purposes of a particular grant round.

To the extent applicable, as determined by the TCEQ, the cost principles of the Uniform Grant and Contract Management Standards will apply to the determination of eligible costs.

Eligible Grant Amounts

The TCEQ may consider applications for the full 80 percent of the eligible costs of the purchase of the new drayage truck or may limit the grant amounts to a lower percentage of eligible costs.

The TCEQ may also establish maximum limits on the eligible costs, based on average marketplace purchase prices or manufacturers' suggested retail prices for different weight categories, model years, and types of vehicles, or on other factors determined by the TCEQ to help meet the goals of the program and the TERP.

In establishing the criteria for a particular grant round, the TCEQ may set limits on the cost-effectiveness of a project, based on the emissions reductions projected to be achieved in and near the seaports or rail yards.

In addition, the TCEQ may establish and list in the solicitation documents standardized maximum eligible grant amounts based on predetermined default prices, the percentage of costs eligible for reimbursement, cost-effectiveness limits, or a combination of these and other factors.

Chapter 5

Program Procedures

This chapter contains the general procedures that will be used for applying for, awarding, and administering grants under this program. The TCEQ may adjust these procedures and develop more detailed ones, as needed, to ensure the effectiveness of the program.

Project Solicitation

Grant projects will be solicited through periodic or open-ended Requests for Grant Applications (RFGAs) and through other mechanisms to solicit grant applications. Copies of the RFGAs and the necessary application forms are made available at the TERP website <www.terpgrants.org> and directly from the TCEQ by calling toll free at 800-919-TERP (8377) during regular working hours (8 a.m. to 5 p.m., Monday through Friday), excluding holidays.

Application Review and Selection

The TCEQ will establish criteria for how grants will be selected for each grant round and will make the criteria available in the grant-solicitation documents. The TCEQ will review and evaluate grant applications according to the established criteria.

The TCEQ may either select and award grants based on the order of submission or may use competitive grant selection, including consideration of the comparative cost-effectiveness of the projects. Even when it uses the order of submission as a determinant of grant selection, the TCEQ may establish a priority order where applications meeting certain criteria may be selected and awarded first.

The determination of emissions reductions and calculation of the cost-effectiveness of a project may make use of default annual usage rates (mileage or hours of operation) established by the TCEQ or actual historical usage rates for the two years preceding the application. In addition, the TCEQ may place a priority on funding projects in specific areas or at specific facilities.

The TCEQ may limit the number of grants awarded to one applicant, one area, or projects at one facility, to ensure that a broad range of projects are funded. The TCEQ may also prioritize the selection and grant awards based on the average number of annual visits to an eligible seaport or rail yard.

Application-Verification Visits

Upon receipt of a grant application, the TCEQ may check the vehicle and equipment for condition, engine identification, and vehicle identification.

Awarding of Grants and Contracting

Projects selected for funding will be awarded a grant through the development and execution of a grant contract that is signed by the recipient and by an official of the TCEQ. Grant contracts may contain additional and more specific requirements than those contained in these guidelines. Grant recipients should review the contract's language carefully before accepting and signing it.

Each grant award and contract will be contingent upon the availability of funds to cover the grant. Grant contracts may be issued on a contingency basis, subject to the TCEQ's issuance of a follow-up Notice to Proceed, once sufficient funds are available.

Reimbursement

Grant payments will be reimbursements, meaning that the agency will remit payment **after** the eligible expense has been incurred by the recipient, including the vehicle having been delivered and the expense paid. Recipients will also have the option to assign their grant payments directly to the dealer or finance company. The TCEQ will supply reimbursement request and reporting forms for use by the recipient. The grant contract and instructions accompanying the reimbursement forms will include more specific criteria for requesting and receiving payment.

Upon completion of all grant-funded purchases, the grant recipient will need to submit a final request for reimbursement of all remaining expenses. The final request must include a completed and signed release of claims.

The grant recipient must also agree to place a label or sticker on the grant-funded vehicles and equipment, as the TCEQ may supply.

Verification of Vehicle, Equipment, and Engine Disposition

The applicant must agree to destroy the old vehicle or equipment—including the engine—replaced under this program no later than 90 days after receiving reimbursement by the TCEQ.

Unless the TCEQ agrees to an alternative method, the destruction must be carried out by complete crushing or other complete destruction of the vehicle,

equipment, or engine, or by making a hole in the engine block on both sides large enough to prevent repairs (usually at least 3 inches) and permanently destroying the frame by cutting the frame rails or main structural components of the vehicle or equipment.

The applicant must certify the appropriate disposition of the vehicle or equipment, including the engine, using forms supplied by the TCEQ. The TCEQ may require a certified or duplicate Texas Nonrepairable Vehicle Title as evidence that an on-road vehicle has been rendered permanently inoperable. Grantees may be required to return grant funds if they fail to meet the disposition requirements, including if the vehicle, equipment, or engine is later returned to operation.

Monitoring and Reporting

The grant recipient must agree to monitor and track the use of the grant-funded drayage truck for the activity life designated in the grant contract.

The grant recipient will be required to submit monitoring reports to the TCEQ twice a year, unless the TCEQ authorizes an alternative reporting schedule.

The TCEQ may authorize grant recipients to use global positioning system units to monitor the grant-funded drayage truck in lieu of filing reports on the location and use of the equipment. The TCEQ may also require the installation and use of a global positioning system (GPS) for all projects under a particular grant round or for specific projects, based on the risks associated with that project. With use of GPS, grant recipients must verify the accuracy of the GPS data on forms provided by the TCEQ on a schedule it has established. All applicants monitoring via GPS will be required to use a vendor the TCEQ selects.

The usage reports or GPS monitoring reports submitted by the grant recipient will document:

- the usage amount,
- the number of visits to, and use at, the eligible facilities, and
- the percentage of use in the eligible areas over the required reporting period.

The TCEQ may, at its sole discretion, authorize an annual or longer reporting schedule, including suspending the reporting requirements, if a grant recipient is meeting the requirements and is otherwise complying with all program requirements.

Commitments

The intent of this program is to achieve reductions in emissions of NO_x and other pollutants at seaports and rail yards, as well as in the nonattainment areas and counties identified as “affected counties” in THSC 386.001(2) and TCEQ rules (30

TAC 114.629). Over the activity life of each grant-funded activity, the grant recipient commits the resulting emissions reductions to the TCEQ.

The recipient is responsible for performing the activities, as defined in the contract, necessary to achieve the emissions reductions at the designated seaports and rail yards and within the eligible geographic areas.

Unless the TCEQ has determined that the intent of the program has been met, recipients will be required to return all or a pro rata share of the grant funds to the TCEQ if the emissions reductions in the eligible geographic areas and at the seaports and rail yards over the activity life are not achieved.

To achieve the emissions reductions at seaports and rail yards, the grant recipient must agree to operate the grant-funded drayage truck at any eligible seaports and rail yards identified in accordance with the provisions in Chapter 3 for a minimum number of visits per 12-month period as determined by the TCEQ based on the priorities established for grant selection and award for that grant-solicitation period and included in the grant contract. Each combined entry and exit to and from the seaport or rail yard is considered a visit. For drayage trucks operating permanently at a seaport or rail yard, each day of operation at the facility is considered a visit.

To achieve the emissions reductions in the nonattainment areas and affected counties, the grant recipient must agree to operate the grant-funded vehicle or equipment for at least 50 percent of the annual and total usage over the activity life in those counties. The 42 counties currently located within a nonattainment area or designated as an affected county are listed in Table 5.1 (see also map, Figure 5.1). While this list is accurate at the time of publication, affected counties and the boundaries of nonattainment areas are subject to change.

Table 5.1
Counties in Nonattainment Areas or Otherwise
Designated as “Affected Counties” (subject to change)

Bastrop	Ellis	Hays	Nueces	Upshur
Bexar	El Paso	Henderson	Orange	Victoria
Brazoria	Fort Bend	Hood	Parker	Waller
Caldwell	Galveston	Hunt	Rockwall	Williamson
Chambers	Gregg	Jefferson	Rusk	Wilson
Collin	Guadalupe	Johnson	San Patricio	Wise
Comal	Hardin	Kaufman	Smith	
Dallas	Harris	Liberty	Tarrant	
Denton	Harrison	Montgomery	Travis	

The TCEQ may more narrowly limit the areas of use for a particular grant solicitation period to help best achieve the goals of the program and the TERP in general. The designated counties will be listed in the grant-solicitation documents and the grant contract.

The TCEQ may also allow a grant applicant to commit to a greater percentage of use in the eligible counties in order to qualify for a higher grant amount. The percentage-of-use commitment will be listed in the grant contract.

The calculation of emissions reductions in the designated counties will be based on a *usage amount* (miles for on-road vehicles or hours for non-road yard trucks) over the activity life in the eligible counties as established by the TCEQ for a particular grant-solicitation period. The TCEQ may establish default usage rates according to type of vehicle or equipment, or the TCEQ may base the calculations on actual historical usage rates and require a usage commitment based on actual miles or hours of operation.

The TCEQ may work with the grantee to implement other options for ensuring that the usage commitments will be met before it requires the return of grant funds. If the TCEQ requires the return of a pro rata share of the grant funds for underachievement of the annual commitment, the TCEQ may revise the commitment over the remaining activity life to a lower amount, corresponding to the lower grant amount.

