

HEALTH AND SAFETY CODE CHAPTER 387. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM

HEALTH AND SAFETY CODE

TITLE 5. SANITATION AND ENVIRONMENTAL QUALITY

SUBTITLE C. AIR QUALITY

CHAPTER 387. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM

Sec. 387.001. DEFINITIONS. In this chapter:

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

(2) "Program" means the new technology research and development program.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 4, eff. Oct. 20, 2003.

Sec. 387.003. NEW TECHNOLOGY RESEARCH AND DEVELOPMENT PROGRAM. (a) A nonprofit organization or institution of higher education described by Section 386.252(a)(2), under a contract with the commission as described by that section, shall establish and administer a new technology research and development program as provided by this chapter. The commission may contract with more than one entity and may limit the amount of each grant contract accordingly.

(b) Under the program, the commission shall provide grants to be used to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapter 386 and other new technologies that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives.

(c) The board of directors of a nonprofit organization under contract with the commission to establish and administer a new technology research and development program as provided by this chapter may not have more than 11 members, must include two persons

of relevant scientific expertise to be nominated by the commission, and may not include more than four county judges selected from counties in the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas. The two persons of relevant scientific expertise to be nominated by the commission may be employees or officers of the commission, provided that they do not participate in funding decisions affecting the granting of funds by the commission to a nonprofit organization on whose board they serve.

(d) The commission may enter into a grant contract with an institution of higher education described by Section 386.252(a)(2) for the institution to operate a testing facility which would be available for demonstration of eligible projects receiving grants under this chapter.

(e) The commission shall provide oversight as appropriate for grants provided to a nonprofit organization under this program.

(f) A nonprofit organization shall submit to the commission for approval a budget for the disposition of funds granted under this program.

(g) The commission shall limit the use of grants for administrative costs incurred by a nonprofit organization to an amount not to exceed 10 percent of the funding provided to the nonprofit organization under this program.

(h) A nonprofit organization that receives grants from the commission under this program is subject to Chapters 551 and 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 29, Sec. 2, eff. May 14, 2003; Acts 2003, 78th Leg., ch. 1331, Sec. 13, eff. June 20, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 6, eff. Oct. 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125, Sec. 13, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262, Sec. 2.10, eff. June 8, 2007.

Sec. 387.004. SOLICITATION OF NEW TECHNOLOGY PROPOSALS. The commission from time to time shall issue or

contract with a nonprofit organization described by Section 386.252(a)(2) to issue specific requests for proposals (RFPs) or program opportunity notices (PONs) for technology projects to be funded under the program.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 7, eff. Oct. 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 262, Sec. 2.11, eff. June 8, 2007.

Sec. 387.005. ELIGIBLE PROJECTS; PRIORITIES. (a) Grants awarded under this chapter shall be directed toward a balanced mix of:

(1) retrofit and add-on technologies and other advanced technologies that reduce emissions from the existing stock of engines and vehicles targeted by the Texas emissions reduction plan;

(2) the establishment of a testing facility to evaluate retrofits, add-ons, advanced technologies, and fuels, or combinations of retrofits, add-ons, advanced technologies, and fuels, to determine their effectiveness in producing emissions reductions, with emphasis on the reduction of oxides of nitrogen; and

(3) advanced technologies for new engines and vehicles that produce very-low or zero emissions of oxides of nitrogen, including stationary and mobile fuel cells.

(b) The commission, directly or through a nonprofit organization described by Section 386.252(a)(2), shall identify and evaluate and may consider making grants for technology projects that would allow qualifying fuels to be produced from energy resources in this state. In considering projects under this subsection, the commission shall give preference to projects involving otherwise unusable energy resources in this state and producing qualifying fuels at prices lower than otherwise available and low enough to make the projects to be funded under the program economically attractive to local businesses in the area for which

the project is proposed.

(c) In soliciting proposals under Section 387.004 and determining how to allocate grant money available for projects under this chapter, the commission shall give special consideration to advanced technologies and retrofit or add-on projects that provide multiple benefits by reducing emissions of particulates and other air pollutants.

(d) A project that involves publicly or privately owned vehicles or vessels is eligible for funding under this chapter if the project meets all applicable criteria.

(e) If a commissioner is an employee or owner of an entity that applies for a grant under this chapter, the commissioner, before a vote on the grant, shall disclose the fact of the commissioner's employment or ownership. The disclosure must be entered into the minutes of the meeting. The commissioner may not vote on or otherwise participate in the awarding of the grant. If the commissioner does not comply with this subsection, the entity is not eligible for the grant.

(f) Selection of grant recipients by a nonprofit organization described by Section 386.252(a)(2) under contract with the commission for the purpose of establishing and administering a new technology research and development program as provided by this chapter is subject to the commission's review and to the other requirements of this chapter. A grant contract under this chapter using funds described by Section 386.252 may not be made by a nonprofit organization if the commission or executive director of the commission does not consent to the grant or contract.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 29, Sec. 3, eff. May 14, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 8, eff. Oct. 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1125, Sec. 14, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 262, Sec. 2.12, eff. June 8, 2007.

Sec. 387.006. EVIDENCE OF COMMERCIALIZATION POTENTIAL REQUIRED. (a) An application for a technology grant under this chapter must show clear and compelling evidence that:

(1) the proposed technology project has a strong commercialization plan and organization; and

(2) the technology proposed for funding:

(A) is likely to be offered for commercial sale in this state as soon as practicable but no later than five years after the date of the application for funding; and

(B) once commercialized, will offer opportunities for projects eligible for funding under Chapter 386.

(b) The commission shall consider specifically, for each proposed technology project application:

(1) the projected potential for reduced emissions of oxides of nitrogen and the cost-effectiveness of the technology once it has been commercialized;

(2) the potential for the technology to contribute significantly to air quality goals; and

(3) the strength of the commercialization plan.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 1331, Sec. 14, eff. June 20, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 9, eff. Oct. 20, 2003.

Sec. 387.007. COST-SHARING. The commission may require cost-sharing for technology projects funded under this chapter but may not require repayment of grant money, except that the commission shall require provisions for recapturing grant money for noncompliance with grant requirements. Grant money recaptured under the contract provision shall be deposited in the environmental research fund and reallocated for other projects under this chapter.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 10, eff. Oct. 20, 2003.

Sec. 387.008. ENVIRONMENTAL RESEARCH FUND. (a) The environmental research fund is an account in the general revenue fund. The fund consists of money from gifts, grants, or donations to the fund for designated or general use and from any other source designated by the legislature.

(b) Money in the environmental research fund may be used only by the commission for operations and projects under this chapter.

(c) Sections 403.095 and 404.071, Government Code, do not apply to the fund. Interest earned on the fund shall be credited to the fund.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 29, Sec. 4, eff. May 14, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 11, eff. Oct. 20, 2003.

Sec. 387.009. ADVISORY COMMITTEES. The commission may appoint advisory committees as necessary or desirable to assist the commission in performing its duties under this chapter. An advisory committee may include representatives of industry, environmental groups, consumer groups, local governments, agriculture, the commission, the General Land Office, and the Railroad Commission of Texas. Any senator or representative desiring to do so may participate on any advisory committee appointed under this section. Members of an advisory committee are not entitled to compensation.

Added by Acts 2001, 77th Leg., ch. 967, Sec. 1(b), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., 3rd C.S., ch. 11, Sec. 12, eff. Oct. 20, 2003.