

ARKANSAS SENATE
84th General Assembly - Regular Session, 2003
Amendment Form

Subtitle of Senate Bill No. 938
"AN ACT RELATING TO THE ARKANSAS AIR QUALITY INCENTIVE PLAN."

Amendment No. 1 to Senate Bill No. 938.

Amend Senate Bill No. 938 as originally introduced:

“SECTION 1. Arkansas Code Title 8 is amended by adding an additional chapter to read as follows:

CHAPTER 14

Subchapter 1

8-14-101. Intent.

It is the intent of the General Assembly to give the Arkansas Department of Environmental Quality additional tools to:

(1) Assure that the air in this state is safe to breathe and meets minimum federal standards established under the federal Clean Air Act, 42 U.S.C. § 7404;

(2) Develop multi-pollutant approaches to solving the state’s environmental problems; and

(3) Adequately fund research and development that will make the state a leader in new technologies that can solve the state’s environmental problems while creating new business and industry in the state.

Subchapter 2

8-14-201. Definitions.

For purposes of this chapter:

(1) “Advisory board” means the Arkansas Air Quality Incentive Plan Advisory Board;

(2) “Affected county” includes:

(A) Pulaski County;

(B) Saline County;

(C) Lonoke County; and

(D) Faulkner County; and

(3) “Department” means the Arkansas Department of Environmental Quality.

8-14-202. Arkansas Air Quality Incentive Plan.

(a) The Arkansas Department of Environmental Quality, and the Arkansas Air Quality Incentive Plan Advisory Board shall establish and administer the Arkansas Air Quality Incentive Plan in accordance with this chapter.



(b) Under the plan the department and the advisory board shall provide grants or other funding for:

(1) The Clean Fleet Incentive Plan, including for infrastructure projects established under that subchapter; and

(2) The Motor Vehicle Purchase or Lease Incentive Program established under this chapter.

8-14-203. Arkansas Department of Environmental Quality duties.

(a) In administering the plan established under this chapter and in accordance with the requirements of this chapter, the Arkansas Department of Environmental Quality shall:

(1) Manage plan funds and oversee the plan;

(2) Produce guidelines, protocols, and criteria for eligible projects;

(3) Develop methodologies for evaluating project cost-effectiveness;

(4) Prepare reports regarding the progress and effectiveness of the plan; and

(5) Take all appropriate and necessary actions so that emissions reductions achieved through the plan are credited by the United States Environmental Protection Agency to the appropriate emissions reduction objectives in the state implementation plan.

(b) Appropriate department objectives include:

(1) Achieving maximum reductions in oxides of nitrogen, particulate matter 2.5, and volatile organic compounds to demonstrate compliance with air quality compliance plans;

(2) Preventing areas of the state from being in violation of national ambient air quality standards; and

(3) Achieving cost-saving and multiple benefits by reducing emissions of pollutants.

8-14-204. Guidelines and criteria.

(a) The Arkansas Department of Environmental Quality shall adopt grant guidelines and criteria consistent with the requirements of this chapter.

(b) Guidelines shall include protocols to calculate projected emissions reductions, project cost-effectiveness, and safeguards to ensure that funded projects generate emissions reductions not otherwise required by state or federal law.

(c)(1) The department shall make draft guidelines and criteria available to the public and the United States Environmental Protection Agency before the forty-fifth (45th) day preceding the date of final adoption and shall hold at least one (1) public meeting to consider public comments on the draft guidelines and criteria before final adoption.

(2) The public meeting shall be held in the affected state implementation plan area, and if the guidelines affect more than one (1) state implementation plan area, a public meeting shall be held in each affected state implementation plan area affected by the guidelines.

(d)(1) The department may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the plan to achieve its goals.

(2) Revisions may include, among other changes, adding additional pollutants or adjusting eligible program categories to ensure that

incentives established under this chapter achieve the maximum possible emissions reductions.

(3) The department shall make a proposed revision available to the public before the forty-fifty (45th) day preceding the date of final adoption of the revision and shall hold at least one (1) public meeting to consider public comments on the proposed revision before final adoption.

8-14-205. Monitoring process.

(a)(1) The Arkansas Department of Environmental Quality shall develop procedures for monitoring whether the emissions reductions projected for projects awarded grants under this chapter are actually achieved.

(2) Monitoring procedures may include project reviews and contract requirements that the grant recipient provide information semiannually about the project.

(3) If the department requires an annual report, the report shall contain a minimum amount of information required from a recipient and the report format shall be simple and convenient.

(b) Monitoring and reviewing procedures shall be sufficient to enable emissions reductions generated by funded projects to be fully credited to air quality plans.

(c) The department may revise monitoring and review procedures from time to time as necessary or appropriate to enhance the effectiveness of the plan.

8-14-206. Availability of emissions reduction credits generally.

(a) A project funded under a program established under this chapter may not be used for credit under any state or federal emissions reduction credit averaging, banking, or trading program.

(b) An emissions reduction generated by a program established under this chapter:

(1) May not be used as a marketable emissions reduction credit or, except as otherwise provided in this chapter, to offset any emissions reduction obligations; and

(2) May be used to demonstrate conformity with the state implementation plan.

(c) A project involving a new emissions reduction measure that would otherwise generate marketable credits under state or federal emissions reduction credit averaging, banking, or trading programs is not eligible for funding under a program established under this chapter unless:

(1) The project includes the transfer of the reductions that would otherwise be marketable credits to the state implementation plan or the owner or operator as provided in this chapter; and

(2) The reductions are permanently retired.

8-14-207. Arkansas Air Quality Incentive Plan Advisory Board.

(a) There is created the Arkansas Air Quality Incentive Plan Advisory Board to consist of fourteen (14) members appointed as provided by this section and seven (7) ex officio members as provided by this section.

(b) The governor shall appoint to the advisory board:

(1) A representative of the trucking industry;

(2) A representative of regional transportation;

(3) A representative of the Arkansas Board on Environmental

Technology; and

(4) A representative of the Arkansas Chamber of Commerce.

(c) The lieutenant governor shall appoint to the advisory board:

(1) A representative of the engine manufacturing industry;

(2) A representative of air transportation industry;

(3) A representative of the environmental community;

(4) A representative of the agriculture industry; and

(5) A representative of the Central Arkansas Clean Air Task

Force.

(d) The President Pro Tempore of the Senate shall appoint to the advisory board:

(1) A representative of consumer groups;

(2) A representative of the construction industry;

(3) A representative of the automobile industry;

(4) A representative of Central Arkansas Clean Cities; and

(5) A representative of the fuel industry.

(e)(1) Appointed members of the advisory board serve staggered two-year terms.

(2) Initial terms shall be determined by lot.

(3) Half of the appointed members terms expire February 1 of each even-numbered year and the terms of the other half expire on February 1, of each odd-numbered year.

(4) An appointed member may be reappointed to a subsequent term.

(f) Ex officio members of the advisory board are:

(1) The Chairperson of the Senate standing committee having primary jurisdiction over matters related to natural resources;

(2) The Chairperson of the House standing committee having primary jurisdiction over matters related to environmental regulation;

(3) The Director of the Arkansas Department of Environmental Quality or the director's designee;

(4) The Director of the Department of Finance and Administration or the director's designee; and

(5) A representative of the United States Environmental Protection Agency's Region 6 office, designated by the United States Environmental Protection Agency Region 6 administrator.

(g) The advisory board annually shall elect a presiding officer.

(h) The advisory board shall review the plan and shall recommend to the Arkansas Department of Environmental Quality changes to revenue sources or financial incentives or any legislative, regulatory, or budgetary changes needed.

(i) The Arkansas Department of Environmental Quality shall provide necessary staff support to the advisory board.

Subchapter 3.

8-14-301. Definitions.

For purposes of this subchapter:

(1) "Cost effectiveness" means the total dollar amount expended divided by the total number of tons of oxides of nitrogen, particulate matter 2.5, and volatile organic compound emissions reduction attributable to the expenditure;

(2) "Fuel cell" means an electrochemical device that uses fuel and oxidant to continuously generate electricity;

(3) "Heavy-duty vehicle" means a vehicle or piece of equipment, excluding a motor vehicle, that is powered by a non-road engine, including:

- (A) Nonroad, nonrecreational equipment and vehicles;
- (B) Construction equipment;
- (C) Locomotives; and
- (D) Other high emitting diesel engine categories

established by the Arkansas Department of Environmental Quality;

(4) "Motor vehicle" means a self-propelled device designed for transporting persons or property on a public highway that is required to be registered under the laws of this state;

(5) "Nonroad engine" means an internal combustion engine that is:

(A) In or on a piece of equipment that is self propelled and performs another function, excluding a vehicle that is used solely for competition;

(B) In or on a piece of equipment that is intended to be propelled while performing its function; or

(C) Designed to be and capable of being carried or moved from one location to another;

(7) "Program" means the Clean Fleet Incentive Plan established under this chapter;

(8) "Qualifying fuel" includes any liquid or gaseous fuel or additives registered or verified by the United States Environmental Protection Agency that is ultimately dispensed into a motor vehicle or on-road or heavy-duty vehicle that provides reductions of emissions of oxides of nitrogen, particulate matter 2.5, and volatile organic compounds beyond reductions required by state or federal law;

(9) "Repower" means to replace an old engine powering an on-road or heavy-duty vehicle with:

(A) A new engine that emits at least thirty percent (30%) less than the oxides of nitrogen, particulate matter 2.5, and volatile organic compounds permitted by federal regulation for the current model year for that engine;

(B) An engine manufactured later than 1987 that emits at least thirty percent (30%) less than the oxides of nitrogen, particulate matter 2.5, and volatile organic compounds emitted by a new engine certified to the baseline oxides of nitrogen, particulate matter 2.5, and volatile organic compound emissions standard for that engine; or

(C) An engine manufactured before 1988 that emits not more than fifty percent (50%) of the oxides of nitrogen, particulate matter 2.5, and volatile organic compounds by a new engine certified to the baseline oxides of nitrogen, particulate matter 2.5, and volatile organic compound emissions standard for that engine; and

(10) "Retrofit" means 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.

8-14-302. Program.

(a)(1) The Arkansas Department of Environmental Quality shall establish and administer a program to be known as the Clean Fleet Incentive Plan.

(2) Under the program, the department shall provide grants for eligible projects to offset the incremental cost of projects that reduce emissions of oxides of nitrogen, particulate matter 2.5, and volatile organic compounds from high emitting diesel sources in no attainment areas and affected counties of the state.

(3) The department shall determine the eligibility of projects.

(b) Projects that may be considered for a grant under the program include:

(1) Purchase or lease of heavy-duty vehicles;

(2) Emissions reducing retrofit projects for on-road or heavy-duty vehicles;

(3) Emissions reducing repower projects for on-road or heavy-duty vehicles;

(4) Purchase and use of emissions reducing add on equipment for on-road or heavy-duty vehicles;

(5) Development and demonstration of practical, low emissions retrofit technologies, repower options, and advanced technologies for on-road or heavy-duty vehicles with lower emissions of oxides of nitrogen, particulate matter 2.5, and volatile organic compounds;

(6) Use of qualifying fuel; and

(7) Implementation of infrastructure projects.

(c)(1) A project listed in subsection (b) is not eligible if it is required by any state or federal law, rule, or regulation, memorandum of agreement, or other legally binding document.

(2) This subsection does not apply to:

(A) 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

(B) The purchase of a heavy-duty vehicle or equipment required only by local law or regulation, or by corporate or controlling board policy of a public or private entity.

8-14-303. Application for grant.

(a) Any person that owns one (1) or more on-road or heavy-duty vehicles that operate primarily within a nonattainment area or affected county of this state or that otherwise contributes to the state inventory of emissions of oxides of nitrogen, particulate matter 2.5, and volatile organic compounds may apply for a grant under the program.

(b) An application for a grant under this subchapter shall be made on an application provided by the Arkansas Department of Environmental Quality and shall contain information required by the department, including:

(1) A detailed description of the proposed project;

(2) Information necessary for the department to determine whether the project meets eligibility requirements for the type of project proposed, including a statement of the amounts of any other public financial assistance the project will receive; and

(3) Other information the department may require.

8-14-304. Eligibility requirements.

(a)(1) The Arkansas Department of Environmental Quality shall

establish criteria for setting priorities for projects eligible to receive grants under this subchapter.

(2) The department shall review and may modify the criteria and priorities as appropriate.

(b) A proposed project shall meet the requirements of this section to be eligible for a grant under the program.

(c) For a proposed project, not less than seventy-five percent (75%) of vehicle miles traveled or hours of operation projected for the five (5) years immediately following the award of a grant shall be projected to take place in a nonattainment area or affected county of this state.

(d) Each proposed project shall meet the cost effectiveness requirements of this chapter.

(e) A proposed repower project shall exceed the department requirements relating to baseline emissions levels of the engines being replaced under the project.

(f)(1) A proposed retrofit, repower, or add on equipment project shall document, in a manner acceptable to the department, a reduction in emissions of oxides of nitrogen, particulate matter 2.5, and volatile organic compounds of at least thirty percent (30%) compared with the baseline emissions adopted by the department for the relevant engine year and application.

(2) After study of available emissions reduction technologies, after public notice and comment, and after consultation with the Arkansas Air Quality Incentive Plan Advisory Board, the department may revise the minimum percentage reduction in emissions of oxides of nitrogen required by this subsection to improve the ability of the program to achieve its goals.

(g) If a baseline emissions standard does not exist for on-road or heavy-duty vehicles in a particular category, the department shall establish an appropriate baseline emissions level for comparison purposes.

(h)(1) The department may approve payments to offset the incremental cost, over the expected lifetime of the motor vehicle or on-road or heavy-duty vehicle, of the use of qualifying fuel in a motor vehicle or on-road or heavy-duty vehicle if the proposed project as a whole, including the incremental fuel cost, meets the requirements of this subchapter.

(2) The department shall develop an appropriate method for converting incremental fuel costs over the lifetime of the motor vehicle or on-road or heavy-duty vehicle into an initial cost for purposes of determining cost effectiveness as required by this subchapter.

8-14-305. Calculation of cost effectiveness.

(a) In calculating cost effectiveness, one time grants of money at the beginning of a project shall be annualized using a time value of public funds or discount rate determined for each project by the Arkansas Department of Environmental Quality, taking into account the interest rate on bonds, interest earned by state funds, and other factors that the department considers appropriate.

(b) The department shall establish reasonable methodologies for evaluating project cost effectiveness consistent with subsection (a) and with accepted methods.

(c) The department shall develop protocols for calculating oxides of nitrogen, particulate matter 2.5, and volatile organic compounds emissions reductions not otherwise required by state or federal law in non-attainment areas and affected counties of this state from representative project types

over the life of the projects.

(d) The department may include in cost effectiveness determinations only reductions in oxides of nitrogen, particulate matter 2.5, and volatile organic compounds emissions that are achieved in nonattainment areas and affected counties of this state.

8-14-306. Cost effectiveness criteria - Determination of grant amount.

(a)(1) Except as otherwise provided in this chapter, the Arkansas Department of Environmental Quality may not award a grant for a proposed project the cost effectiveness of which, calculated in accordance with this subchapter and criteria developed under that subchapter, exceeds thirteen thousand dollars (\$13,000) per ton of oxides of nitrogen, particulate matter 2.5, and volatile organic compound emissions reduced in the nonattainment area or affected county for which the project is proposed.

(2) This subsection does not restrict the department's authority under other law to require emissions reductions with a cost effectiveness that exceeds thirteen thousand dollars (\$13,000) per ton.

(b) The department may not award a grant that, net of taxes, provides an amount that exceeds the incremental cost of the proposed project.

(c) The department shall adopt guidelines for capitalizing incremental lease costs so those costs may be offset by a grant under this subchapter.

(d) In determining the amount of a grant under this subchapter, the department shall reduce the incremental cost of a proposed new purchase, lease, retrofit, repower, or add on equipment project by the value of any existing financial incentive that directly reduces the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance.

8-14-307. Adjustment to maximum cost effectiveness amount and award amount.

After study of available emissions reduction technologies and costs and after public notice and comment, the Arkansas Department of Environmental Quality, in consultation with the Arkansas Air Quality Incentive Plan Advisory Board, may change the values of the maximum grant award criteria to account for inflation or to improve the ability of the program to achieve its goals.

8-14-308. Infrastructure projects.

(a) The Arkansas Department of Environmental Quality shall provide funding under § 8-14-309 for infrastructure projects.

(b) To implement the requirement of subsection (a), the department shall:

(1) Solicit applications for a balanced mix of projects involving fueling and electrification infrastructure that is linked to motor vehicle and on-road and heavy-duty vehicle projects and consistent with program goals;

(2) Coordinate infrastructure projects with motor vehicle and on-road and heavy-duty vehicle projects representing a broad range of fuels, technologies, and applications as appropriate and consistent with the goals of this subchapter;

(3) Adopt guidelines and criteria for infrastructure projects to be funded under the program; and

(4) Oversee, monitor, and evaluate the use of grants awarded under this program and report on the effectiveness of this grant program in relation to the purposes and goals of this subchapter.

8-14-309. Eligible infrastructure projects.

The Arkansas Department of Environmental Quality may consider for funding under this subchapter:

(1) The purchase and installation at a site of equipment that is designed primarily to dispense qualifying fuel, other than standard gasoline or diesel, or the purchase of onsite mobile fueling equipment;

(2) Infrastructure projects, including auxiliary power units, designed to dispense electricity to motor vehicles and on-road and heavy-duty vehicles; and

(3) A project that involves a technology that allows a vehicle to replace with electric power, while the vehicle is parked, the power normally supplied by the vehicle's internal combustion engine.

8-14-310. Heavy-duty purchase or lease incentive schedule.

A new heavy-duty vehicle is eligible for reimbursement of incremental costs according to the following schedule:

<u>Date of manufacture</u> <u>(2001)</u>	<u>Date of manufacture</u> <u>(10/01/02-9/30/06)</u>
<u>2.5 g/bhp-hr NOx</u>	<u>1.2 g/bhp-hr NOx up to \$15,000</u>
<u>1.5 g/bhp-hr NOx</u>	<u>0.5 g/bhp-hr NOx up to \$25,000</u>
<u>0.0 g/bhp-hr NOx</u>	<u>0.0 g/bhp-hr NOx up to \$25,000</u>

8-14-311. Modification of incentive emissions standards.

After evaluating new technologies and after public notice and comment, the Arkansas Department of Environmental Quality, in consultation with the Arkansas Air Quality Incentive Plan Advisory Board, may change the incentive emissions standards established under this subchapter to improve the ability of the program to achieve its goals.

Subchapter 4.

8-14-401. Definitions.

For purposes of this subchapter:

(1) "Bin" means a set of emissions standards applicable to exhaust pollutants measured on the Federal Test Procedure according to 40 C.F.R. § 86.1811-04;

(2) "Light-duty motor vehicle" means a motor vehicle with a gross vehicle weight rating of less than ten thousand (10,000) pounds; and

(3) "Motor vehicle" means a self-propelled device designed for transporting persons or property on a public highway that is required to be registered under the laws of this state.

8-14-402. Regulations necessary to implement the program.

(a) The Chief Fiscal Officer of the State and the Arkansas Department of Environmental Quality shall develop a purchase or lease incentive program for new light-duty motor vehicles and shall adopt rules necessary to implement the program.

(b) The program shall authorize statewide incentives for the purchase or lease, according to the schedule provided by this chapter, of new light-

duty motor vehicles that are certified by the United States Environmental Protection Agency to meet an emissions standard that is at least as stringent as those provided by this chapter for a purchaser or lessee who agrees to register the vehicle in this state, and to operate the vehicle in this state for not less than seventy-five percent (75%) of the vehicle's annual mileage.

(c)(1) Only one (1) incentive may be provided for each new light-duty motor vehicle.

(2) The incentive shall be provided to the lessee and not to the purchaser if the motor vehicle is purchased for the purpose of leasing the vehicle to another person.

8-14-403. Light duty motor vehicle purchase or lease incentive schedule.

A new light-duty motor vehicle is eligible for an incentive according to the following schedule:

<u>Incentive emissions standard and incentive amount</u>			
<u>Model year 2003-2007</u>			
<u>Bin 4</u>	<u>\$1,250</u>	<u>Bin 4 + ILEV</u>	<u>\$2,500</u>
<u>Bin 3</u>	<u>\$2,225</u>	<u>Bin 3 + ILEV</u>	<u>\$3,750</u>
<u>Bin 2</u>	<u>\$3,750</u>	<u>Bin 2 + ILEV</u>	<u>\$5,000</u>
<u>Bin 1</u>	<u>\$5,000</u>	<u>Bin 1 + ILEV</u>	<u>\$6,000</u>

8-14-404. Modification of incentive emissions standards.

After evaluating new technologies and after public notice and comment, the Arkansas Department of Environmental Quality, in consultation with the Arkansas Air Quality Incentive Plan Advisory Board, may change the incentive emissions standards established by this chapter to improve the ability of the program to achieve its goals."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator Steele
LDH/MHF - 031720030755
MHF397

Secretary