

AN ACT

relating to energy-saving measures that reduce the emission of air contaminants.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 382.0215, Health and Safety Code, is amended by amending Subsections (a), (b), and (f) and adding Subsections (a-1) and (h) to read as follows:

(a) In this section:

(1) "Emissions[~~, "emissions~~] event" means an upset event, or unscheduled maintenance, startup, or shutdown activity, from a common cause that results in the unauthorized emissions of air contaminants from one or more [an] emissions points at a regulated entity [point].

(2) "Regulated entity" means all regulated units, facilities, equipment, structures, or sources at one street address or location that are owned or operated by the same person. The term includes any property under common ownership or control identified in a permit or used in conjunction with the regulated activity at the same street address or location.

(a-1) Maintenance, startup, and shutdown activities shall not be considered unscheduled only if the activity will not and does not result in the emission of at least a reportable quantity of unauthorized emissions of air contaminants and the activity is recorded as may be required by commission rule, or if the activity

1 will result in the emission of at least a reportable quantity of  
2 unauthorized emissions and:

3 (1) the owner or operator of the regulated entity  
4 [~~facility~~] provides any prior notice or final report that the  
5 commission, by rule, may establish;

6 (2) the notice or final report includes the  
7 information required in Subsection (b)(3); and

8 (3) the actual emissions do not exceed the estimates  
9 submitted in the notice by more than a reportable quantity.

10 (b) The commission shall require the owner or operator of a  
11 regulated entity [~~facility~~] that experiences emissions events:

12 (1) to maintain a record of all emissions events at the  
13 regulated entity [~~facility~~] in the manner and for the periods  
14 prescribed by commission rule;

15 (2) to notify the commission in a single report for  
16 each emissions event, as soon as practicable but not later than 24  
17 hours after discovery of the emissions event, of an emissions event  
18 resulting in the emission of a reportable quantity of air  
19 contaminants as determined by commission rule; and

20 (3) to report to the commission in a single report for  
21 each emissions event, not later than two weeks after the occurrence  
22 of an emissions event that results in the emission of a reportable  
23 quantity of air contaminants as determined by commission rule, all  
24 information necessary to evaluate the emissions event, including:

25 (A) the name of the owner or operator of the  
26 reporting regulated entity [~~facility~~];

27 (B) the location of the reporting regulated

1 entity [~~facility~~];

2 (C) the date and time the emissions began;

3 (D) the duration of the emissions;

4 (E) the nature and measured or estimated quantity  
5 of air contaminants emitted, including the method of calculation  
6 of, or other basis for determining, the quantity of air  
7 contaminants emitted;

8 (F) the processes and equipment involved in the  
9 emissions event;

10 (G) the cause of the emissions; and

11 (H) any additional information necessary to  
12 evaluate the emissions event.

13 (f) An owner or operator of a regulated entity [~~facility~~]  
14 required by Section 382.014 to submit an annual emissions inventory  
15 report and which has experienced no emissions events during the  
16 relevant year must include as part of the inventory a statement that  
17 the regulated entity [~~facility~~] experienced no emissions events  
18 during the prior year. An owner or operator of a regulated entity  
19 [~~facility~~] required by Section 382.014 to submit an annual  
20 emissions inventory report must include the total annual emissions  
21 from all emissions events in categories as established by  
22 commission rule.

23 (h) The commission may allow operators of pipelines,  
24 gathering lines, and flowlines to treat all such facilities under  
25 common ownership or control in a particular county as a single  
26 regulated entity for the purpose of assessment and regulation of  
27 emissions events.

1 SECTION 2. Section 386.056, Health and Safety Code, is  
2 amended by adding Subsection (e) to read as follows:

3 (e) The commission shall assure that emission reduction  
4 credits may be received in the Houston-Galveston nonattainment area  
5 for energy efficiency and urban heat island programs in connection  
6 with the State Implementation Plan for the eight-hour ozone  
7 standard.

8 SECTION 3. Section 386.252(a), Health and Safety Code, is  
9 amended to read as follows:

10 (a) Money in the fund may be used only to implement and  
11 administer programs established under the plan and shall be  
12 allocated as follows:

13 (1) for the diesel emissions reduction incentive  
14 program, 87.5 percent of the money in the fund, of which not more  
15 than 10 percent may be used for on-road diesel purchase or lease  
16 incentives;

17 (2) for the new technology research and development  
18 program, 9.5 percent of the money in the fund, of which up to  
19 \$250,000 is allocated for administration, up to \$200,000 is  
20 allocated for a health effects study, \$500,000 is to be deposited in  
21 the state treasury to the credit of the clean air account created  
22 under Section 382.0622 to supplement funding for air quality  
23 planning activities in affected counties, and not less than 20  
24 percent is to be allocated each year to support research related to  
25 air quality for the Houston-Galveston-Brazoria and Dallas-Fort  
26 Worth nonattainment areas by a nonprofit organization based in  
27 Houston of which \$216,000 each year shall be contracted to the

1 Energy Systems Laboratory at the Texas Engineering Experiment  
2 Station for the development and annual calculation of creditable  
3 statewide emissions reductions obtained through wind and other  
4 renewable energy resources for the State Implementation Plan;

5 (3) for administrative costs incurred by the  
6 commission and the laboratory, three percent.

7 SECTION 4. Chapter 388, Health and Safety Code, is amended  
8 by adding Section 388.012 to read as follows:

9 Sec. 388.012. DEVELOPMENT OF ALTERNATIVE ENERGY-SAVING  
10 METHODS. The laboratory shall develop at least three alternative  
11 methods for achieving a 15 percent greater potential energy savings  
12 in residential, commercial, and industrial construction than the  
13 potential energy savings of construction that is in minimum  
14 compliance with Section 388.003. The alternative methods:

15 (1) may include both prescriptive and  
16 performance-based approaches, such as the approach of the United  
17 States Environmental Protection Agency's Energy Star qualified new  
18 home labeling program; and

19 (2) must include an estimate of:

20 (A) the implementation costs and energy savings  
21 to consumers; and

22 (B) the related emissions reductions.

23 SECTION 5. Chapter 447, Government Code, is amended by  
24 adding Section 447.012 to read as follows:

25 Sec. 447.012. APPLIANCE STANDARDS. The state energy  
26 conservation office shall determine the feasibility and  
27 cost-benefit to consumers of setting appliance standards for

1 appliances that are not currently regulated for energy efficiency  
2 in this state, if the office determines that the new standards would  
3 reduce the emission of air contaminants. The office may not  
4 consider the feasibility and cost-benefit to consumers of setting  
5 appliance standards for air conditioning systems under this  
6 section.

7 SECTION 6. Chapter 31, Utilities Code, is amended by adding  
8 Section 31.005 to read as follows:

9 Sec. 31.005. CUSTOMER-OPTION PROGRAMS. (a) This section  
10 applies to:

- 11 (1) a municipally owned electric utility;
- 12 (2) an electric cooperative;
- 13 (3) an electric utility;
- 14 (4) a power marketer;
- 15 (5) a retail electric provider; and
- 16 (6) a transmission and distribution utility.

17 (b) An entity to which this section applies shall consider  
18 establishing customer-option programs that encourage the reduction  
19 of air contaminant emissions, such as:

- 20 (1) an appliance retirement and recycling program;
- 21 (2) a solar water heating market transformation  
22 program;
- 23 (3) an air conditioning tune-up program;
- 24 (4) a program that allows the use of on-site energy  
25 storage as an eligible efficiency measure in existing programs;
- 26 (5) a program that encourages the deployment of  
27 advanced electricity meters;

1           (6) a program that encourages the installation of cool  
2 roofing materials;

3           (7) a program that establishes lighting limits;

4           (8) a distributed energy generation technology  
5 program; and

6           (9) a program that encourages the use of  
7 high-efficiency building distribution transformers and variable  
8 air volume fan controls.

9           SECTION 7. Section 39.107, Utilities Code, is amended by  
10 amending Subsections (a) and (b) and adding Subsection (h) to read  
11 as follows:

12           (a) On introduction of customer choice in a service area,  
13 metering services for the area shall continue to be provided by the  
14 transmission and distribution utility affiliate of the electric  
15 utility that was serving the area before the introduction of  
16 customer choice. Metering services provided to commercial and  
17 industrial customers that are required by the independent system  
18 operator to have an interval data recorder meter may ~~[shall]~~ be  
19 provided on a competitive basis ~~[beginning on January 1, 2004]~~.

20           (b) Metering services provided to residential customers and  
21 to nonresidential customers other than those required by the  
22 independent system operator to have an interval data recorder meter  
23 shall continue to be provided by the transmission and distribution  
24 utility affiliate of the electric utility that was serving the area  
25 before the introduction of customer choice ~~[until the later of~~  
26 ~~September 1, 2005, or the date on which at least 40 percent of those~~  
27 ~~residential customers are taking service from unaffiliated retail~~

1 ~~electric providers]~~. Retail electric providers serving  
2 residential and nonresidential customers other than those required  
3 by the independent system operator to have an interval data  
4 recorder meter may request that the transmission and distribution  
5 utility provide specialized meters, meter features, or add-on  
6 accessories so long as they are technically feasible and generally  
7 available in the market and provided that the retail electric  
8 provider pays the differential cost of such a meter or accessory.  
9 Metering and billing services provided to residential customers  
10 shall be governed by the customer safeguards adopted by the  
11 commission under Section 39.101. All meter data, including all  
12 data generated, provided, or otherwise made available, by advanced  
13 meters and meter information networks, shall belong to a customer,  
14 including data used to calculate charges for service, historical  
15 load data, and any other proprietary customer information. A  
16 customer may authorize its data to be provided to one or more retail  
17 electric providers under rules and charges established by the  
18 commission.

19 (h) The commission shall establish a nonbypassable  
20 surcharge for an electric utility or transmission and distribution  
21 utility to use to recover reasonable and necessary costs incurred  
22 in deploying advanced metering and meter information networks to  
23 residential customers and nonresidential customers other than  
24 those required by the independent system operator to have an  
25 interval data recorder meter. The commission shall ensure that the  
26 nonbypassable surcharge reflects a deployment of advanced meters  
27 that is no more than one-third of the utility's total meters over



1 each calendar year and shall ensure that the nonbypassable  
2 surcharge does not result in the utility recovering more than its  
3 actual, fully allocated meter and meter information network costs.  
4 The expenses must be allocated to the customer classes receiving  
5 the services, based on the electric utility's most recently  
6 approved tariffs.

7 SECTION 8. (a) In recognition that advances in digital and  
8 communications equipment and technologies, including new metering  
9 and meter information technologies, have the potential to increase  
10 the reliability of the regional electrical network, encourage  
11 dynamic pricing and demand response, make better use of generation  
12 assets and transmission and generation assets, and provide more  
13 choices for consumers, the legislature encourages the adoption of  
14 these technologies by electric utilities in this state.

15 (b) The Public Utility Commission of Texas shall study the  
16 efforts of electric utilities to benefit from the use of advanced  
17 metering and metering information networks. The commission shall  
18 present to the legislature on or before September 30 of each  
19 even-numbered year a report detailing those efforts and identifying  
20 changes in this state's policies that may be necessary to remove  
21 barriers to the use of advanced metering and metering information  
22 networks or of other advanced transmission and distribution  
23 technologies. On or before September 30, 2010, the commission  
24 shall:

25 (1) evaluate whether advances in technology, changes  
26 in the market, or other unanticipated factors would allow meters or  
27 various meter-related products or services to be provided more

1 efficiently or more effectively through competition; and

2 (2) make recommendations for legislation the  
3 commission considers appropriate.

4 SECTION 9. This Act takes effect September 1, 2005.

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President of the Senate

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Speaker of the House

I certify that H.B. No. 2129 was passed by the House on April 13, 2005, by the following vote: Yeas 146, Nays 0, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2129 on May 26, 2005, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2129 on May 29, 2005, by a non-record vote.

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Chief Clerk of the House

H.B. No. 2129

I certify that H.B. No. 2129 was passed by the Senate, with amendments, on May 24, 2005, by the following vote: Yeas 31, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2129 on May 29, 2005, by the following vote: Yeas 31, Nays 0.

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Secretary of the Senate

APPROVED: \_\_\_\_\_

Date

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Governor