

Statement by Cyrus Reed, Lone Star Chapter, Sierra Club

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The Lone Star Chapter of the Sierra Club strongly supports SB 16, and in particular supports the appropriate use of TERP-generated funds for plug-in hybrids, energy efficient appliances, and renewable energy storage, while maintaining the original focus of the monies. In addition, we are extremely pleased that the legislation contains four of our major recommendations for the Legislature this legislative session: 1. Become involved in the global warming emissions as a state; 2. Address the issue of cumulative impacts in the permitting process; 3. Adopt the latest building codes as state minimum standards; and 4. Adopt appliance efficiency standards for products not addressed by the federal government. All of these steps will help Texas get on the clean energy bandwagon by involving the state in better permitting practices, helping set the agenda in Washington on global warming emissions, and reducing energy use in our appliances and buildings. Buildings, after all, account for 72% of our energy use, 14% of our water consumption and roughly 40 % of our global warming emissions. Sheets on the reasons for our support for Building Code standards and appliance efficiency standards are attached with detailed information.

While we support these four provisions strongly, we do have recommendations on how to improve the bill. These suggestions are attached.

Article 1. Advanced Clean Energy Projects

1. Make sure the requirement for capturing and sequestering carbon could also be met through new technologies like algae production in addition to geologic sequestration.
2. Consider raising the threshold beyond 50 percent, or at the least, allow for a ratcheting up process of threshold.
3. Put the carbon capture provision as an actual permit condition.
3. Adopt the LBB recommendations on the Proposition 2 tax breaks contained in HB 3732 so that the cost of equipment that has environmental benefits is eligible for tax breaks.

Article III.

LIRAP

Add potential for electric cars, natural gas and propane vehicles to qualify for grants under LIRAP and Raise the Maximum to \$30,000. While plug-in hybrids are already covered in a separate section, the potential also exists to provide incentives to these and other types of cars that are not gas-powered like electric vehicles and natural gas vehicles. Increase the maximum amount that could be covered to \$30,000.

May need to add definitions in definitions section

Section 1.01. Section 382.003, Health and Safety Code, is amended by adding Subdivisions (7-b), and (7-c).

(7-b) "Alternative fuel motor vehicle" means a motor vehicle that operates on at least one alternative fuel, including:

(A) methanol, denatured ethanol, or another alcohol, separately or in mixtures of 85 percent or more by volume, or another percentage not less than 70 percent, as determined by United States Department of Energy rule, with gasoline or other fuels;

(B) compressed natural gas;

(C) liquefied natural gas;

(D) liquefied petroleum gas; and

(E) hydrogen.

(7-c) "Plug-in hybrid electric motor vehicle" means (PUT IN SAME DEFINITION)

(7-d) "Electric motor vehicle" means a motor vehicle that draws propulsion energy from one or more electric motors that run on electricity from a source such as a battery, fuel cell or solar panel.

§ 382.210. IMPLEMENTATION GUIDELINES AND REQUIREMENTS.

(b) A replacement vehicle described by Subsection (a)(2) must:

(1) except as provided by Subsection (c), be a vehicle in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or a cleaner Bin certification under 40 C.F.R.

Section 86.1811-04, as published in the February 10, 2000, Federal Register or is a plug-in hybrid electric motor vehicle, an alternative fuel motor vehicle or an electric motor vehicle.

(2) have a gross vehicle weight rating of less than 10,000 pounds; and

(3) be a vehicle the total cost of which does not exceed \$25,000 through August 31 of 2009, or \$30,000 after August 31st of 2009.

Article 4

Do we need language to emphasize that TCEQ should compete for federal stimulus dollars for plug-in hybrid vehicles?

Article 5

Do we need language to emphasize that TCEQ and or SECO should compete for federal stimulus dollars for SECO for appliance grants?

Add language to make sure refrigerators are destroyed and not reused.

Article 11

Add a greenhouse voluntary registry for reduction based upon Wisconsin model. See attached

Add language that would allow TCEQ to include carbon dioxide emission permit limits and capture and sequestration goals as part of permit. Not a requirement but where the applicant agrees. Right now, Tenaska, Summit Power and a project in Nueces are all promising to capture or offset carbon dioxide emissions and yet TCEQ refuses to put this in their permits saying they lack the authority.

Could be also placed in Article 1.

Amend Section 382.0513.

Sec. 382.0513. PERMIT CONDITIONS. The commission may establish and enforce permit conditions consistent with this chapter. Permit conditions of general applicability shall be adopted by rule. Consistent with Section 382.0205 related to Special Problems Related to Air Contaminant Emissions, the Commission shall establish conditions to allow a source of carbon dioxide and other global warming emissions to develop a carbon capture and sequestration or offset plan as part of its permit conditions.

From Senator Watson's CSSB 608

(3) establish a registry of actions to reduce carbon dioxide emissions that have been taken by Texas businesses since January 1, 2000, and work with the United States Environmental Protection Agency to recognize and give credit for early action under federal carbon emissions limits adopted after September 1, 2009;

Article 12

Add BACT federal definition, consideration of most recently proven technologies and ozone analysis

Reasons: Texas should adopt the federal definition of BACT and force TCEQ to consider the most recently proven technologies in its permitting process. The following language is from HB 721 by Howard, filed in the House.

Section 382.003, Health and Safety Code, is amended by amending Subdivisions (3-a) and (11-a) and adding Subdivisions (3-b) as follows:

(3-a) "Best available control technology" means an emissions limitation as defined by 40 C.F.R. Section 52.21(b)(12), as of September 1, 2009.

(3-b) "Coal" has the meaning assigned by Section 134.004, Natural Resources Code.

(4-a) "Criteria air pollutant" means one of the following air contaminants for which the United States Environmental Protection Agency sets national ambient air quality standards: ozone, carbon monoxide, particulate matter, sulfur dioxide, lead, and nitrogen dioxide.

(8-a) "Lowest achievable emission rate" means an emissions limitation as defined by 40 C.F.R. Section 51.165(a)(1)(xiii), as of July 1, 2008.

(11-a) "Significant source" means a source, including an electric generating facility, with the potential to emit a pollutant at a rate that equals or exceeds the rate provided for the pollutant by 40 C.F.R. Section 51.166(b)(23), as of September 1, 2009.

Subchapter C, Chapter 382, Health and Safety Code, is amended by adding Sections 382.05102 and 382.05141 to read as follows:

Sec. 382.05102. CONSIDERATION OF MOST RECENTLY PROVEN TECHNOLOGIES. In a commission proceeding to issue or amend a permit under this chapter, the commission shall consider the emissions limitations listed in accordance with Section 382.051(e) in determining whether the permit complies with the federal best available control technology or lowest achievable emission rate requirements. The commission may require as a condition of the permit a specific process to achieve best available control technology or lowest achievable emission rate requirements.

Sec. 382.05141. OZONE ANALYSIS. (a) Before granting a permit or permit amendment under this subchapter for a significant source, the commission shall conduct or obtain and consider an impacts analysis, using photochemical grid modeling consistent with the United States Environmental

Protection Agency's modeling protocol, of the facility's or proposed facility's effects on concentrations of ground-level ozone in areas downwind from the location of the facility or proposed facility under typical high ground-level ozone conditions for the downwind area.

(b) The photochemical grid modeling impacts analysis must include an area at least 250 kilometers from the significant source being considered for the permit or permit amendment.

(c) The commission shall:

- (1) make the results of the impacts analysis available for public comment; and
- (2) consider and reply to the public comments received before the commission grants a permit or permit amendment.