

Texas Commission on Environmental Quality

Interoffice Memorandum

To: Commissioners **Date** November 22, 2013

Thru: Bridget C. Bohac, Chief Clerk
Zak Covar, Executive Director

From: Richard A. Hyde, P.E., Deputy Executive Director
Brian Christian, Director of SBEA

Docket No.: 2013-2058-RUL

Subject: Commission Approval for Proposed Rulemaking
Chapter 114, Control of Air Pollution from Motor Vehicles
HB 1796: Texas Clean School Bus
Rule Project No. 2014-008-114-AD

Background and reason(s) for the rulemaking:

House Bill (HB) 1796, 81st Legislature, 2009, Regular Session, by Representative Warren Chisum and others, amended Texas Health and Safety Code (THSC), Chapter 390, to extend the expiration date for the Texas Clean School Bus (TCSB) Program from August 31, 2013 to August 31, 2019. The proposed rulemaking would allow for the continuance of the existing TCSB Program through August 31, 2019 or later if the program is extended or reauthorized by the Texas Legislature and provide for administrative cleanup.

Scope of the rulemaking:

The proposed rules would repeal and re-propose Chapter 114, Subchapter K, Division 4, to extend the expiration date to August 31, 2019 or later if the program is extended or reauthorized by the Texas Legislature, for the TCSB Program rules to be consistent with statutory changes by HB 1796.

A.) Summary of what the rulemaking will do:

The proposed rulemaking would allow for the continuance of the existing TCSB Program through August 31, 2019 or later if the program is extended or reauthorized by the Texas Legislature and provide for administrative cleanup.

B.) Scope required by federal regulations or state statutes:

The proposed rules are required by changes to THSC, Chapter 390, under HB 1796.

C.) Additional staff recommendations that are not required by federal rule or state statute:

Staff is not recommending additional changes to the rules.

Statutory authority:

This rulemaking is proposed under Texas Water Code (TWC), §5.102, which provides the commission with the general powers to carry out its duties under the TWC, §5.103, which authorizes the commission to adopt any rules necessary to carry out the powers and duties under the provisions of the TWC, and other laws of this state; and TWC, §5.105, which

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authorizes the commission by rule to establish and approve all general policy of the commission. The rulemaking is also proposed under THSC, §382.011, which authorizes the commission to establish the level of quality to be maintained in the state's air and to control the quality of the state's air. Finally, the rulemaking is proposed under THSC, Chapter 386, which established the Texas Emissions Reduction Program and THSC, Chapter 390, which established the TCSB Program, and as part of the implementation of HB 1796.

Effect on the:

A.) Regulated community:

No fiscal impacts are anticipated by extending the program. The TCSB Program is a voluntary program that does not impose costs on school districts/charter schools. School districts/charter schools could incur administrative or maintenance costs on the equipment installed through the program but would do so voluntarily.

B.) Public:

No fiscal impact anticipated. The goal of this program is to reduce children's exposure to diesel exhaust in and around the bus cabin, and provide air quality benefits from diesel exhaust emission reductions.

C.) Agency programs:

The change in the expiration date would allow the TCSB Program to reimburse school districts/charter schools through August 31, 2019 or later if the program is extended or reauthorized by the Texas Legislature. No fiscal impact anticipated.

Stakeholder meetings:

There will be no stakeholder meetings associated with this rulemaking; however, there will be a rule public hearing on January 21, 2014.

Potential controversial concerns and legislative interest:

There are no anticipated controversial concerns or legislative interest.

Will this rulemaking affect any current policies or require development of new policies?

This rulemaking will not affect any current policies or require development of new policies.

What are the consequences if this rulemaking does not go forward? Are there alternatives to rulemaking?

No potential alternatives are proposed since rulemaking is required by statute.

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Key points in the proposal rulemaking schedule:

Anticipated proposal date: December 11, 2013

Anticipated *Texas Register* publication date: December 27, 2013

Anticipated public hearing date (if any): January 21, 2014

Anticipated public comment period: December 27, 2013 - January 27, 2014

Anticipated adoption date: March 26, 2014

Agency contacts:

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Attachments

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