

Dated: February 22, 2021.

Deborah Jordan,

Acting Regional Administrator, Region IX.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend chapter I, title 40, of the Code of Federal Regulations as follows:

PART 49—INDIAN COUNTRY: AIR QUALITY PLANNING AND MANAGEMENT

■ 1. The authority citation for part 49 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart L—Implementation plans for tribes—Region IX

§ 49.5513 [Removed and Reserved]

■ 2. Remove and reserve § 49.5513.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 3. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

Subpart D—Arizona

§ 52.145 [Amended]

■ 4. Amend § 52.145 by removing and reserving paragraph (d).

[FR Doc. 2021-04352 Filed 3-15-21; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2020-0713; FRL-10020-73-Region 6]

Air Plan Approval; Texas; Revisions to the Texas Diesel Emissions Reduction Incentive Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Pursuant to the Federal Clean Air Act (CAA or the Act), the Environmental Protection Agency (EPA) is proposing to approve a revision to the Texas State Implementation Plan (SIP) that pertains to the Texas Diesel Emissions Reduction Incentive Program, submitted on August 13, 2020.

DATES: Written comments must be received on or before April 15, 2021.

ADDRESSES: Submit your comments, identified by Docket No. EPA-R06-OAR-2020-0713, at <https://www.regulations.gov> or via email to

young.carl@epa.gov. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from [Regulations.gov](https://www.regulations.gov). The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact Carl Young, 214-665-6645, young.carl@epa.gov. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

Docket: The index to the docket for this action is available electronically at www.regulations.gov. While all documents in the docket are listed in the index, some information may not be publicly available due to docket file size restrictions or content (*e.g.*, CBI).

FOR FURTHER INFORMATION CONTACT: Carl Young, EPA Region 6 Office, Infrastructure and Ozone Section, 214-665-6645, young.carl@epa.gov. Out of an abundance of caution for members of the public and our staff, the EPA Region 6 office will be closed to the public to reduce the risk of transmitting COVID-19. We encourage the public to submit comments via <https://www.regulations.gov>, as there will be a delay in processing mail and no courier or hand deliveries will be accepted. Please call or email the contact listed above if you need alternative access to material indexed but not provided in the docket.

SUPPLEMENTARY INFORMATION: Throughout this document wherever “we,” “us,” or “our” is used, we mean the EPA.

I. Background

Section 110 of the CAA requires states to develop and submit to the EPA a SIP to ensure that state air quality meets National Ambient Air Quality Standards (NAAQS). These ambient standards currently address six criteria pollutants: Carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and

sulfur dioxide. Each federally-approved SIP protects air quality primarily by addressing air pollution at its point of origin through air pollution regulations and control strategies. The EPA approved SIP regulations and control strategies are federally enforceable.

An Economic Incentive Program (EIP) is a program that uses market-based strategies to reduce emissions of air pollutants.¹ The Texas Diesel Emissions Reduction Incentive Program (DERIP) for On-Road and Non-Road Vehicles is part of the Texas Emissions Reduction Program (TERP) that was established by the Texas Legislature in 2001 and approved in the Texas SIP as an economic incentive program (70 FR 48647, August 19, 2005). DERIP provides grants to eligible individuals, businesses, or local governments to reduce emissions from diesel-powered vehicles and equipment in areas designated as nonattainment for a NAAQS or other counties identified by the Texas Legislature.²

In 2019 the Texas Legislature revised the eligibility requirements for DERIP. As a result, the Texas Commission on Environmental Quality (TCEQ) revised the DERIP regulations found in Title 30, Chapter 114 (Control of Air Pollution from Motor Vehicles) of the Texas Administrative Code (30 TAC 114). The revisions were adopted on June 10, 2020 and submitted to the EPA as a SIP revision on August 13, 2020. Specifically, the TCEQ revisions: (1) Changed the minimum required usage for grant-funded vehicles and equipment in the eligible area from 75% to 55% (30 TAC 114.622), and (2) removed Victoria County from the list of counties eligible for DERIP grants (30 TAC 114.629). A copy of the SIP revision submitted to EPA is available in the electronic docket for this action.

II. The EPA’s Evaluation

We approved DERIP regulations into the Texas SIP in 2005 (70 FR 48647, August 19, 2005). More recently, we approved updates to DERIP regulations in 2018 (83 FR 50018, October 4, 2018). This SIP revision further updates DERIP regulations. The effect of this update is to: (1) Allow more diesel vehicles and equipment in nonattainment areas or

¹ For more information on EIPs see “Improving Air Quality with Economic Incentive Programs”, EPA-452/R-01-001, January 2001, available at <https://www.epa.gov/sites/production/files/2015-07/documents/eipfin.pdf>.

² For more information on TERP and DERIP please see “Texas Emissions Reduction Plan Biennial Report (2019–2020), Report to the 87th Texas Legislature, December 2020, SFR-079/20”. The document is available at: https://www.tceq.texas.gov/assets/public/comm_exec/pubs/sfr/079-20.pdf.

affected counties to be eligible for grant funding (30 TAC 114.622) and (2) exclude Victoria County from eligibility for DERIP grants (30 TAC 114.629).

Section 110(l) of the CAA requires that EPA shall not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in Section 171 of the CAA) or any other applicable requirements of the CAA. DERIP is a voluntary incentive program for reducing emissions and is not a requirement of the Act. The inclusion of DERIP in the SIP, therefore, is discretionary and as such, revisions can be made as long as they do not contribute to nonattainment or interfere with maintenance. Reductions from the TERP program were part of the emission reductions in SIP revisions relied upon to provide for attainment of (1) the 1997 ozone standard in the Dallas-Fort Worth area (70 FR 15592, March 28, 2005) and (2) the 1-hour ozone standard in the Houston-Galveston-Brazoria area (71 FR 52670, September 6, 2006). The reductions relied upon in these plans have long been achieved through grants and rebates that have already been issued and none of the subsequent ozone attainment plans submitted by the State have relied upon reductions from the TERP or DERIP programs. However, the State could use DERIP as a tool in future SIP revisions to obtain needed emission reductions.

As noted above, revisions to 30 TAC 114.622 changed the amount of time equipment needs to operate in the affected counties. This change will provide for an increase in the pool of vehicles and equipment eligible for this program and potentially generate more emission reductions through future state grants. Some of these reductions, however, will likely be outside of designated nonattainment areas. As Texas is not relying on emission reductions from future DERIP grants, it is not necessary for the reductions to occur exactly in an affected nonattainment area.

As stated previously, DERIP and TERP are not mandated by the Clean Air Act. The implementation of these programs is discretionary. The Texas legislature originally adopted the programs to apply in nonattainment areas and other affected areas deemed near-nonattainment areas. None of the reductions that will be achieved by these programs going forward are being relied upon in any plan for any affected area in Texas. The Texas legislature decided that it no longer should implement the program in Victoria County which is meeting all current

NAAQS. Not providing grants to reduce emissions from diesel equipment will not cause emissions to increase in Victoria county. Instead emissions in the county will not be impacted by this SIP revision. Therefore, approval of the revision to 30 TAC 114.629 will not contribute to nonattainment or interfere with maintenance in Victoria County. As more diesel equipment become eligible, the concentration of the DERIP program in nonattainment areas will likely result in additional emission reductions. As additional grants are issued to reduce emissions from diesel equipment, the air quality will benefit, which will assist in maintenance and attainment of the NAAQS. Therefore, the proposed approval of the SIP revision is consistent with the CAA section 110(1). Also, because the program is discretionary, it will not interfere with any applicable requirement for attainment and reasonable further progress, or any other applicable requirement of the CAA. Because the revised program will continue to achieve additional reductions not relied upon by any plan for attainment or maintenance, the revisions will not contribute to nonattainment or interfere with maintenance.

III. Proposed Action

We are proposing to approve the revisions to 30 TAC 114.622 and 114.629 adopted on June 10, 2020 and submitted on August 13, 2020.

IV. Incorporation by Reference

In this action, we are proposing to include in a final rule regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.5, we are proposing to incorporate by reference revisions to the Texas regulations as described in the Proposed Action section above. We have made, and will continue to make, these documents generally available electronically through www.regulations.gov (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as

meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
 - Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
 - Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
 - Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4);
 - Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
 - Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
 - Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
 - Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
 - Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).
- In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 10, 2021.

David Gray,

Acting Regional Administrator, Region 6.

[FR Doc. 2021-05329 Filed 3-15-21; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 751

[EPA-HQ-OPPT-2021-0202; FRL-10021-08]

Regulation of Persistent, Bioaccumulative, and Toxic Chemicals Under TSCA Section 6(h); Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In accordance with the January 21, 2021, Executive Order entitled “Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis” and other Biden-Harris Administration Executive orders and other direction, the Environmental Protection Agency (EPA) is requesting additional public comments on five final rules recently issued under the Toxic Substances Control Act (TSCA). On January 6, 2021, EPA issued final rules to address its obligations under TSCA for five persistent, bioaccumulative, and toxic (PBT) chemicals that EPA determined met the criteria for expedited action under TSCA. These chemicals are 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP) (CASRN 732-26-3); decabromodiphenyl ether (decaBDE) (CASRN 1163-19-5); phenol, isopropylated phosphate (3:1) (PIP (3:1)) (CASRN 68937-41-7); pentachlorothiophenol (PCTP) (CASRN 133-49-3); and hexachlorobutadiene (HCBd) (CASRN 87-68-3). PBT chemicals are of particular concern in the Agency’s efforts to protect human health and the environment because they are toxic and remain in the environment for long periods of time and can build up or accumulate in the body. As a first step in its efforts to immediately review these rules to determine whether they are consistent with the Administration policy to limit exposure to dangerous chemicals (and to determine whether and how these rules should be revised), EPA invites public comment on the final rules, including whether there are further exposure reductions that could be achieved, including exposure reductions for potentially exposed or susceptible subpopulations and the environment; implementation issues

associated with these final rules; and whether to consider additional or alternative measures or approaches. In particular, EPA is seeking comment on specifics of recently raised issues regarding the compliance date for the prohibition on the processing and distribution of PIP (3:1) for use in articles, and PIP (3:1)-containing articles.

DATES: Comments must be received on or before May 17, 2021.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPPT-2021-0202, through the Federal eRulemaking Portal at <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Please note that due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room were closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit <https://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Cindy Wheeler, Existing Chemicals Risk Management Division (Mail Code 7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0484; email address: TSCA-PBT-rules@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this apply to me?

This document is directed to the public in general and may be of interest to persons who currently or may manufacture (including import), process, distribute, use, and/or dispose of the five PBT chemicals: 2,4,6-tris(tert-butyl)phenol (2,4,6-TTBP) (CASRN 732-26-3); decabromodiphenyl ether

(decaBDE) (CASRN 1163-19-5); phenol, isopropylated phosphate (3:1) (PIP (3:1)) (CASRN 68937-41-7); pentachlorothiophenol (PCTP) (CASRN 133-49-3); and hexachlorobutadiene (HCBd) (CASRN 87-68-3). The action may also be of interest to persons who currently or may manufacture (including import), process, distribute, use, and/or dispose of products and articles containing these PBT chemicals. Non-governmental organizations in the environmental and public health sectors, state and local government agencies, and members of the public may also be interested in this action. Since other entities may also be interested, EPA has not attempted to describe all the specific entities that may be affected by this action.

B. What is EPA’s authority for taking this action?

EPA issued the final rules under TSCA section 6(h), 15 U.S.C. 2601 *et seq.*, for five persistent, bioaccumulative, and toxic (PBT) chemical substances that met the statutory criteria. More specifically, under TSCA section 6(h), EPA must take expedited action on those chemical substances identified in the 2014 Update to the TSCA Work Plan for Chemical Assessments (Ref. 1) that, among other factors, EPA has a reasonable basis to conclude are toxic and that with respect to persistence and bioaccumulation score high for one and either high or moderate for the other, pursuant to the TSCA Work Plan Chemicals: Methods Document (Ref. 2). The chemical substances that meet these criteria are 2,4,6-TTBP, decaBDE, PIP (3:1), PCTP, and HCBd. Under TSCA, if EPA determines that exposure is likely to a chemical meeting these criteria, EPA must issue a rule that addresses the risks of injury to health or the environment that the Administrator determines are presented and reduces exposure to the chemical to the extent practicable. Based on the “Exposure and Use Assessment of Five Persistent, Bioaccumulative and Toxic Chemicals Assessment” (Ref. 3), EPA determined that exposure was likely to all five of the PBT chemicals. On January 6, 2021, EPA issued a final rule for each of the five chemicals under TSCA section 6(h), meeting the Agency’s obligation to promulgate the rules within 18 months of issuance of the proposed rules (Refs. 4-8). With the obligation to promulgate these rules, the Agency also has the authority to amend them if circumstances change, including in relation to the receipt of new information.