

# Texas Commission on Environmental Quality

INTEROFFICE MEMORANDUM

**To:** Commissioners **Date:** August 7, 2009  
**Thru:** LaDonna Castañuela, Chief Clerk  
Mark R. Vickery, P.G., Executive Director  
**From:** Susana M. Hildebrand, P.E., Chief Engineer 

**Docket No.:** 2009-0744-SIP

**Subject:** Commission Approval of a Revision to the State Implementation Plan (SIP) for the Control of Ozone Air Pollution for All Affected 1997 Eight-Hour Ozone Standard Nonattainment and Near Nonattainment Areas in the State of Texas

Project No. 2009-024-SIP-NR - State of Texas Portable Fuel Container (PFC) Rule Repeal SIP Revision for the 1997 Eight-Hour Ozone Standard

## Reasons for the SIP revision:

On February 26, 2007, the United States Environmental Protection Agency (EPA) adopted federal regulations that limit the evaporative hydrocarbon emissions from gasoline, diesel, and kerosene portable fuel containers (PFCs) to 0.3 grams per gallon per day (72 *Federal Register* 8432). All PFCs manufactured on or after January 1, 2009, are required to comply with the federal standards. The current Texas PFC regulations are inconsistent with the federal standards because the Texas PFC regulations were based on PFC testing methods adopted by the California Air Resources Board (CARB) in 2001. The proposed statewide SIP revision would remove the state's PFC rule as an ozone control strategy from the SIP.

## Under what authority are we proposing these changes?

The SIP revision is proposed under Texas Health and Safety Code (THSC), §382.002, concerning Policy and Purpose, which establishes the commission's purpose to safeguard the state's air resources, consistent with the protection of public health, general welfare, and physical property; §382.011, concerning General Powers and Duties, which authorizes the commission to control the quality of the state's air; §382.012, concerning State Air Control Plan, which authorizes the commission to prepare and develop a general, comprehensive plan for the control of the state's air; §382.014, concerning Emission Inventory; §382.016, concerning Monitoring Requirements; House Bill 2481, §2, codified in THSC, §382.0173, concerning Adoption of Rules Regarding Certain SIP Requirements and Standards of Performance for Certain Sources; §382.054, concerning Federal Operating Permit; and Federal Clean Air Act (FCAA), 42 United States Code (USC), §§7401 *et seq.*, which requires states to submit plans establishing standards of performance for existing sources of pollutants for which National Ambient Air Quality Standards have not been established, and providing for the implementation and enforcement of such standards of performance.

The proposed repeal of these sections implements THSC, §§382.002, 382.011, 382.012, 382.014, 382.016, 382.0173, 382.054, and FCAA, 42 USC, §§7401 *et seq.*

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**Is this SIP revision required by federal rule or state statute? Which ones?**

No.

**Are there any legal deadlines by which this SIP revision must be proposed, adopted, or effective?**

There are no legal deadlines at this time.

**What issue(s) or problem(s) are we trying to solve?**

The state is proposing to repeal its PFC regulations and to rely on the implementation of the federal PFC regulations to control volatile organic compound (VOC) emissions from PFCs used within the state. The proposed statewide SIP revision would remove the state's PFC rule as an ozone control strategy from the SIP.

**Why is it important that we do this SIP revision?**

This SIP revision would demonstrate how the repeal of the current Texas PFC regulations and reliance on the new federal PFC standards will have no negative impact on the SIP.

**Other important background or historical information.**

The Texas PFC program, which became effective January 1, 2006, was included in the 2004 Rate of Progress (ROP) SIP revision for the Houston-Galveston-Brazoria (HGB) area, the Five Percent Increment of Progress (IOP) SIP revision for the Dallas-Fort Worth (DFW) area, the 2006 Victoria SIP revision, the 2004 Early Action Compact (EAC) SIP revision for the Austin area, the 2005 Beaumont/Port Arthur (BPA) Attainment Demonstration SIP revision, the Austin-Round Rock Eight-Hour Ozone Flex Memorandum of Agreement (MOA) Plan, the San Antonio EAC SIP revision, and the Northeast Texas EAC SIP revision.

The proposed statewide SIP revision would demonstrate that the repeal of the current Texas PFC regulations and reliance on the new federal PFC standards will have no negative impact on the SIP. The estimated emission reductions applicable to the implementation of the federal PFC rule in Texas are expected to be equivalent to the current Texas PFC rule in the early years and to provide greater reductions in the later years. Therefore, the proposed repeal of the state PFC rule would not have a negative impact on the emission reductions claimed in the Texas SIP.

The EPA, Region 6, indicated a PFC rule repeal and SIP revision would not be construed as a SIP relaxation. Emission reductions from the federal PFC rule are expected to ultimately exceed those from the state PFC rule because every fuel container sold or brought into the state from elsewhere will be required to meet the federal PFC standards.

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**Scope of the SIP revision:**

**Changes required by federal rule:**

None.

**Changes required by state statute:**

None.

**Staff recommendations that are not expressly required by federal rule or state statute:**

Revise the Texas SIP to reflect the PFC rule repeal.

**Impact on the regulated community:**

**Who will be affected?**

The proposed SIP revision would have no impact on the regulated community.

**Does it create a group of affected persons who were not affected previously? How?**

No.

**Will there be a fiscal impact? If so, estimate.**

There will be no fiscal impact from the proposed SIP revision.

**Impact on the public:**

**Who will be affected?**

The proposed SIP revision would have no impact on the regulated community.

**Does it create a group of affected persons who were not affected previously? How?**

No.

**Will there be a fiscal impact? If so, estimate.**

No.

**Impact on agency programs:**

The proposed SIP revision would have no impact on agency programs. The estimated emission reductions applicable to the implementation of the federal PFC rule in Texas are expected to be equivalent to the current Texas PFC rule in the early years and to provide greater reductions in the later years.

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**Stakeholder meetings:**

**Have any stakeholder meetings been held?**

No.

**With whom?**

N/A

**What were the general sentiments?**

N/A

**Were any changes made in response to stakeholder concerns?**

N/A

**Policy issues:**

**What policy issues are affected?**

None.

**Are any policies that are not currently based on rule being made into a rule?**

No.

**What are the consequences if this SIP revision is not approved to go forward?**

The ozone control strategy used in the SIP for limiting VOC emissions from PFCs will be less stringent than the federal rule.

**Are there alternatives?**

- Do not repeal the PFC rule and do a SIP revision. However, manufacturers would be subject to both the Texas PFC rule and the federal rule.

**Potentially controversial matters:**

None anticipated.

**Key points in proposed SIP revision schedule:**

**Anticipated proposal date:** August 26, 2009  
**Anticipated *Texas Register* publication date:** September 11, 2009  
**Public hearing date (if any):** October 6, 2009  
**Public comment period:** September 11 – October 12, 2009  
**Anticipated adoption date:** February 3, 2010

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**Agency contacts:**

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**Attachments**

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