Travis County Commissioners Court Agenda Request

Meeting Date: January 7, 2014
Prepared By: Adele Noel, Enviromental Project Manager **Phone #:** (512) 854 7211
Division Director/Manager: Jon White/Tom Weber - NREQ

Department Head/Title: Steven M. Manilla, P.E., County Executive-TNR
Sponsoring Court Member: County Judge Samuel T. Biscoe

AGENDA LANGUAGE:
Consider and take appropriate action on the following requests:
A) On the proposed Memorandum of Agreement (MOA) with the Texas Commission on Environmental Quality (TCEQ) for local enforcement of heavy-duty vehicle idling limitations;
B) Resolution in support of the MOA; and
C) Implementation Plan for the local enforcement of heavy-duty vehicle idling limitations.

BACKGROUND/SUMMARY OF REQUEST:
The purpose of this MOA is to renew the agreement between Travis County and TCEQ for implementing the locally enforced motor vehicle idling limitation. The state rules limit heavy-duty vehicles weighing more than 14,000 pounds from idling more then five minutes to reduce harmful air emissions. There are exceptions to these idling rules. The state rule, which provides local enforcement, is applicable only in areas where local governments have entered into an MOA with TCEQ, to assist in delegating the enforcement of the rule to the local government.

The initial MOA for implementing the state rule for locally enforced motor vehicle idling limitation was signed by Travis County on August 1, 2005 as part of the Early Action Compact Agreement. That MOA expired on December 31, 2007. A new MOA was signed on March 25, 2008 and expired on December 31, 2013. Continued enforcement of the heavy-duty idling rule is one air quality strategy that Travis County committed to as part of the Ozone Advance Plan. This proposed MOA expires on December 31, 2018.

STAFF RECOMMENDATIONS:
TNR recommends approval of the MOA.

ISSUES AND OPPORTUNITIES:

On October 22, 2013, Travis County Commissioners Court approved to participate in the Ozone Advance Plan which included a measure to limit idling from heavy-duty vehicles in order to improve air quality in Central Texas. By renewing this agreement between Travis County and TCEQ for implementing the locally enforced motor vehicle idling limitation, Travis County will be fulfilling its obligation.

Unnecessary idling wastes fuel, costs money, and increases air pollution. The TCEQ, and other states, have passed rules to limit unnecessary idling in an effort to improve air quality, protect public health, and meet federal air quality standards.

The U.S. Environmental Protection Agency estimates that excess idling is responsible for 11 million tons of carbon dioxide, 200,000 tons of oxides of nitrogen, and 5,000 tons of particulate matter emitted annually.

FISCAL IMPACT AND SOURCE OF FUNDING:

None

EXHIBITS/ATTACHMENTS:

MOA
Resolution
Implementation Plan

REQUIRED AUTHORIZATIONS:

Cynthia McDonald	Financial Manager	TNR	(512) 854-4239
Steven M. Manilla	County Executive	TNR	(512) 854-9429
Christopher Gilmore	County Attorney VII	County Attorney's Office	(512) 854-9455

CC:

Jon White	Natural Resource Enviromental Quality Division Director	TNR	(512) 854-7212
Thomas Weber	Enviromental. Program Manager	TNR	(512) 854-4629
Adele Noel	Enviromental Project Manager	TNR	(512) 854-7211

: :
0801 - NREQ- Air Quality

MEMORANDUM OF AGREEMENT FOR VEHICLE IDLING LIMITATIONS

I. PARTIES

This Memorandum of Agreement (MOA) is entered into between the Texas Commission on Environmental Quality (TCEQ) and the local government signing this agreement (Local Government), collectively the "Parties."

1. The Parties represent that they have the authority to enter into this MOA, including the authority granted in the Texas Government Code Chapter 791 Interlocal Cooperation Contracts.
2. The TCEQ has authority under Section 5.229 of the Texas Water Code and Section 382.033 of the Texas Health and Safety Code to enter into this MOA.
3. The Local Government has authority under Section 382.115 of the Texas Health and Safety Code to enter into this MOA.

II. INTENT AND PURPOSE

The intent of this MOA is to memorialize the agreement between the Parties to implement the following rules aimed at the control of air pollution from motor vehicles: 30 Texas Administrative Code (TAC) Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 – 114.512 and 114.517.

The parties enter into this MOA for the purpose of delegating rule enforcement from the TCEQ to the Local Government and potentially incorporating the emission reductions resulting from the implementation and enforcement of the above-referenced rules into the State Implementation Plan (SIP).

III. DEFINITIONS

As used in this MOA the following terms have the meanings given below:

1. EPA shall mean the United States Environmental Protection Agency.
2. TCEQ shall mean the Texas Commission on Environmental Quality.
3. Local Government has the meaning assigned by 30 TAC Section 114.510.
4. SIP shall refer to the Texas State Implementation Plan.

IV. BACKGROUND

On November 17, 2004, the TCEQ adopted rules concerning locally enforced motor vehicle idling limitations, which are applicable only within the jurisdiction of a Local Government that has signed an MOA with the TCEQ delegating enforcement of the rules. The EPA approved the rules in the April 11, 2005, *Federal Register* (70 FR 18308). The rules became effective December 9, 2004.

V. OBLIGATIONS OF PARTIES

(A) The Local Government agrees as follows:

1. In accordance with the terms of this MOA the Local Government agrees to implement the following TCEQ Rule:
   a. 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517. Changes to these TCEQ Rules shall be incorporated into this Agreement without requiring amendment of this Agreement.
2. The Local Government agrees to submit the following information to the TCEQ for the rules listed above not later than forty-five (45) calendar days after the effective date of this MOA:
   a. detailed description of the plan for implementation of these rules;
   b. copies of local ordinances or resolutions adopted by each Local Government to implement these rules; and
   c. copies of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules.
3. The Local Government agrees to submit copies of any requisite resolutions under Section 7.352 of the Texas Water Code to the TCEQ forty-five (45) calendar days after the effective date of this MOA or within fourteen (14) calendar days after passage by the local governing body, whichever is later.

(B) The TCEQ agrees to consider this MOA for submission to the EPA for inclusion in the Texas SIP.

VI. TERM AND TERMINATION

This MOA will become effective upon signature by both Parties and shall expire on December 31, 2018 unless renewed in writing by mutual agreement of the Parties. A Party may withdraw from this MOA at any time upon thirty (30) calendar days written notice to the other Party. This MOA may be terminated at any time by mutual written consent of the Parties.

VII. MISCELLANEOUS

This MOA represents the entire agreement between the TCEQ and the Local Government and supersedes all other agreements, understandings or commitments, written or oral, relative to the intent of this MOA. This MOA may not be amended or modified except pursuant to a mutual written agreement executed by each of the Parties.

This MOA shall be governed by and interpreted in accordance with the laws of the State of Texas.

In Witness Thereof, Texas Commission on Environmental Quality and the Local Government, by their authorized officers, have made and executed this MOA in multiple copies, each of which is deemed an original.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

By:_____ _____
Name: David Brymer Date
Title: Director, Air Quality Division

LOCAL AREA

By:_____ _____
Name: Date
Title:

IMPLEMENTATION PLAN FOR THE TEXAS HEAVY-DUTY VEHICLE IDLING RULE

BACKGROUND:

Limiting heavy-duty vehicle idling is one component of the region's Ozone Advance Plan and continues commitments from previous air quality action plans. It offers emission reductions, reduces harmful emissions, and saves fuel costs. There appears to be stakeholder support for implementation of the state rule, as the results of the Ozone Advance Plan Survey, conducted during 2013, showed.

The locally enforced motor vehicle idling limitation rules (30 TAC Chapter 114, Sections 114.510-114.512 and 114.517) prohibit vehicles with a gross vehicle weight rating (GVWR) of over 14,000 pounds from idling for more than five consecutive minutes when the vehicle is not in motion. Exceptions are provided in Section 114.517. The rule is applicable only within the jurisdiction of a local government that has signed a Memorandum of Agreement (MOA) with the Texas Commission on Environmental Quality to delegate enforcement of the rules to that local government.

EDUCATION AND INFORMATION:

The Travis County Air Quality Project Manager will publish and distribute fact sheets and educational brochures to locations and organizations frequented by heavy duty vehicle drivers truck owners, and businesses. Information will include reasons for the idling limitation, the specifics of the limitations, and information on available anti-idling technologies.

Travis County will continue with the informational hotline for reporting violation of idling and will include a fact sheet, educational brochure, and other anti-idling information on the County's website.

ENFORCEMENT:

Travis County will use enforcement procedures that are consistent with Section 7.251 of the Texas Water Code (Attached) or any applicable local government ordinances.

Travis County peace officer enforcement training programs will be updated with information on regulatory requirements and compliance determination procedures.

Officers investigate idling violations based upon complaints received and issue citations as necessary. Complaints may be submitted by calling an environmental hotline 512 854-4400 or by calling the Travis County Sheriff's Office or a Travis County Constable. Enforcement may also be initiated based upon an observation of a County law enforcement officer.

IDLING ENFORCEMENT PROCEDURE:

- Upon identifying a parked vehicle with a GVWR of 14,000 pounds or greater, the officer shall drive by or stop to listen to verify that the main engine of the vehicle is operating while the vehicle is parked.
- The officer shall use a stop watch to time five minutes of continuous idling.
- After five minutes, the officer may approach the vehicle and ask to see appropriate identification and vehicle documentation.
- If the vehicle has a sleeper berth, the officer shall ask to see the driver's log book to determine whether the driver was idling during a government-mandated rest period. Idling during this time is permitted under certain circumstances (See attached State rule).
- If the driver is not on a required rest period, determine whether any of the exemptions listed in the rule are applicable.
- If not, the officer has the option to issue a warning or to issue a citation, in an amount that may not to exceed $500. (Each violation is considered a separate offense).

ATTACHMENT

Texas Commission on Environmental Quality
Control of Air Pollution from Motor Vehicles

SUBCHAPTER J: OPERATIONAL CONTROLS FOR MOTOR VEHICLES
DIVISION 2: LOCALLY ENFORCED MOTOR VEHICLE IDLING LIMITATIONS§§114.510 -114.512, 114.517
Effective August 30, 2012

§114.510. Definitions.

Unless specifically defined in the Texas Health and Safety Code, Chapter 382 (also known as the Texas Clean Air Act) or in the rules of the commission, the terms used in this subchapter have the meanings commonly ascribed to them in the field of air pollution control. In addition to the terms which are defined by Texas Health and Safety Code, Chapter 382; §3.2 of this title relating to Definitions); §101.1 of this title (relating to Definitions); and 114.1 of this title (relating to Definitions), the following words and terms, when used in this subchapter, have the following meanings, unless the context clearly indicates otherwise.

(1) Idle—The operation of an engine in the operating mode where the engine is not engaged in gear, where the engine operate s at a speed at the revolutions per minute specified by the engine or vehicle manufacturer for when the accelerator is fully released, and there is no load on the engine.

(2) Local government -- A city, county, municipality, or political subdivision of the state.

(3) Motor vehicle--Any self -propelled device powered by an internal combustion engine and designed to operate with four or more wheels in contact with the ground, in or by which a person or property is or may be transported, and is required to be registered under Texas Transportation Code, §502.002, excluding vehicles registered under §502.006(c).

(4) Primary propulsion engine--A gasoline or diesel-fueled internal combustion engine attached to a motor vehicle that provides the power to propel the motor vehicle into motion and maintain motion.

§114.511. Applicability.

The provisions of §114.512 and §114.517 of this title (relating to Control

Requirements for Motor Vehicle Idling; and Exemptions) are applicable only within the jurisdiction of a local government that has signed a Memorandum of Agreement with the commission to delegate enforcement of the provisions of this division to that local government.

Adopted November 17, 2004 Effective December 9, 2004

§114.512. Control Requirements for Motor Vehicle Idling.

No person shall cause, suffer, allow, or permit the primary propulsion engine of a motor vehicle to idle for more than five consecutive minutes when the motor vehicle, as defined in §114.510 of this title (relating to Definitions), is not in motion.

Adopted July 20, 2011 Effective August 11, 2011

§114.517. Exemptions.

The provisions of §114.512 of this title (relating to Control Requirements for Motor Vehicle Idling) do not apply to:

(1) a motor vehicle that has a gross vehicle weight rating of 14,000 pounds or less;

(2) a motor vehicle that has a gross vehicle weight rating greater than 14,000 pounds and that is equipped with a 2008 or subsequent model year heavy-duty diesel engine or liquefied or compressed natural gas engine that has been certified by the United States Environmental Protection Agency or another state environmental agency to emit no more than 30 grams of nitrogen oxides emissions per hour when idling;

(3) the primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety in an armored vehicle while the employee remains inside the vehicle to guard the contents or while the vehicle is being loaded or unloaded;

(4) a motor vehicle forced to remain motionless because of traffic conditions over which the operator has no control;

(5) a motor vehicle being used by the United States military, national guard, or reserve forces, or as an emergency or law enforcement motor vehicle;

(6) the primary propulsion engine of a motor vehicle providing a power source necessary for mechanical operation, other than propulsion, and/or passenger compartment heating, or air conditioning;

(7) the primary propulsion engine of a motor vehicle being operated for maintenance or diagnostic purposes;

(8) the primary propulsion engine of a motor vehicle being operated solely to defrost a windshield;

(9) the primary propulsion engine of a motor vehicle that is being used to supply heat or air conditioning necessary for passenger comfort and safety in vehicles intended for commercial or public passenger transportation, or passenger transit operations, in which case idling up to a maximum of 30 minutes is allowed;

(10) the primary propulsion engine of a motor vehicle being used to provide air conditioning or heating necessary for employee health or safety while the employee is using the vehicle to perform an essential job function related to roadway construction or maintenance;

(11) the primary propulsion engine of a motor vehicle being used as airport ground support equipment;

(12) the owner of a motor vehicle rented or leased to a person that operates the vehicle and is not employed by the owner; or

(13) a motor vehicle when idling is necessary to power a heater or air conditioner while a driver is using the vehicle's sleeper berth for a government-mandated rest period and is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available.

Adopted August 8, 2012 Effective August 30, 2012

RESOLUTION

A RESOLUTION OF TRAVIS COUNTY TO IMPLEMENT AND ENFORCE THE STATE RULES AIMED AT THE CONTROL OF AIR POLLUTION FROM HEAVY DUTY MOTOR VEHICLE IDLING.

Whereas: Travis County has approved entering into an Ozone Advance Plan agreement with the U.S. Environmental Protection Agency and the Texas Commission on Environmental Quality (TCEQ) and other local government in order to proactively and effectively address the region's attainment of the federal ground-level ozone air quality standard;

Whereas, Travis County is designated as near nonattainment for the pollutant ozone and unsatisfactory air quality may adversely affect the public and economic health of the entire region;

Whereas, the U.S. Environmental Protection Agency and the TCEQ agree that it is a primary objective to reduce emission reductions from motor vehicles, and the Texas Legislature has created the Texas Clean Air Act to address that purpose;

Whereas: Section 382.113 of the Texas Clean Air Act provides authority for municipalities to enact and enforce local laws and ordinances for the control and abatement of air pollution;

Whereas, Travis County finds that the TCEQ idling rules serve a public purpose, and protects the health, safety, and welfare of the citizens of Central Texas, by limiting the pollution created by heavy duty vehicles unnecessarily idling within the County's jurisdiction; and

Whereas, Travis County has entered into a Memorandum of Agreement with the TCEQ to implement the rules aimed at the control of air pollution from heavy duty motor vehicles unnecessarily idling within the jurisdiction of Travis County;

Now, therefore, be it resolved by the Travis County Commissioners Court, that Travis County agrees to implement the following TCEQ rule:

Texas Administrative Code, Title 30, Part 1, Chapter 114, Subchapter J, Operational Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitation.

Resolved, this 7th day of January, 2014.

SAMUEL T. BISCOE

County Judge

RON DAVIS
Commissioner, Precinct One

BRUCE TODD
Commissioner, Precinct Two

GERALD DAUGHERTY
Commissioner, Precinct Three

MARGARET J. GÓMEZ
Commissioner, Precinct Four