



## Travis County Commissioners Court Agenda Request

**Meeting Date:** March 4, 2014

**Prepared By:** Adele Noel    **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) To approve a proposed Memorandum of Agreement with the Texas Commission on Environmental Quality (TCEQ) for local enforcement of heavy duty vehicle idling limitations;
- B) To approve a Resolution in support of the Memorandum of Agreement; and
- C) To approve an implementation plan for the local enforcement of heavy duty vehicle idling limitations.

### **BACKGROUND/SUMMARY OF REQUEST:**

The purpose of this Memorandum of Agreement (MOA) is to renew the agreement between Travis County and TCEQ for implementing the locally enforced motor vehicle idling limitation. State rules limit heavy duty vehicle idling for vehicles that weigh more than 14k pounds to five minutes to reduce harmful air emissions. There are several exceptions to these idling. The state rule, which provides for local enforcement, is applicable only in areas where local governments have entered into a MOA with TCEQ to delegate 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 MOA expires on December 31, 2018.

### **STAFF RECOMMENDATIONS:**

TNR recommends approval.

**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 the 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. TCEQ, and several 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 11M tons of carbon dioxide, 200k tons of oxides of nitrogen, and 5k tons of particulate matter emitted annually.

**FISCAL IMPACT AND SOURCE OF FUNDING:**

None

**EXHIBITS/ATTACHMENTS:**

- Memorandum of Agreement
- Resolution
- Implementation Plan
- Idling Enforcement Procedure

**REQUIRED AUTHORIZATIONS:**

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

**CC:**

Jon White	Division Director NREQ	TNR	(512) 854-7212
Thomas Weber	Environmental Program Mgr	TNR	(512) 854-4629
Adele Noel	Air Quality Project Mgr	TNR	(512) 854-7211

The Travis County Constable's Office for Precinct \_\_\_\_ [or the Travis County Sheriff's Office] adopts the following enforcement procedure effective as of the effective date of Travis County's memorandum of agreement with the Texas Commission on Environmental Quality ("TCEQ") regarding TCEQ's locally-enforced motor vehicle idling limitations.

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Name, Title

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Date

### **IDLING ENFORCEMENT PROCEDURE**

- Upon identifying a parked vehicle in an unincorporated area of Travis County that has gross vehicle weight rating greater than 14,000 pounds, the officer will drive by or stop to listen to verify that the main engine of the vehicle is operating while the vehicle is parked.
- The officer will use a time-measuring device 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 will ask to see the driver's log book to determine if the driver is on a government-mandated rest period
- The officer will determine whether any of the exemptions listed in 30 Tex. Admin. Code Section 114.517 applies:
  - (1) the motor vehicle has a gross vehicle weight rating of 14,000 pounds or less;
  - (2) the motor vehicle has a gross vehicle weight rating greater than 14,000 pounds and 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 the motor vehicle is 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) the motor vehicle is forced to remain motionless because of traffic conditions over which the operator has no control;

- (5) the motor vehicle is 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 the motor vehicle is 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 the motor vehicle is being operated for maintenance or diagnostic purposes;
- (8) the primary propulsion engine of the motor vehicle is being operated solely to defrost a windshield;
- (9) the primary propulsion engine of the motor vehicle 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 the motor vehicle is 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 the motor vehicle is being used as airport ground support equipment;
- (12) the owner of the motor vehicle has rented or leased the vehicle to a person that operates the vehicle and is not employed by the owner; or
- (13) idling of the motor vehicle is necessary to power a heater or air conditioner while the driver of the vehicle is using the vehicle's sleeper berth for a government-mandated rest period and the motor vehicle is not within two miles of a facility offering external heating and air conditioning connections at a time when those connections are available

- If the officer determines that none of the exemptions applies, the officer may issue a warning or issue a citation to the operator of the vehicle
- If the officer issues a citation, the officer will photograph the vehicle for verification purposes

#### **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 operates 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

# **TRAVIS COUNTY IMPLEMENTATION PLAN FOR LOCALLY-ENFORCED MOTOR VEHICLE IDLING LIMITATIONS**

## **BACKGROUND:**

In 2013, Travis County renewed its support of the Ozone Advance Program Action Plan, a voluntary, regional ozone reduction plan adopted by the Central Texas Clean Air Coalition (CAC) of the Capital Area Council of Governments (CAPCOG) for the Austin-Round Rock Metropolitan Statistical Area (MSA), which consists of Bastrop, Caldwell, Hays, Travis, and Williamson Counties. The Action Plan builds on the work of previous plans – the One-Hour Ozone Flex Plan (2002), the Early Action Compact State Implementation Plan (2004), and the Eight-Hour Ozone Flex Plan (2008) – and is intended to keep the MSA in attainment of the current ozone standard of 75 parts per billion, reduce ozone levels enough to remain in attainment of anticipated future standards, and improve public health, particularly for vulnerable populations.

Rule 114.512 of the Texas Commission on Environmental Quality's (TCEQ) locally enforced motor vehicle idling limitations (30 Texas Administrative Code Sections 114.510-114.517) prohibits a person from idling for more than five consecutive minutes in a motorized vehicle with a gross vehicle weight of more than 14,000 pounds unless the vehicle is exempted under one of the provisions listed in Rule 114.517. Section 7.1831 of the Water Code makes a violation of Rule 114.512 a Class C misdemeanor.

The prohibition set forth in Rule 114.512 applies only within the jurisdiction of a local government that has signed a Memorandum of Agreement with TCEQ to delegate enforcement of the locally-enforced motor vehicle idling limitations to that local government.

Limiting heavy-duty vehicle idling will reduce emissions and improve air quality in Travis County. Travis County has entered into a Memorandum of Agreement with TCEQ that delegates enforcement of TCEQ's locally-enforced motor vehicle idling limitations to Travis County.

Travis County first entered into a Memorandum of Agreement with TCEQ in 2005 to TCEQ's rule for locally enforced motor vehicle idling limitations. After the first Memorandum of Agreement expired, the County entered into a second Memorandum of Agreement with TCEQ in 2008. Travis County has now entered into a third Memorandum of Agreement with TCEQ, and this implementation plan is required under the Memorandum of Agreement. Travis County's implementation will largely be education-based. Enforcement through notices and penalties is available to underscore the importance of voluntary compliance with the measure.

**EDUCATION AND INFORMATION:**

Travis County will:

Continue to publish and distribute fact sheets and educational brochures that include reasons for the idling limitation, the specifics of the limitations and information on available anti-idling technologies.

Post fact sheets, an educational brochure, and other anti-idling information on the County's website.

Distribute fact sheets and educational brochures to area businesses, school districts, and industry associations, targeting those most likely to be affected.

**ENFORCEMENT:**

Travis County will use enforcement procedures that are consistent with Section 7.351 of the Texas Water Code.

In addition, the Travis County Commissioners Court will urge County law enforcement agencies to continue to enforce anti-idling restrictions in accordance with all applicable state and local rules and regulations.

Travis County will continue providing an informational hotline [(512) 854-4400] for members of the public to report suspected idling violations.

# Travis County Commissioners Court



# Resolution

## RESOLUTION TO IMPLEMENT TCEQ RULES REGARDING LOCALLY-ENFORCED MOTOR VEHICLE IDLING LIMITATIONS

**Whereas**, nitrogen oxide emissions from idling motor vehicles contribute to increased ozone levels in Central Texas;

**Whereas**, the Travis County area is designated as near nonattainment for the pollutant ozone;

**Whereas**, unsatisfactory air quality may adversely affect the public and economic health of the entire Central Texas region;

**Whereas**, Travis County is a member of the Central Texas Clean Air Coalition of the Capital Area Council of Governments;

**Whereas**, the Central Texas Clean Air Coalition has adopted an Ozone Advance Program Action Plan for the Austin-Round Rock Metropolitan Statistical Area for January 1, 2014 to December 31, 2018;

**Whereas**, the Ozone Advance Program Action Plan is a voluntary, regional ozone reduction plan that is intended to keep the Austin-Round Rock MSA in attainment of the current ozone standard of 75 parts per billion, reduce ozone levels enough to remain in attainment of anticipated future standards, and improve public health, particularly for vulnerable populations;

**Whereas**, one of the ozone reduction measures included in the Ozone Advance Program Action Plan is a commitment by local governments to enforce TCEQ's rules regarding Locally Enforced Motor Vehicle Idling Limitations;

**Whereas**, TCEQ's rules regarding Locally Enforced Motor Vehicle Idling Limitations are applicable only within the jurisdiction of a local government that has signed a Memorandum of Agreement with TCEQ to delegate enforcement of the provisions of TCEQ's rules regarding Locally Enforced Motor Vehicle Idling Limitations;

**Whereas**, Section 382.115 of the Texas Clean Air Act provides authority for counties to execute cooperative agreements with TCEQ to enforce TCEQ's rules regarding Locally Enforced Motor Vehicle Idling Limitations; and

**Whereas**, Travis County finds that implementation of TCEQ's rules regarding Locally Enforced Motor Vehicle Idling Limitations would serve a public purpose and would protect the health, safety, and welfare of the residents of Travis County by reducing the pollution caused by heavy duty vehicles unnecessarily idling within the County's jurisdiction;

**Now, therefore, be it resolved** by the Travis County Commissioners Court, Texas: on this \_\_\_\_\_ day of \_\_\_\_\_, 2014 that:

- (1) The Travis County Commissioners Court approves the Memorandum of Agreement for Vehicle Idling Limitations with TCEQ and authorizes Travis County Judge Biscoe to sign the Memorandum of Agreement on behalf of Travis County;
- (2) Travis County adopts the attached Implementation Plan for Locally-Enforced Motor Vehicle Idling Limitations.

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**SAMUEL T. BISCOE**  
*County Judge*

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**RON DAVIS**  
*Commissioner, Precinct One*

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**BRUCE TODD**  
*Commissioner, Precinct Two*

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**GERALD DAUGHERTY**  
*Commissioner, Precinct Three*

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**MARGARET J. GÓMEZ**  
*Commissioner, Precinct Four*