

# AIR QUALITY PROGRAM

April 8, 1999

## Agenda

- I. WELCOME (5 minutes)..... Judge Tom Vandergriff
  - II. FEDERAL PERSPECTIVE (15 minutes) ..... Gregg Cooke/Tom Henderson
  - III. STATE PERSPECTIVE (15 minutes) .....Commissioner Ralph Marquez
  - IV. REGIONAL PERSPECTIVE (10 minutes) ..... Judge Lee Jackson
  - V. ACTION PLAN (15 minutes) ..... Judge Ron Harris
- COMMITTEE STRUCTURE
- DESIRED RESULTS
- VI. QUESTION & ANSWER (10 minutes)..... Judge Lee Jackson
  - VII. CLOSING STATEMENT (5 minutes)..... Judge Lee Jackson



STATE OF TEXAS  
OFFICE OF THE GOVERNOR

GEORGE W. BUSH  
GOVERNOR

March 16, 1999

Mr. Gregg Cooke  
Region 6 Administrator  
United States Environmental Protection Agency  
1445 Ross Avenue  
Dallas, TX 5202-2733

Dear Mr. Cooke:

Enclosed are amendments that the Texas Natural Resource Conservation Commission adopted on February 24, 1999, to the Texas State Implementation Plan (SIP) for the Dallas/Fort Worth (D/FW) Attainment Demonstration. Implementation of these amendments will significantly reduce ozone-forming pollutants and improve the air quality in the D/FW area.

TNRCC amended Chapters 115, 116 and 117 of Title 30 of the Texas Administrative Code to reduce ozone-forming emissions in the D/FW area. Owners of existing major sources of nitrogen oxides (NO<sub>x</sub>) in the D/FW area will have to reduce their NO<sub>x</sub> emissions under the Chapter 117 reasonably available control technology standards already applicable in the Houston/Galveston and Beaumont/Port Arthur areas. The Chapter 116 amendments adopt a nonattainment new source review permit process for new sources of NO<sub>x</sub> emissions in the D/FW area. In addition, the Chapter 115 vent gas rules for bakeries and the offset lithographic printing rules are revised.

I look forward to your expeditious approval of this revision to the Texas SIP.

Sincerely,



GEORGE W. BUSH

GWB:jhm/mc

Enclosure

**COLLIN  
COUNTY**

**DALLAS  
COUNTY**

**DENTON  
COUNTY**

**TARRANT  
COUNTY**

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March 24, 1999

Mr. Gregg Cooke  
Regional Administrator, Region 6  
U.S. Environmental Protection Agency  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202

Re: DFW SIP Revision  
Regional Air Coalition

Dear Mr. Cooke:

As County Judges, we represent the four Texas counties (Collin, Dallas, Denton and Tarrant) included in the Dallas/Ft. Worth ozone nonattainment area designated by EPA. We have closely followed the development of a new State Implementation Plan for the DFW area by the Texas Natural Resource Conservation Commission, which we understand was recently submitted to you.

We support the efforts of the TNRCC to develop reasonable and effective regulatory requirements for this area that will meet the requirements of the Clean Air Act. Tremendous strides already have been made in this area to meet the air quality standard for ozone, efforts which should be recognized by EPA. We strongly urge you to continue to work with the TNRCC and with us to allow sufficient time for the development of a revised Implementation Plan that will be realistic and based on sound scientific principles, as well as meet statutory requirements. We are confident that the State of Texas will develop such a plan in a timely manner and that an imposition of sanctions on the DFW area by EPA at this time will be inappropriate, premature, and unnecessary.

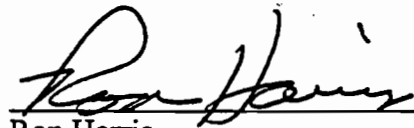
Local governments in this area have made significant efforts to change our transportation system, but in other areas we have deferred almost completely to the planning efforts of the State of Texas. We are now ready to change that approach and become directly involved in all aspects of air quality attainment plans for this region.

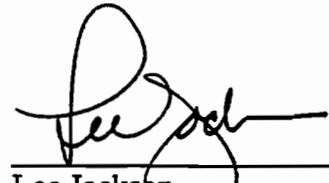
Within the next few weeks we will sponsor a meeting for elected officials from major municipalities within the four county area, at which we will discuss further development of regulatory requirements for this area and effective means of communication with EPA and the

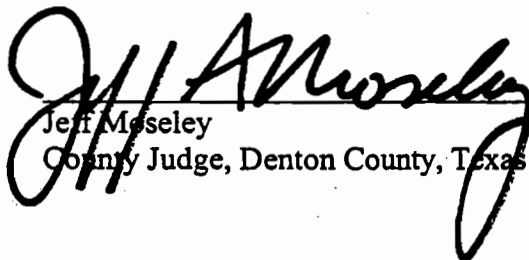
Mr. Gregg Cooke  
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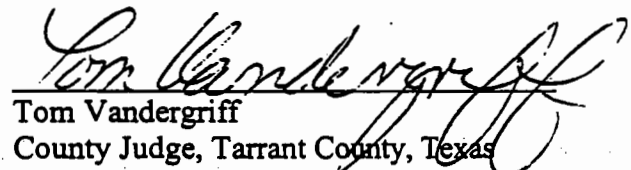
TNRCC. We anticipate that from this effort will develop a broad based civic, business and elected officials coalition to represent the various interests affected by new SIP requirements and to lead in efforts to enhance air quality. We plan to present the results of that meeting to the Texas Natural Resource Conservation Commission and to you, and to discuss the details of an effective State Implementation Plan for the DFW area.

Sincerely yours,

  
\_\_\_\_\_  
Ron Harris  
County Judge, Collin County, Texas

  
\_\_\_\_\_  
Lee Jackson  
County Judge, Dallas County, Texas

  
\_\_\_\_\_  
Jeff Moseley  
County Judge, Denton County, Texas

  
\_\_\_\_\_  
Tom Vandergriff  
County Judge, Tarrant County, Texas

cc: Governor George W. Bush  
Carol M. Browner, Administrator, EPA  
Robert J. Huston, Chairman, TNRCC  
R. B. "Ralph" Marquez, Commissioner, TNRCC  
John M. Baker, Commissioner, TNRCC  
Jeffrey A. Saitas, Executive Director, TNRCC

## STATUS OF DFW OZONE ATTAINMENT AREA

By 1994, Dallas/Fort Worth (DFW) was classified pursuant to the Clean Air Act (CAA) as a moderate area with respect to nonattainment of the National Ambient Air Quality Standard (NAAQS) for ozone. The DFW nonattainment area is defined by Collin, Dallas, Denton, and Tarrant Counties. As a moderate nonattainment area, DFW had to demonstrate attainment of the NAAQS by November 15, 1996. 42 U.S.C. § 7511(a); CAA § 181(a). The State Implementation Plan (SIP) filed by the Texas Natural Resource Conservation Commission (TNRCC) in 1994 to demonstrate attainment by 1996 relied primarily on reductions in volatile organic compounds (VOCs). Due to ozone exceedances in 1996, EPA "bumped up" the DFW area from moderate to serious ozone nonattainment, effective February 18, 1998. *See* 63 Fed. Reg. 8128 (Feb. 18, 1998). Accordingly, DFW was required to submit a new SIP by March 20, 1999, demonstrating ozone attainment by November 15, 1999. The requirements for a serious ozone nonattainment area include, but are not limited to: (1) attainment and reasonable further progress demonstrations; (2) an enhanced vehicle inspection and maintenance program; (3) clean-fuel vehicle programs; (4) a 50 ton-per-year major source threshold; (5) more stringent new source review provisions; (6) an enhanced monitoring program; and (7) contingency provisions. 42 U.S.C. § 7512(c); CAA § 182(c).

## SANCTIONS UNDER THE CLEAN AIR ACT

Under the federal Clean Air Act, EPA can sanction a state, or political subdivision thereof, for the following:

- failure to submit a plan showing implementation of air quality standards;
- failure to submit one or more required elements of a plan;
- disapproval of a implementation plan submitted to EPA;
- failure of a state to submit other required submissions, such as a maintenance plan;
- disapproval in whole or in part of the other required submission; or
- failure to implement an approved plan.

The provisions for sanctions are found in Section 179 of the Clean Air Act, 42 U.S.C. § 7509 and in EPA's regulations at 40 C.F.R. § 52.31. *See also Selection of Sequence of Mandatory Sanctions for Finding Made Pursuant to Section 179 of the Clean Air Act*, 59 Fed. Reg. 39832 (Aug. 4, 1994).

### **Sanctions available to EPA include:**

- withholding grants for support of air pollution planning and control programs;
- withholding funds for highways; and
- increasing the offset emissions ratio to 2-to-1.

It is EPA's policy to first impose offset sanctions. The offset ratio applies to new or modified sources for which a permit is required. Sanctions to withhold highway funds could be imposed six months later if the deficiency noted by EPA still has not been cured. There are a number of exceptions to the highway funding sanction, primarily that highway funds cannot be withheld where the principal purpose of the highway project is to improve safety or where the highway project would improve air quality and would not encourage single occupancy vehicle capacity (such as public transit, HOV lanes, improvements in traffic flow to decrease congestion, programs for breakdown and accident scene management, *etc.*). The offset ratio applies to new or modified sources for which a permit is required.

**Timing of Sanctions.** The state has 18 months after EPA's finding, disapproval, or determination, to correct the deficiency before sanctions apply. Note that if after a notice and comment period EPA finds a lack of "good faith", sanctions apply automatically. EPA has stated that it is its policy to work with states so that the vast majority of sanctions clocks are stopped before the 18 months expire and EPA has actually imposed sanctions in only a limited number of cases. As a general rule, the sanctions process is as follows: EPA publishes a notice in the Federal Register if it determines that a state has failed to submit a plan or EPA has disapproved of a plan or other submission. From that point, the state has 18 months within which to correct the deficiency (usually by submitting a revised plan) before the offset sanction is applicable. As noted above, EPA's policy is to first impose the offset sanction, followed six months later by the sanction on highway funds (Note that EPA can reverse this sequence in particular circumstances through notice and comment rulemaking.) If, during the 18-month sanction window, the state does submit a revised plan for which EPA indicates tentative approval, sanctions shall be deferred until EPA takes final action on the revised submittal. If

EPA approves the plan, no sanctions apply. If EPA disapproves the plan, the offset sanctions apply either 18 months after EPA's original finding or the date of disapproval, whichever is later. The highway fund sanctions would then go into effect 6 months after the offset sanctions. The general rule is that once EPA issues a finding of disapproval, the state has 18 months to correct the deficiency, which will defer imposition of the offset sanctions, which in turn defers imposition of the highway fund sanctions.

**Potential timing and impact in DFW area.** The TNRCC submitted a SIP for the DFW nonattainment area to EPA on March 16, 1999. It is assumed that EPA will take action to approve or disapprove the plan within the next 90 days. Assuming EPA disapproves the plan, the State of Texas will have 18 months to cure deficiencies in the SIP before the offset sanctions kick in. TNRCC has stated that it intends to submit a more complete SIP by March 2000. Because this revised plan would be submitted within the 18-month sanctions window, no sanctions should apply to DFW. If, however, EPA ultimately disapproved of TNRCC's March 2000 SIP submittal, the offset sanctions would apply at one of the following dates, whichever is later: 18 months from EPA's original disapproval or the date of EPA's disapproval of the March 2000 submittal. Under this scenario, the earliest date at which offset sanctions could be imposed would be the last quarter of 2000 and highway fund sanctions would not be imposed prior to the second quarter of 2001. Of course, if EPA approves the March 2000 submittal, sanctions would not apply.

## Serious Ozone Nonattainment Areas

Atlanta, GA  
Baton Rouge, LA  
Boston-Lawrence-Worcester (E. MA), MA-NH  
Dallas-Fort Worth, TX  
El Paso, TX  
Greater Connecticut  
Phoenix, AZ  
Portsmouth-Dover-Rochester, NH  
Providence (All RI), RI  
San Diego, CA  
San Joaquin Valley, CA  
Santa Barbara-Santa Maria-Lompoc, CA  
Springfield (Western MA), MA  
Washington, DC-MD-VA



## GLOSSARY

CAA	Clean Air Act
EPA	Environmental Protection Agency
I&M	Inspection and Maintenance Program
LEV	Low Emission Vehicle
NAAQS	National Ambient Air Quality Standard
OTAG	Ozone Transport Assessment Group
RACT	Reasonably Available Control Technology
RFG	Reformulated Gasoline
SIP	State Implementation Plan
TCAS	Texas Clean Air Strategy
TNRCC	Texas Natural Resource Conservation Commission
VOC	Volatile Organic Compounds



# **REGIONAL PERSPECTIVE**



## **AIR QUALITY PROGRAM**

**April 8, 1999**

**North Central Texas Council of Governments**

# AREAS OF POLICY CONCERN

- **SANCTIONS**
- **BUMP UP FROM SERIOUS TO SEVERE  
(DEADLINE 11/15/99)**
- **ABILITY TO CONTINUE PLANNING AND  
PROGRAMMING TRANSPORTATION  
PROJECTS**

# IMPLICATIONS OF SANCTIONS

## ■ **Sanctions Imposed If:**

- **TNRCC Does Not Submit Plan On Time, or**
- **TNRCC Does Not Submit A Complete Plan, or**
- **Projects Not Implemented From Plan**

## ■ **Sanctions Would Be Implemented In 2001 On:**

- **Business & Industry -- Increased Difficulty to Locate or Expand in Area-**
- **Transportation -- Loss of Funds For Roadway Capacity Improvements**

# **IMPLICATIONS OF BUMP-UP TO SEVERE**

- **STATE MUST SUBMIT A NEW PLAN.**
- **PLAN MUST SHOW A 3% REDUCTION IN EMISSIONS EACH YEAR (RATE OF PROGRESS) AND DEMONSTRATE ATTAINMENT OF OZONE STANDARD**
- **ATTAINMENT DATE BECOMES NOVEMBER 2005 (2007 COMMON DATE THROUGHOUT STATE?)**
- **MUST SHOW A REDUCTION IN VEHICLE MILES TRAVELED AND RELATED EMISSIONS**
- **SMALLER COMPANIES BECOME SUBJECT TO AIR QUALITY PERMITTING (ANY COMPANY WITH EMISSIONS OF 25 TONS PER YEAR INSTEAD OF CURRENT 50 TONS PER YEAR)**
- **MORE DIFFICULT TO LOCATE NEW BUSINESSES AND INDUSTRIES AND TO EXPAND OPERATIONS OF EXISTING ONES**

# IMPLICATIONS OF NOT SUBMITTING A COMPLETE RATE OF PRGRESS PLAN

- **NEED TNRCC TO ESTABLISH EMISSION BUDGETS BY RESUBMITTING A "RATE OF PROGRESS" PLAN THAT IS COMPLETE**
  - **FOR VOLATILE ORGANIC COMPOUNDS: WE ARE O.K. BECAUSE PREVIOUS EMISSION BUDGET CAN BE USED**
  - **FOR NITROGEN OXIDE EMISSIONS: WE HAVE A PROBLEM BECAUSE WE HAVE HAD A "NOX WAIVER" (WHICH WILL BE LOST) AND NO NOX BUDGET EXISTS**
- **IF NOT ACCOMPLISHED, PLANNING FOR TRANSPORTATION PROJECTS IS STOPPED; NO ADDITIONAL FUNDING FOR TRANSPORTATION IMPROVEMENT PROGRAM; ONLY PREVIOUSLY APPROVED PROJECTS CAN CONTINUE TO CONSTRUCTION (UNTIL 2001)**

# A HISTORY OF AIR QUALITY CONTROL ACTIVITIES

- Air quality control plans which included the DFW area developed by State in 1973, 1979, 1985, 1987, 1992, and 1996
- NCTCOG has facilitated active involvement of elected officials, local government staff, business and environmental interests over the past 20+ years
- As issues became more complex, NCTCOG created an Air Quality Advisory Committee, 1987-1998
- For the 1996 plan, NCTCOG also assembled an ad hoc group of elected officials to help TNRCC rank control measures on small businesses
- NCTCOG's Regional Transportation Council has submitted proposed transportation control measures for each of the last few plans

# DALLAS-FORT WORTH OZONE NONATTAINMENT AREA

## Transportation Control Measures From 1990 Through 1999

<u>Category</u>	<u>Implementation Levels</u>		<u>VOC Emissions Reductions (lbs/day)</u>
Intersection Improvements/ Grade Separations	396	Locations	2,085
Signal Improvements	2,780	Locations	10,246
HOV Lanes	33	Lane Miles	398
Alternative Fuel Vehicles	4,142	Vehicles	0*
Freeway Corridor Management	14	Corridors	1,088
Park-n-Ride Lots	10	Projects	160
Travel Demand Management	15	Projects	427
Bicycle/Pedestrian Facilities	34.5	Miles	30
Commuter Rail	9.6	Miles	9
Light Rail	20.2	Miles	56

\*Observed data shows 193.5 to 200.2 pounds per day  
of emissions reduction. However, no SIP credit is requested.

**14,499 Pounds**  
**7.25 Tons**



# **ACTION PLAN**

## **AIR QUALITY PROGRAM**

**April 8, 1999**

**North Central Texas Council of Governments**

# **PROPOSED AIR QUALITY COMMITTEE STRUCTURE**

- **POLICY COMMITTEE**
  - **GOVERNMENT AND BUSINESS ORGANIZATIONS (e.g. NORTH TEXAS COMMISSION, CHAMBERS OF COMMERCE)**
- **TECHNICAL TASK FORCE (SUPPORTING POLICY COMMITTEE)**
  - **GOVERNMENT TECHNICAL STAFF AND BUSINESSES IMPACTED BY PROPOSED CONTROL MEASURES**
- **EXECUTIVE COMMITTEE (IF NEEDED)**

# DESIRED RESULTS

- **IMPLEMENT AIR QUALITY COMMITTEE STRUCTURE**
- **TNRCC RESUBMIT "RATE OF PROGRESS" PLAN WITH LOCAL SUPPORT**
- **REQUEST TNRCC TO INVENTORY CANDIDATE CONTROL MEASURES**
- **WORK WITH TNRCC AND EPA SO AREA ISN'T BUMPED UP TO SEVERE**
- **AVOID SANCTIONS BEING IMPOSED**
- **ENSURE TRANSPORTATION CAN CONTINUE TO BE PLANNED, PROGRAMMED AND CONSTRUCTED**

## AIR QUALITY RELATED LEGISLATION HIGHLIGHTS

### **HB 1550 - (Chisum) - 3-15-99 / Pending in Committee (Environmental Regulation) Vehicle Inspection Program Waivers - County Option**

Rep. Warren Chisum introduced a bill to allow counties to opt into a program allowing owners of vehicles from model years 1994-1999 to pay a \$10 annual mitigation fee to exempt the vehicle from annual emissions inspection. The money collected for this waiver would be used to help defray costs to low-income Texas of repairing vehicles which fail the required inspections, as well as the costs of a vehicle scrappage program for old, high-polluting vehicles. The bill would allow counties in non-attainment and near non-attainment areas to voluntarily opt-in to vehicle I/M programs. Another key provision of the bill would institute gas cap pressure tests in non-attainment counties where they are not currently required.

On March 15, 1999, the bill was heard in Rep. Chisum's Environmental Regulation Committee and was the subject of much opposition from various groups. Contact with Rep. Chisum's office indicates he would amend several parts of the bill in an effort to reduce opposition. Two key provisions eliminated would be the sticker requirement to indicate the county of registration and the requirement for an inspection on resale of the vehicle. He intends to maintain the gas cap check and make all the other provisions voluntary.

While an optional program, if several counties opted in we might get some credit from the EPA once implemented.

The Dallas - Fort Worth area only has two members on the Committee - Rep. Ray Allen is Vice-Chairman and Rep. Sue Palmer is a Committee member.

### **SB 889 (Harris) and HB 2087 (Goodman) - Pending in Senate Natural Resources Air Quality Standards for Certain Airports (DFW)**

These bills are very important to DFW Airport and how TNRCC places control strategy requirements on DFW. Currently, the FAA cannot authorize, approve, or support a development or construction project on an airport until the sponsor airport can prove that it is in conformity with its air quality State Implementation Plan (SIP). This bill ensures that the DFW Airport is only held accountable under the SIP for those emissions over which it has direct control.

The bill is scheduled for a hearing on April 6, 1999, in the Senate Natural Resources Committee. The Committee is chaired by Sen. Buster Brown, with Senators Haywood and Ratliff the only area members.

**RESOLUTION # \_\_\_\_\_**

**A RESOLUTION OF THE DALLAS REGIONAL MOBILITY COALITION (DRMC) EXECUTIVE COMMITTEE EXPRESSING SUPPORT TO THE TEXAS NATURAL RESOURCE CONSERVATION COMMISSION (TNRCC) TO INCLUDE THE BROADEST POSSIBLE REGION OF TEXAS IN A STATE IMPLEMENTATION PLAN TO SHOW AIR QUALITY ATTAINMENT IN THE DALLAS - FORT WORTH AREA**

WHEREAS, the DRMC Executive Committee has reviewed presentations from area officials, the TNRCC, the Greater Houston Partnership, and other groups regarding logical and acceptable methods for TNRCC to submit the required SIP to the EPA to show air quality attainment in the Dallas - Fort Worth four county non-attainment area; and,

WHEREAS, there has been some indication that failure to extend some control measures outside the four county area could result in the EPA rejecting a more narrow regional approach; and,

WHEREAS, non-acceptance of a SIP by the EPA from Texas could trigger certain sanctions on federal assistance to Texas and the area relating to highway funding and other economic development issues; and,

WHEREAS, elected and appointed officials of the State need to be apprised of the support of the DRMC for TNRCC determinations on the most inclusive region and control strategies to receive EPA acceptance of the SIP;

NOW THEREFORE BE IT RESOLVED BY THE DALLAS REGIONAL MOBILITY COALITION EXECUTIVE COMMITTEE ON THIS THE 2<sup>ND</sup> DAY OF APRIL, 1999, THAT:

1. DRMC endorses efforts of the TNRCC to include the broadest possible area of Texas for extension of necessary control strategies in the State Implementation Plan (SIP) to be submitted to the EPA in late 1999 or early 2000 to show attainment of air quality standards. Such control measures may include use of reformulated gasoline, Stage I vapor recovery at fueling stations, and implementation of low emission vehicles when available. These strategies are now or will be in place in the four-county non-attainment area.
2. This position shall be communicated to appropriate local, state, and federal elected and appointed officials as soon as possible.

ATTEST:

\_\_\_\_\_  
Lee Jackson, Chairman, DRMC

\_\_\_\_\_  
Grady Smithey, Secretary