

Discussion and Review DRAFT AGENDA ITEM IV

February 9, 2011

Dear Central Texas Legislative Delegation,

As elected officials, we serve as members of the Central Texas Clean Air Coalition (CAC), a non-partisan group dedicated to maintaining Central Texas compliance with Federal ozone standards. The member jurisdictions of the CAC, working with the Texas Commission on Environmental Quality (TCEQ) and the United States Environmental Protection Agency (EPA), have implemented voluntary emission reduction plans instrumental in order to ensure our region's continued compliance with Federal ozone standards. These plans include locally enforced idling limits for heavy-duty vehicles, which significantly reduce heavy truck emissions and fuel use, improving air quality and conserving fuel. The CAC is asking for your help in improving this program by establishing specific penalties in statute appropriate to the nature of the offense.

The locally-enforced idling rule, established by the TCEQ, limits engine idling by vehicles weighing 14,000 pounds or more to 5 consecutive minutes during ozone season in any city or county that enters into a Memorandum of Agreement (MOA) with the TCEQ to enforce the rule. State statute does not establish specific penalties for violations and the TCEQ has not adopted any specific penalties for idling in regulation either.

While under this rule, cities can use their ordinance authority to establish specific penalties appropriate to the nature of this offense, counties have no such authority, counties must rely on the general enforcement provisions for violations of the Texas Clean Air Act contained in the Texas Water Code. As a result, the penalty for an individual that violates the idling limitations is a fine of at least \$1,000 and not more than \$50,000, and/or 180 days confinement. This penalty seems unduly onerous for the nature of the offense.

In addition to potentially inflicting disproportionate hardships for the violator, these severe penalties can make counties reluctant to actively enforce the idling limitations. Without active enforcement, the program will have little practical benefit in reducing emissions, potentially jeopardizing our efforts to maintain compliance with ozone standards.

We believe it is in the best interest of our region and the state to establish a reasonable penalty for idling violations. We suggest idling limitation violations be classified as a Class C misdemeanor, resulting in a fine not to exceed \$500.

Representative Donna Howard is preparing a bill that contains a provision to classify idling limitation violations as a Class C misdemeanor. We applaud her initiative and urge your support of efforts to establish an appropriate idling penalty.

Please contact us if you need more information and thank you for your consideration.