

TCEQ Chairman Bryan Shaw on the TCEQ, the EPA, and Ozone Standards

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Reporter: Joining us now with more reaction on this by phone from Texas is Bryan Shaw. He's Commissioner of the Texas Commission on Environmental Quality. Bryan, thanks for coming on.

Mr. Shaw: Good afternoon, Susan. How are you?

Reporter: I'm good. Thank you. So thanks for coming on. And Governor Perry and you guys actually feel the feds, we hear, are targeting Texas with decisions like these.

Mr. Shaw: Well, it certainly does appear that a lot of the actions out of the federal government these days does seem to lean toward leveling the playing field, as I've heard it said. There seems to be a perception that Texas has been able to achieve moderate — has been able to fair better during these tough economic times due to unfair regulations that we have an unlevel playing field and make it easier for businesses to compete.

And we certainly are — are trying to point out the fact that we've had some pretty impressive environmental gain using our program, our innovative approach. And so we're actually suggesting that Texas efforts ought to be looked at as a model for other states as opposed to be to being criticized as being too easy on the industry.

Reporter: Right. And now, does the — does the Governor's office and the Commission actually question the science behind this, the president following flawed science when he talks about regulation of CO2 and even Cap and Trade?

Mr. Shaw: Yes. We — we certainly — the important — part of the process that we have here at the TCEQ and our responsibility is to ensure that we protect the environment, but do so in a way that's conducive to also having a — a strong and manageable economy so we can afford to go after further economic — excuse me, further *environmental* enhancements.

And part of the — the process we use to get there is making sure we follow the signs, and we have to make sure that we look at the unintended consequences and we look at making sure that our regulations are

meaningful and will actually achieve the environmental goals we have without creating other problems.

And, yes, there have been some issues with regard to greenhouse gases and global warming. And even on this case, if you look at the data, it's been our assessment that the EPA's own data shows that the old standard of 85 parts per billion, so very, very tight standard.

And those data, that EPA evaluated, show that the 85 parts per billion would be protective. So we're not arguing that it's too costly and we shouldn't do it. The argument's really that the data analysis was flawed and that those data don't suggest that it warrants reducing those — those levels further.

Reporter: So when you say the President's following flawed signs, are you talking about these — this — these EPA data or are you talking about the IPC scientists and their recommendations?

Mr. Shaw: I could go into both. I thought we were going to talk about ozone today. So we could — we could certainly discuss both. There — there are issues there on both of those. With regard to the ozone data, the numbers that they used to suggest that their health effects for those levels of ozone in the 60 to 70 parts per billion range are largely due to correlations, not causation.

That is, that they've seen correlation between those — those ozone levels. But those are based on monitors that were not individual exposures. So they did a poor job of measuring individual exposure. And then the health impacts, the morbidity and mortality used in the epidemiological studies were based on general data that was received from hospitals without any background or — or evaluation of exposures to other pollutants or in their home environment. And so it leads us to a — a situation.

One of my favorite analogies is — Susan, on this — is if you look at what happens in New York in the summertime when you have increases in ice cream sales and increases in — in violent crime, one could assume that ice cream causes violent crime. Or if you look at it in more detail, you realize that temperature's increase causes the increased sales of ice cream, but also leads to increase of violent crime.

We have a similar process here where we have during the — the summer months we have some increases in various pollutants, including ozone. And we have also other activity related issues that come into play. And the mere

fact that you see a correlation between elevated ozone at a monitor and health effects at the hospitals doesn't necessarily mean that you're — you're getting a — you're getting a correlation that is meaningful.

We can get those associations that don't have a causal effect associated with those. And as we've dug into and looked at both the epidemiological studies as well as some of the clinical studies, it appears that there are other pollutants that could likely be the cause of those elevated hospitalizations as opposed to ozone.

And, in fact to that point, in Texas, from the years 1999 to 2001, we actually saw, with regard to hospitalizations of (Indiscernible) or asthma, that in the winter months when our ozone is lowest, we actually had an increased level of hospitalizations compared to what we had in the summertime during our ozone season suggesting that there are indeed other parameters besides just ozone that are impacting the asthma in our children.

And so we — our — our problem or my — my certainly interest is not in trying to avoid solving environmental issues, it's a matter of making certain that we're careful in doing our homework to ensure that our regulations are meaningful and actually solve those environmental issues that we're — we're needing to be attacking to —

Reporter: Right.

Mr. Shaw: (Indiscernible).

Reporter: So sounds like maybe you should write the Texas version, the next version of freakonomics. You also say that this decision has no regard to the freedoms that Americans are accustomed to. What do you mean by that?

Mr. Shaw: One of the things that this — these new levels are low enough that it really changes the game plan with regard to trying to develop regulations to bring these areas into compliance. We — we've looked at some of our areas where historically we've had ozone challenges in our Dallas–Fort Worth area, for example, in Houston area. And these are similar to some of the areas out in California where you have a lot of ozone being produced because of the climate that you have there and a lot of natural sources that are there.

Give you an example, in Houston, over the last ten years we've reduced NOX, N-O-X, emissions by 70 percent in our efforts to get our standard — our levels that we're measuring into compliance with the 85 parts per billion

standard. And this year, actually ten years ahead of schedule, we were monitoring below the 85 parts per billion standard.

But that required that we spent all those efforts to get those industry to get those reductions and to make those efforts, the State of Texas also spent a billion dollars statewide trying to regulate or trying to actually incentivize replacement of mobile sources that were prohibited to — to regulate because they're regulated by the federal government.

So those issues — a lot of those industrial areas, industrial sources, we've already gotten the — the reductions that we can get without driving those businesses out of state and/or overseas. These new levels, now we're looking at, one of the ongoing challenges is for Houston again, for example, 60 percent of the ozone forming emissions in that area are due to mobile sources that we aren't able to — to regulate again.

And so if we look at Houston, we still have industrial sources we're going to try to find ways to get additional reductions. They're going to be very costly and/or impossible to attain. But this new standard's going to apply even to a lot of the rural areas where there's even less industry, and it's only the mobile sources that we have to deal with. And so we're going to have to look at perhaps doing away with drive-ins, drive-in lines at — at restaurants, looking at times that you can mow your lawn so you don't mow your lawn during the middle of the day when the high ozone-forming potential are there.

So we may have to really look at interfering with a lot of the personal things that we as Americans and — and Texans take for granted that we can go and do the things on a time that fits our family's schedule.

Reporter: That drive-through —

Mr. Shaw: So we're going to see a lot more intrusive regulations coming out of the effort to try to meet these increasingly low standards. And again, the key component of that is we really believe that these are providing only an illusion of protectiveness as opposed to actually resulting in real health benefits.

Reporter: Well, the drive-through issue certainly looks like it's going to be a hot-button one for — for the average consumer. Now, the Governor says, you've been saying, we've worked hard and we've invested more than a billion dollars to try to reach compliance on the original target, and he said without sacrificing jobs or economic momentum. Now, some are saying, so

he's making this case that, you know, these tighter restrictions, pollution can be stopped without economic damage.

Mr. Shaw: Well, I think that part of the real challenge you're looking at there is — is there's no low-hanging fruit left. We're — we're at — and with some of these levels, at what I refer to as background, actually *below* background levels, and I think we're approaching natural levels. That is, we're looking at, in some of these areas, Houston being a prime example, but others, we're looking at levels that are not far from what you would have if you take out man's contributions completely. We have biogenic, or natural, sources, especially in Houston and in some of the other areas, where those natural sources are leading to ozone that some estimates may be in the high 50s to 60 parts per billion range. And again, they're considering setting the standard between 60 and 70 parts per billion.

And so we — we've been able to make impressive gains. And I'll admit that I'm one of those that was surprised that we were able to — to get to those results in a way that didn't drive industry completely out of our — of our state.

But achieving 70 percent reduction in NOX in the Houston area over the last ten years really should illustrate that there are not any easy answers left. We're certainly going to continue to search for those. But I'm concerned that the easiest answer that's available now is for those jobs and the economic benefit of those to be moved, I would say out of state, but because these are applied nationwide, I'm concerned that many of these are actually going to be moved overseas.

Reporter: All right. So — well, what are the prospects here for — for the Governor and the State of Texas to actually bring this into the court against the federal government?

Mr. Shaw: Well, at this point here, from the perspective of the TCEQ, we have a 60-day opportunity for comments. And we're certainly going to take advantage of that to submit comments to hopefully bring some commonsense view into that and — and encourage the EPA to look at the — the science and their analysis of the science and their own data to evaluate indeed that it doesn't appear to be a health benefit associated with this reduced standard.

We'll let the — the lawyers and politicians decide about making the lawsuits. But it does seem like it's going to be a very burdensome prospect for the

state and for the nation, again, with no measurable or — or achievable benefit to the environment or to the health of the — of the citizens of this nation.

Reporter: All right. Bryan Shaw, Commissioner of the Texas Commission on Environmental Quality. Thank you, so much, for lending your insight tonight. We hope we can follow up with you again in the future on this.

Mr. Shaw: Anytime, Susan. Thank you.

Reporter: All right. We appreciate it.