

APPENDIX Q

Memorandum of Understanding  
with the City of El Paso

A memorandum of understanding (MOU) with the City of El Paso will serve as a basis for defining the division of responsibility and commitments to carry out the provisions of the rules developed in this State Implementation Plan revision. The MOU is currently being developed as a cooperative effort among the staffs of the Texas Air Control Board and El Paso City-County Health District. The MOU will be available by the October 25 Board meeting.

MEMORANDUM OF UNDERSTANDING  
BETWEEN TEXAS AIR CONTROL BOARD  
AND THE CITY OF EL PASO

Introduction

The 1990 Federal Clean Air Act requires states to submit a State Implementation Plan (SIP) for all areas classified as moderate nonattainment areas for inhalable particulate matter (PM<sub>10</sub>) by November 15, 1991. Failure to submit a satisfactory document by that deadline may result in the United States Environmental Protection Agency redesignating the area as "serious" nonattainment for PM<sub>10</sub>.

On August 6, 1991, the Texas Register published proposed revisions to the PM<sub>10</sub> SIP for the City of El Paso (El Paso). These proposed revisions applied to the control strategy portion of the SIP document and to Texas Air Control Board (TACB) Regulation I, concerning Control of Air Pollution from visible Emissions and Particulate Matter. This memorandum of understanding (MOU) between the TACB and El Paso will define the actions required and the responsibilities of each party under the SIP revisions.

Regulatory Requirements

TACB §111.111 requires that no person shall operate a solid fuel heating device in El Paso, including the Fort Bliss Military Reservation, when National Weather Service data indicates an atmospheric stagnation condition exists or is predicted to exist. Chapter 9.38 of the El Paso City Code currently requires that no person shall operate a solid fuel heating device when expected atmospheric conditions will not reasonably disperse wood smoke. Despite the difference in wording, the intent of these regulations is the same, and El Paso uses a stagnation index provided by the National Weather Service to determine no-burn periods. The stagnation index and related procedures are provided in Attachment 1 of this memorandum. First time violators of the El Paso ordinance are routinely given one warning. Subsequent violations are referred to Municipal Court with potential penalties of \$2,000 per violation. For the purposes of the ordinance, each day a violation continues is considered a separate violation.

The TACB and El Paso agree that the continued enforcement of no-burning periods is a necessary part of the effort to improve air quality in El Paso, and the primary enforcement authority will be El Paso. The TACB and El Paso agree also that the TACB regional office having jurisdiction in El Paso will be notified of violations of Chapter 9.38 of the El Paso Municipal Code or TACB §111.111(c). The regional office will take action to enforce state

law when, in the opinion of the Regional Director, habitual violations or other circumstances require additional deterrence to ensure compliance with the law.

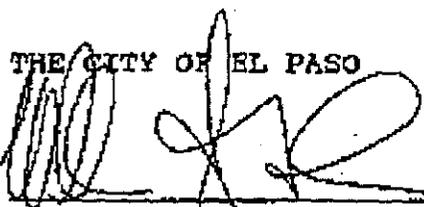
TACB §111.147 requires that El Paso pave alleys at a specified rate of 15 miles per year and adhere to a cleaning schedule for public thoroughfares. The TACB recognizes that El Paso will be required to commit funds to accomplish these tasks and that there is competition within the City budget for limited funds. El Paso agrees that funds will be allocated to meet the requirements of §111.147 on an annual basis, unless the allocation would jeopardize vital city services and to the extent allowed by law. Nothing in this MOU will be interpreted to abridge the right of El Paso to transfer previously allocated funds if emergencies occur that would require such a transfer to maintain vital city services. Nothing in this MOU affects the validity of TACB Rule 111.147 or El Paso's obligation to comply with §111.147.

Public Information

The distribution of public information can be an effective tool in curtailing the use of residential solid fuel heating devices. The TACB and El Paso agree that El Paso will implement a public information program by January 31, 1992 on topics regarding the use of such devices with the cooperation of the TACB as outlined in Appendix D of the PM<sub>10</sub> SIP document.

Administration

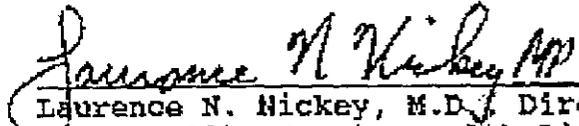
Once executed, this MOU will continue in effect, unless modified by the mutual consent of both parties. The MOU will be evaluated annually and revised as necessary.

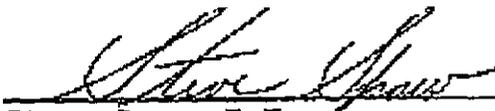
THE CITY OF EL PASO  
  
\_\_\_\_\_  
Mayor

ATTEST:  
  
\_\_\_\_\_  
City Clerk

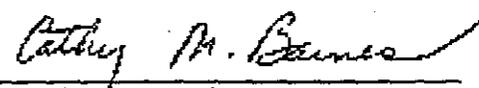
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APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Laurence N. Hickey, M.D., Director  
El Paso City-County Health District

  
\_\_\_\_\_  
Steve Spaw, P.E.  
Executive Director  
Texas Air Control Board

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney

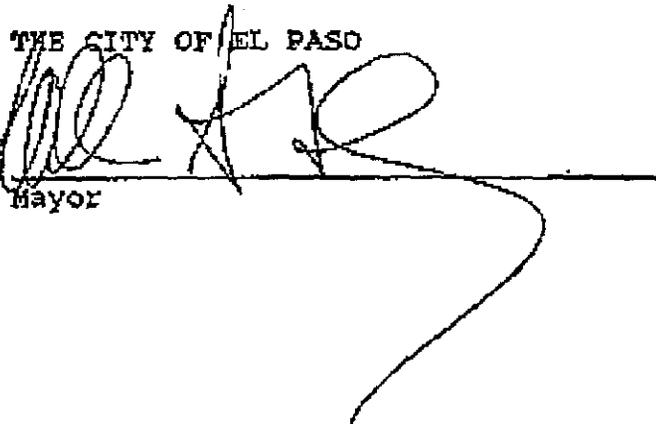
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R E S O L U T I O N

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign a Memorandum of Understanding between the TEXAS AIR CONTROL BOARD and the CITY OF EL PASO, defining the actions required and the responsibilities of each party pursuant to the revisions to the State Implementation Plan.

PASSED AND APPROVED this 5<sup>th</sup> day of November,  
1991.

THE CITY OF EL PASO  
  
Mayor

ATTEST:

Carnese Hunter  
City Clerk

APPROVED AS TO FORM:

Cathy A. Barnes  
Assistant City Attorney

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11/05/91