

MEMORANDUM OF AGREEMENT

I. Parties

This Memorandum of Agreement (“MOA”) is entered into between the Texas Commission on Environmental Quality (“TCEQ”) and the local governments signing this agreement (Local Governments), collectively the “Parties.”

1. The Parties represent that they have the authority to enter into this MOA, including the authority granted in the Texas Government Code Chapter 791 Interlocal Cooperation Contracts.
2. The TCEQ has authority under Section 5.229 of the Texas Water Code and Section 382.033 of the Texas Health and Safety Code to enter into this MOA.
3. The Local Governments have authority under Section 382.115 of the Texas Health and Safety Code to enter into this MOA.

II. Intent and Purpose

The intent of this MOA is to memorialize the agreement between the Parties to implement the following rules aimed at the control of air pollution from motor vehicles: 30 Texas Administrative Code (“TAC”) Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517.

The Parties enter into this MOA for the purpose of delegating rule enforcement from TCEQ to Local Governments and incorporating the emission reductions resulting from the implementation and enforcement of the above-referenced rules into the State Implementation Plan (“SIP”).

III. Definitions

As used in this MOA the following terms have the meanings given below:

1. “EPA” shall mean the U.S. Environmental Protection Agency.
2. “TCEQ” shall mean the Texas Commission on Environmental Quality.
3. “Local Government” has the meaning assigned by 30 TAC Section 114.510.
4. “EAC” means Early Action Compact.

5. “Local EAC Signatories” means the Local Governments that are signatories to the Austin San Marcos MSA (subsequently designated the Austin Round Rock MSA) EAC Memorandum of Agreement with TCEQ and EPA, signed December 18, 2002. These Local Governments are Bastrop, Caldwell, Hays, Travis and Williamson Counties and the cities of Austin, Bastrop, Elgin, Lockhart, Luling, Round Rock and San Marcos.
6. “SIP” shall refer to the Texas State Implementation Plan.

IV. Background

1. Under Section 110 of the Federal Clean Air Act (“FCAA”), 42 U.S.C. § 7410, each state that has a non-attainment area must submit a SIP to the EPA demonstrating strategies to come into compliance with the National Ambient Air Quality Standards (“NAAQS”).

2. Section 110 of the FCAA, 42 U.S.C. § 7410 also requires Texas to submit to the EPA for approval any SIP revisions and to demonstrate that such SIP revisions will not interfere with any applicable requirement concerning attainment and reasonable further progress or any other requirement of the FCAA, as required by § 110(1) of the FCAA.

3. On June 19, 2002 the EPA approved the *Protocol for Early Action Compacts Designed to Achieve and Maintain the 8-Hour Ozone Standard*, a guidance document developed in coordination with TCEQ that addresses EAC development, implementation and commitments of signatory parties. The EAC concerns attainment of the national 8-hour ozone standard. Early voluntary 8-hour air quality plans can be developed through a Compact between Local, State, and the EPA officials for areas that are in attainment of the 1-hour ozone standard but approach or monitor exceedances of the 8-hour standard. Early action plans are incorporated into the SIP.

4. On December 18, 2002, the TCEQ, the EPA, and the Local EAC Signatories entered into the Austin-San Marcos MSA Early Action Compact.

5. On March 29, 2004 the Local EAC Signatories submitted an 8-hour air quality plan to TCEQ and EPA in accordance with the EPA EAC Protocol. The plan contains commitments for numerous locally implemented emission reduction measures as well as several state-assisted measures, including the state heavy duty vehicle idling restrictions, to be implemented and enforced locally.

6. On November 17, 2004, the TCEQ adopted rules concerning locally enforced motor vehicle idling limitations, which are applicable only within the jurisdiction of a Local Government that has signed a Memorandum of Agreement with TCEQ delegating enforcement

of the rules. The TCEQ submitted the rules to EPA for approval on December 6, 2004. EPA approved the rules in the Federal Register on April 11, 2005. The rules are effective June 10, 2005.

7. On November 17, 2004, the TCEQ also incorporated most of the Austin-Round Rock MSA EAC Clean Air Action Plan into the SIP. The State submitted the SIP to EPA for approval on December 6, 2004. EPA approval makes the plan's emission reduction measure commitments state and federally enforceable.

8. Parties acknowledge that they have entered into this MOA voluntarily and it shall become binding upon the signature of the Executive Director of TCEQ or his designated representative. In order to comply with the Austin-Round Rock MSA EAC and SIP commitments and safeguard the air resources of the State of Texas, the Parties agree to comply with the terms of this MOA.

9. The Local Governments understand and agree that the commitments in this MOA become federally enforceable by the EPA, and by persons using the citizen suits provision of the Federal Clean Air Act (42 U.S.C.A. § 7604), upon approval of this MOA into the SIP.

V. Obligations of Parties

(A) Local Governments agree as follows:

1. In accordance with the terms of this MOA but subject to subsection (b) below, the Local Governments agree to implement the following TCEQ Rules as stated in the Austin-Round Rock MSA *Implementation Plan for the Texas Heavy-Duty Vehicle Idling Rule* by December 31, 2005:
 - a. 30 TAC Chapter 114, Control of Air Pollution from Motor Vehicles, Subchapter J, Operation Controls for Motor Vehicles, Division 2, Locally Enforced Motor Vehicle Idling Limitations, Sections 114.510 - 114.512 and 114.517.
 - b. The following Local Governments do not adopt the rules for criminal enforcement purposes under section 7.177 of the Texas Water Code:
 - i. _____
2. The Local Governments agree to submit the following information to the TCEQ for the rules listed above not later than forty-five (45) calendar days after the effective date of this MOA.
 - a. Detailed description of the plan for implementation of these rules

- b. Copies of local ordinances or resolutions adopted by each Local Government to implement these rules
 - c. Copies of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules.
 - d. Submission of agreements entered between any Local Government and other units of Local Government for the purpose of the implementation of these rules will be accepted after forty-five (45) calendar days of the commencement of the MOA with the understanding that revisions to the SIP may not be available for agreements submitted after this period.
3. Copies of any requisite resolutions under Section 7.352 of the Texas Water Code shall be submitted to the TCEQ within fourteen (14) calendar days after passage by the local governing body.
- (B) The TCEQ agrees to submit this agreement to the U.S. EPA as a technical support document to the Austin-Round Rock MSA EAC SIP revision.

VI. Term and Termination

This MOA will become effective upon signature by all Parties and shall expire on January 2, 2008, unless renewed in writing by mutual agreement of all remaining Parties. A Party may withdraw from this Agreement at any time upon thirty days written notice to all other Parties to this agreement. Withdrawal by a Local Government does not constitute termination of the entire MOA. This MOA may be terminated at any time by mutual written consent of the Parties.

VII. Miscellaneous

This MOA represents the entire agreement between the TCEQ and the Local Governments and supersedes all other agreements, understandings or commitments, written or oral, relative to the intent of this MOA. This MOA may not be amended or modified except pursuant to a mutual written agreement executed by each of the Parties.

This MOA shall be governed by and interpreted in accordance with the laws of the State of Texas.

In Witness Whereof, Texas Commission on Environmental Quality and the Local Governments, by their authorized officers, have made and executed this MOA in multiple copies, each of which is deemed an original.

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

By: _____
Name: Glenn Shankle
Title: Executive Director

_____ Date

Bastrop County

By: _____
Name: *[name of designated signer]*
Title: *[title of designated signer]*

_____ Date

Caldwell County

By: _____
Name: *[name of designated signer]*
Title: *[title of designated signer]*

_____ Date

Hays County

By: _____
Name: *[name of designated signer]*
Title: *[title of designated signer]*

_____ Date

Travis County

By: _____
Name: *[name of designated signer]*
Title: *[title of designated signer]*

_____ Date

Williamson County

By: _____
Name: *[name of designated signer]*
Title: *[title of designated signer]*

_____ Date

City of Austin

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of Bastrop

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of Elgin

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of Lockhart

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of Luling

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of Round Rock

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

City of San Marcos

By: _____

Name: *[name of designated signer]*

Title: *[title of designated signer]*

_____ Date

