

**Written Testimony of  
Judge Margaret Keliher  
Dallas County Commissioner's Court, Dallas, Texas  
for the  
Clean Air, Climate Change, and Nuclear Safety Subcommittee hearing on  
S. 1265, the Diesel Emissions Reduction Act of 2005  
July 12, 2005**

Introduction

Good afternoon, I am Margaret Keliher, Dallas County Judge, head of the Dallas County Commissioner's Court. I am on the Board of the Texas Environmental Research Consortium, I am a member of the North Texas Clean Air Steering Committee, I am a member of the Texas Clean Air Working Group and a member of the Regional Transportation Council's Committee for Clean Air.

I am pleased to be here today to express support for Senate Bill 1265, the Diesel Emissions Reduction Act of 2005. Mr. Chairman, I applaud your leadership in developing this important legislation.

The Dallas-Fort Worth (DFW) region faces a very challenging task in developing a plan to meet the 8-hour ozone ambient air quality standard. Preliminary air quality modeling by the Texas Commission on Environmental Quality shows that the DFW ozone nonattainment area will not attain the 8-hour ozone standard without significant reductions from federally preempted sources, especially in the nonroad sector.

While Texas has worked aggressively to reduce emissions from in-use diesel engines through the highly successful Texas Emission Reduction Plan (TERP), which provides grants for diesel engine retrofits or replacements, the state funding is inadequate to support all of the necessary projects to ensure clean, healthy air for our residents. Federal funding for these emission reduction projects would be a welcome and timely addition to our toolkit.

## Overview and Success of the Texas Emission Reduction Plan (TERP)

In 2001, the Texas Legislature established the Texas Emissions Reduction Plan (TERP). According to its authorizing legislation, Senate Bill 5, the TERP was intended as a tool to “assure that the air in the state is safe to breathe and meets minimum federal standards; [and to] develop multi-pollutant approaches to solving the state’s environmental problems...” Originally authorized through 2008, the TERP was just extended by our Legislature through 2010.

The centerpiece of the TERP is the “Emissions Reduction Incentive Grants Program,” which funds projects in 41 counties where air quality violates or is close to violating EPA standards. The principal goal of this grant program is to reduce smog-forming nitrogen oxide (NOx) emissions, with an explicit goal of reducing a combined 49 tons per day in the Houston and Dallas/Fort Worth areas, and another 7 tons per day in the other counties. Eligible projects include new purchases, replacements, repowers, retrofit technologies, infrastructure, and qualifying fuels. Since 2003, program funding has been roughly \$120-140 million annually.

As of June 8, 2005 approximately \$192 million in TERP grant funding has been awarded or committed to 732 projects through seven competitive solicitations. Over their lifetime, these projects are expected to reduce NOx emissions by nearly 41,000 tons at a cost of roughly \$4,700 per ton, which is very cost effective when compared to other control options. Projects range in size from a few thousand dollars for replacement of a single piece of construction equipment to \$11 million for the retrofit and fueling of a large fleet of transit buses. The executive summary of the biannual review of the TERP is attached.<sup>1</sup>

The popularity of the TERP is evidenced by the 560 applications received in the latest round of grant solicitations, which ended on July 1.

---

<sup>1</sup> Please note that while the summary data presented in this paragraph includes projects recommended for funding in the first round solicitation of fiscal year 2005, these projects are not included in the attachment.

## The DFW area needs federal help to meet clean air standards

In comparison to more industrialized areas of the country, like Houston, the DFW area's ozone pollution problem is disproportionately influenced by emissions from on-road and nonroad mobile sources – the so-called federally preempted sources that are largely out of the reach of state and local regulations. The Texas Commission on Environmental Quality estimates that in 2010, after the implementation of existing control measures, nonroad and onroad mobile sources will constitute 32% and 38%, respectively, of smog-forming nitrogen oxide (NO<sub>x</sub>) emissions in the region (see Exhibit 1). Thus, 70% of our region's pollution comes from federally preempted sources.

This emissions breakdown is especially staggering in light of the estimated pollution cuts that may have to be made in order to comply with the 8-hour ozone standard by 2010. Just last month, the TCEQ told the North Texas Clean Air Steering Committee that an additional 45% cut in NO<sub>x</sub> emissions might be required in the region. This preliminary forecast worried many of us in the room because only 30% of the total, remaining NO<sub>x</sub> emissions in our region in 2010 will come from sources that can be directly regulated by the state.

Consequently, our region needs assistance from the federal government to reduce emissions from federally preempted sources. While the TERP has been an effective tool in this regard, state funding will not be enough to meet the lofty emission reduction targets being forecast by the TCEQ. And it should be noted that TERP funds are divided among various regions of Texas – in fact the DFW area only received roughly one-third of the TERP funds awarded to date. Federal funds from the Diesel Emission Reduction Act would be a welcome supplement to the TERP, which would allow us to partner with more diesel fleet owners to clean up their fleets.

One other area where the federal government could help is by swiftly adopting emission standards for federally preempted sources. For example, we appreciate recent proposal of emissions standards for new stationary diesel engines. The sooner that EPA adopts standards for these engines and others, such as those used in locomotives, the sooner that the DFW area will realize air quality benefits and be

able to efficiently incorporate the resulting pollution reductions in on-going air quality planning and management efforts.

### The Diesel Emission Reduction Act can help make the TERP even better

As mentioned above, even though the TERP has proven to be a good model for an effective incentive program, its funding is not sufficient to support all of the possible projects to reduce harmful exposure to diesel air pollution. Clearly, much more could be done.

For example, the Texas Legislature just added to the TERP a program to reduce emissions of diesel exhaust from school buses, which can build up to unhealthy levels inside the bus cabins where children travel to and from school. However, in a difficult budget year, the Legislature was not able to provide a secure funding stream. The Diesel Emission Reduction Act, if enacted, could serve as complementary source of funding to enable programs like the recently created Clean School Bus Program to flourish.

### How the Diesel Emission Reduction Act can stimulate innovation

One key lesson of the TERP is that meaningful financial incentives will lead private and public fleet owners to find ways to clean up their vehicles and equipment. In the case of the TERP, it has certainly been true that “if you build it, they will come.” With the possibility of federal funding within reach, I expect many communities and businesses will devise increasingly more innovative and efficient programs to control diesel emissions.

Another result of providing financial incentives has been the development of new emission control technologies. By increasing public investment for diesel emission reductions, the Diesel Emission Reduction Act will further stimulate technological innovation by ensuring a reliable national market for new control devices and, over time, help reach the efficiencies of scale necessary to drive down costs.

The Diesel Emissions Reduction Act will encourage more state programs

Twenty percent of the funds appropriated to DERA will be distributed directly to states that apply for them. In addition, ten percent of the funds are made available to serve as a match to state funding sources. These two provisions create an incentive for other states to develop comprehensive diesel emission reduction program and contribute to their funding. I am sure that these states, prompted by the opportunities provided by DERA will learn, like Texas has, the valuable role that diesel retrofits can play as part of a state or localities overall plan to achieve healthy air.

In addition, the State Grant and Loan component of DERA is not intrusive or prescriptive. It leaves the decisions on how best to implement the state grant and loan program to the state. This allows all states to tailor their state grant and loan program to their specific needs, given their current air quality conditions, emissions inventory, and other complementary emission reduction efforts. The flexibility is especially helpful for states like Texas. States, like Texas, that have already developed their own programs will not have to spend time and energy redesigning their existing programs to fit a new mold.

Conclusion

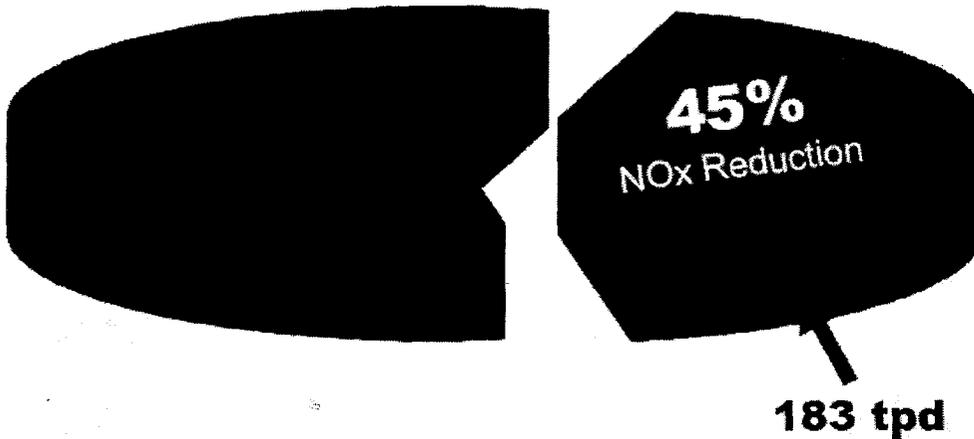
Senate Bill 1265, the Diesel Emissions Reduction Act, will help speed the transition to a cleaner fleet of diesel vehicles and help all Americans, including residents of the DFW Metroplex, breathe easier. Thank you for the opportunity to come before you today.

Exhibit on back of this page



## 2010 Emissions Inventory

### D/FW NOx Reductions Needed

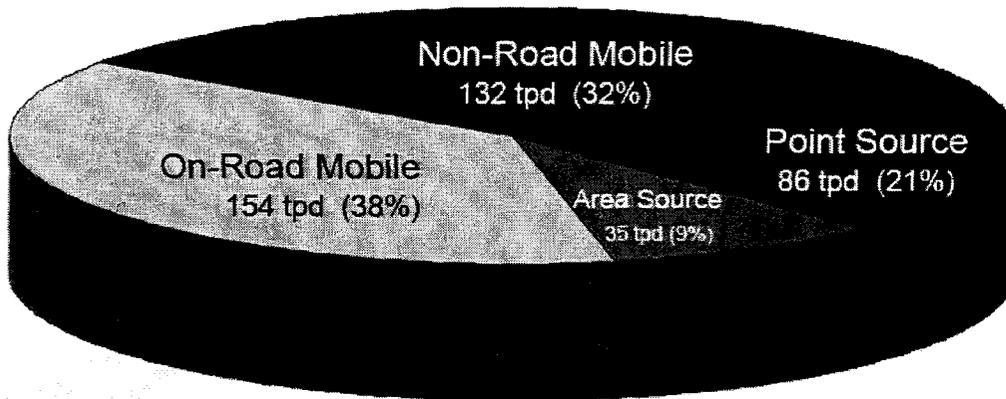


Technical Analysis Division • NTCASC Meeting • June 30, 2005 • Page 12



## 2010 Emissions Inventory

### Dallas/Fort Worth NOx



Technical Analysis Division • NTCASC Meeting • June 30, 2005 • Page 13