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February 17, 1969

Hon. Charles R. Barden, P.E.  
Executive Secretary  
Texas Air Control Board  
1100 West 49th Street  
Austin, Texas 78756

Opinion No. M-257-A

Re: Clarification of  
Opinion M-257 re  
Ambient Air Quality  
Standards and Emission  
Control Regulations

Dear Mr. Barden:

In your recent inquiry you refer to our Opinion M-257, dated July 12, 1968, construing the rule-making powers of the Texas Air Control Board. You quote one sentence relating to adoption of ambient air quality criteria, wherein we said:

"In practical effect, regulations over the state for air quality could not be the same or as strict in metropolitan areas of industrial production as regulations in an area which has no industry."

This sentence was contained in that portion of our opinion discussing powers of the Texas Air Control Board to adopt rules and regulations relating to ambient air criteria.

The quoted sentence has no relation to adoption by Texas Air Control Board, either now or in the future, of "emission standards," for it has been the consistent administrative construction of your State agency to adopt, promulgate and enforce more restrictive emission standards covering what can be released into the air in metropolitan areas of industrial production, than would be adopted and promulgated in rural areas. There being a material and substantial difference between ambient air quality criteria and emission standards, the quoted sentence should read, "In practical effect, regulations

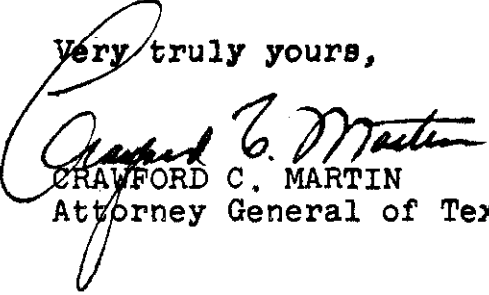
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for ambient air quality could not be the same or as strict in metropolitan areas of industrial production as regulations in an area which has no industry." The opinion does not hold, and is not to be interpreted as saying, that emission regulations of Texas Air Control Board were in any way required to be more lenient in an industrial area of heavy pollution. Obviously, the emission of polluted matter into the air should be more rigidly controlled in a metropolitan area of industrial production than in an area where little or no pollution exists from emissions into the air.

SUMMARY

Opinion M-257 is clarified to emphasize the difference in ambient air quality standards and emission control regulations.

Very truly yours,

  
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Attorney General of Texas

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