

**McAllen Penalty Rule Stakeholder's Meeting**  
**McAllen City Hall, Commission Chambers, 3<sup>rd</sup> Floor**  
**November 2, 2005**  
**10:00 am thru 2:00 pm**  
**Meeting Summary**

**I. Welcome and Introductions**

Jody Henneke, TCEQ Office of Public Assistance, opened the meeting by introducing TCEQ staff John Sadlier, Director of the Enforcement Division; Anne Dobbs, Special Assistant to the Director of the Enforcement Division; John Gillen, Office of Public Assistance; Jaime Garza, Enforcement Coordinator, TCEQ Region 15 - Harlingen; Monica Galvan, Investigator, TCEQ Region 15 - Harlingen; Filemon Olvera, Investigator, TCEQ Region 15 - Harlingen; Ronnie Garza, Small Business Coordinator, TCEQ Region 15 - Harlingen.

The following introductory remarks were made by Ms. Henneke: The Commission has been doing a comprehensive review of the agency's enforcement process for the last 1½ to 2 years. The purpose of this meeting is for the TCEQ to take comments on one of the components of that review, the penalty policy. Comments may also be submitted in writing through December 19, 2005. Following the meetings, Anne Dobbs will post meeting summaries and a list of attendees on the web site.

**II. Scope of the Proposed Rule**

John Sadlier explained that the staff have been directed to take the current penalty policy, make it better, and adopt it as a rule. Before starting a formal rule-making process, the Commission directed staff to conduct six stakeholder meetings. The comments from each of the meetings will be summarized and posted on the web.

There are many elements that the law requires the Commission to consider when calculating a penalty (i.e., economic benefit, compliance history, good faith efforts to comply, nature and extent of the violation, etc). This rule making will specify how these factors will be considered in the penalty calculation. The backup material has six major elements and questions to get the stakeholders thinking about these factors and how they work for them, whether they are members of the general public, environmental community, or regulated community. We are seeking comments on the backup material including the current penalty policy. The rule will address how we calculate penalties, it will not address what types of violations come to enforcement - that is a separate project that the Commission is also looking at.

At the conclusion of these six stakeholder meetings, we will draft a proposed rule and, with Commission approval, we will then publish that rule in the Texas Register for a 30-day comment period. At this point, we don't know exactly what the Commission will move forward into a proposal or what will happen after it is proposed. There may be a hearing or there may be additional stakeholder meetings.

**III. Procedural Ground Rules**

John Sadlier and Jody Henneke explained that this is a different type of stakeholder meeting that involves asking attendees to step up the microphone and tell us exactly what you think, rather than having a strawman proposal that everyone can sit down and talk about. Since we are at the very front end of the process, the Commission thought it would be best for us to take comment on the rule and identify procedures that need to be changed to improve the process before we actually began drafting a rule. Attendees were asked to make comments on where we are now, how the current policy impacts them, and help us think through what would be positive changes to the penalty policy. Attendees were invited to come to the microphone, provide their name, whether or not they are representing a company or organization, and to provide any comments that they would like regarding the current penalty policy, the questions posed and the examples of standard penalties included in the background information posted on the web.

#### **IV. Opportunity for Comments on the Major Elements of the Proposed Rule or Related Issues**

There were no comments from attendees.

#### **V. Closing Remarks**

Jody Henneke reminded attendees that the web site would be maintained up-to-date with summaries and names of attendees for each of the six meetings. Attendees were told that the TCEQ staff would be here to take comments until 2:00 pm. They were also told that they were welcome to come talk to staff “off the record” but if they wanted to provide comments on the penalty policy and upcoming rule, then we would ask them to speak “for the record” and would turn the microphone and recorder back on.