

Golden Triangle Small Business Advisory Committee

Small Business and Local Government Assistance Section

Texas Commission on Environmental Quality

Tuesday, June 16, 2009 – 11:30am-1:00pm

Southeast Texas Regional Planning Commission, Transportation Conference Room

www.sblga.info

Minutes

Attendees

Candace Broucher, J&R Services

Andrew Gardner, TCEQ

Lori Palmer, TCEQ

Matthew Burt, Bevil Oaks MUD

Linda Gernentz, Indeco Environmental

Bobby Rogers, North Hardin WSC

Brian Christian, TCEQ

Kurtis Gernentz, Indeco Environmental

Taylor Shelton, City of Port Neches

Laura Clark, TCEQ

John Hignett, Bevil Oaks MUD

Mike Tentrup, City of Port Arthur

Duane Frasier, AmeriCustom, LLC

David Martindale, City of Orange

David Trahan, City of Orange

Laura Clark, Work Leader, Enforcement Division

Ms. Clark presented information on what to expect in the enforcement process. She explained that a case must be screened to see if it meets the Enforcement Initiation Criteria (EIC) before an order will be drafted. The case is assigned to an enforcement coordinator; if possible, cases are assigned to enforcement coordinators in the same region as the respondent. Violations are divided into three categories. A Category A violation is the most serious and will result in automatic enforcement. Category B violations result in a Notice of Violation (NOV) at the first occurrence, but will result in enforcement if the violation is repeated at a second investigation. Category C violations may result in enforcement if the entity receives 3 NOV's for the same violation. If a violation results in enforcement, the respondent will be contacted, asked about the status of corrective action, and asked about expedited enforcement process. If the respondent agrees to expedited enforcement process, it usually results in a reduction in the fine. The enforcement coordinator works with the respondent to draft an agreed order and penalty. If the respondent is unable to pay the penalty in full, there is an option to pay in installments. If the respondent does not sign the agreed order, the case will go into litigation. The respondent may request a hearing from the State Office of Administrative Hearings (SOAH).

Brian Christian added that respondents will sometimes attend Agenda in Austin when their case comes before the commissioners, either because they were asked, or they want to explain the circumstances of their case. Sometimes extenuating circumstances are considered by the commissioners, resulting in reduced fines. Ms. Clark and Mr. Christian both emphasized that thorough communication with the enforcement coordinator will make the enforcement process easier for the respondent. If a case goes into default, it may go to the Attorney General's office, which could get very complicated and expensive.

Andrew Gardner said that SBLGA studies enforcement trends to see how small businesses are affected. For small businesses, the largest number of enforcement cases involves petroleum storage tank violations, followed by dry cleaning violations and stormwater violations. In 2007, there were 1383 enforcement orders issued; 61% of the respondents were small businesses.

Brian Christian, Division Director, Small Business and Environmental Assistance

Mr. Christian provided an update on the status of the new water fee rules. The new fee rules will impact three fees: the consolidated water quality fee, the water use assessment fee, and the public health service fee. The fees, which have not been raised since 2002, are being increased due to a projected shortfall in funding. When the rules were proposed, the TCEQ assumed no general revenue would be available, and the cap for larger cities was set at \$75,000, so the rules were expected to have a large impact on smaller entities. Since the rules were proposed, House Bill 1433 passed, raising the fee cap. Further, the agency was appropriated approximately \$9 million per year in General Revenue for the FY 2010-2011 budget cycle. As a result, the fees rates may not have to increase as much as first proposed. The final adoption of these rules is planned for the July 8 agenda, which is available on public webcast. For specific questions about how much a water system's fees are being raised, the program areas can be contacted at the following numbers:

Consolidated Water Quality Fee – (512)239-4671

Public Health Services Fee – (512)239-4691

Water Use Assessment Fee – (512)239-6682

In other agency and legislative news:

- Commissioner Shaw's appointment has been confirmed; Commissioner Soward's term will expire in August 2013;
- House Bill 3547 passed in the state legislature, granting TCEQ the authority to shut down unregistered dry cleaners within 30 days of issuing an NOV;
- Senate Bill 1693 passed, which extends enforcement penalty payment plans to a maximum of 36 months (the former maximum was 12 months). This bill also allows delegation of agreed orders to the executive director of the TCEQ;
- The TCEQ is currently scheduled for sunset review in 2013; however, this could be moved up to 2011 during the special session in July. If this happens, SBACs could have an opportunity to comment on the TCEQ in the review process soon. SBLGA will let the SBACs know as this information becomes available.

Candace Broucher, Chair, Golden Triangle Small Business Advisory Committee

Candace Broucher asked Lori Palmer about the participation in the Household Hazardous Waste collection events held in the region. She replied that at the April 2009 event held at Lamar University in Beaumont, 495 vehicles were surveyed, and over 70,000 pounds of hazardous waste and 1914 scrap tires were collected. Each event has had more vehicles and more hazardous waste collected than the previous event. Ms. Broucher also asked about the status of recycling in the City of Beaumont. Ms. Palmer said that the drop-off bin at Market Basket had been discontinued due to cost concerns, but the mayor has formed a task force on recycling to make recommendations on whether recycling is feasible. Ms. Broucher also asked the group if the current meeting location was preferred, or if the airport would be a better location; those in attendance seemed satisfied with meeting at the Southeast Texas Regional Planning Commission. Ms. Broucher handed out blank cards during the meeting and asked attendees to write down ideas for things they need from the SBAC; these will be compiled and shared with the SBAC at a later date.

Action Items:

- Provide the requirements for aboveground storage tanks - Lori;
- Get information on customer service inspections for Mr. Bobby Rogers – Lori

Next SBAC Meeting: September 15, 2009, 11:30-1:00pm at SETRPC