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Small Business **The Advocate**

For and about small businesses affected by environmental regulations

Healthy Environment. Strong Business. Good Sense.

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New TNRCC Office of Small Business and Environmental Assistance

New Director for the Merged Programs

Mr. Israel Anderson is the director of the newly created Office of Small Business and Environmental Assistance. Mr. Anderson, who assumes the role as the agency's Small Business Advocate, joined the TNRCC five years ago, heading up the agency's Local Government Assistance Program. Previously, he coordinated the drinking water and wastewater seminars for two years in the agency's Regulatory Assistance Section. He retired from the U.S. Army after 25 years of service.

"Small business is at the heart of the Texas economy," said Anderson. "I look forward to meeting with small business owners around Texas and hearing about their problems and successes. This new division will allow us to more directly focus assistance at the point of need." Further indicating the new office's ongoing concern for small businesses, Tamra-Shae Oatman will continue in her role of assistance to these vital enterprises. ■

Help for small business should be enhanced following the new merger of three assistance programs at the TNRCC. The Small Business Assistance Program (SBAP) has merged with the Regulatory Assistance section (local government assistance and education and outreach programs) and the Office of Pollution Prevention and Recycling.

The new division will not only continue to offer free, confidential technical assistance and services to small businesses, but also will enhance pollution prevention and education efforts and remain independent of the TNRCC's enforcement program. Small businesses are ensured a voice in the rulemaking process through the Rule

Review Committee, Small Business Advisory Committees, and the Compliance Advisory Panel. The new division will continue to seek small business input in the design of agency guidance documents, reporting forms, and applications through the Statewide Plain Language Committee. Twenty of the positions in the new division will be moved to regional offices around the state, increasing Texans' access to TNRCC staff and services.

The merger creating the new Office of Small Business and Environmental Assistance, which will be completed by September 1, is a result of a review of the agency's business processes conducted in October 1997 by TechLaw, a consulting firm. ■

Dumping Used Oil? There's a Price to Pay

Make no mistake about it —dumping used oil is a violation of the law and could result in a penalty or misdemeanor charges with fines ranging from \$1,000 to \$5,000 and/or a felony punishment of five years in prison. Violations can be filed by a local district attorney as criminal charges or by the TNRCC as an administrative penalty. The TNRCC has statutory authority to determine the level of punishment and bases its decision on factors such as the size of the problem. Safe disposal alternatives can be found in auto repair shops and other facilities that are approved as used oil collection sites. For information about approved facilities, call the TNRCC Automotive Waste Program at 1-888-TX-CRUDE (1-888-892-7833). ■

Small Business Enforcement Tracking Report Completed

The first small business enforcement tracking report was completed in September. The report's purpose is to identify common environmental trends and problems experienced by small businesses. A summary of data collected from Fiscal Year (FY) 1996 to FY 1998 identified enforcement issues for small businesses and included the following:

- ◆ most enforcement orders are issued to small businesses;
- ◆ the percentage of enforcement orders issued to small businesses increased;
- ◆ the average penalty for small businesses increased;
- ◆ the number of default orders, meaning enforcement orders that companies do not respond to, increased from 5 in FY 1996 to 68 in 1998;

◆ ninety-one percent of default orders issued in FY 1998 were to small businesses.

The report also notes that small businesses have participated in fewer Supplemental Environmental Program (SEP) options than large businesses. SEPs are an alternative method of paying penalties through community projects.

The Office of Small Business and Environmental Assistance (SBEA) will use the tracking report to improve outreach, help small businesses achieve compliance, and meet its goal of minimizing enforcement issues in the small business community. To that end, SBEA has made these recommendations: revise the automatic enforcement referral criteria; allow a one-

year inspection exemption to small businesses that participate in the SBEA site visit program; promote SEPs; rewrite the TNRCC enforcement letters for clarity; and get other TNRCC programs to begin tracking small businesses and their specific types of violations. The SBEA is drafting an enforcement process fact sheet, which will be attached to the Notice of Violation and Notice of Enforcement letters and will be distributed by inspectors during visits. The fact sheet will explain the enforcement process and the actions required by a business that is under enforcement. With a better understanding of the enforcement process, the business has a greater chance of reaching compliance. ■

TNRCC Assumes NPDES Program Administration

On September 14, 1998, the Texas Natural Resource Conservation Commission (TNRCC) assumed administration of the National Pollutant Discharge Elimination System (NPDES) program, formerly administered by the U.S. Environmental Protection Agency (EPA). Because TNRCC has combined the state and federal systems, it has named the resulting single permitting program the Texas Pollutant Discharge Elimination System (TPDES). Through TPDES, the TNRCC will replace EPA as the permitting and enforcement authority regulating municipal and industrial wastewater discharges into Texas streams, rivers, and lakes.

The rest of this article describes changes that will affect small businesses covered by the NPDES and TPDES.

Wastewater: At amendment or renewal, two permits (federal and state) will become one, called a TPDES permit. This consolidation will make the permit process less complex, costly, and time-consuming for applicants.

Fee Increase for Industrial Wastewater Discharge Permit: The purpose of the fee increase is to cover doubling of the workload resulting from TPDES program assumption. The TPDES program is funded entirely by fees. TNRCC will receive no EPA funds.

- ◆ Fee increased 2.3 times over FY 1998 fees.
- ◆ Fees were assessed on 9/1/98.

Discharges to a POTW: There will be no changes for industries discharging directly to a Publicly Owned Treatment Works (POTW).

Examples of Changes in Permitting:

- ◆ Businesses with neither an NPDES nor a TNRCC permit must apply to TNRCC for a TPDES permit.
- ◆ Businesses with both NPDES and TNRCC permits: no change until the permit holder renews or amends either permit. A TPDES permit will be issued at that time.
- ◆ Businesses with only an NPDES or TNRCC permit: must apply to the TNRCC for a TPDES permit.
- ◆ Businesses with either an NPDES or a TNRCC permit, and with a pending application for the other permit: TNRCC will issue a consolidated TPDES permit. (Exception: NPDES applications for which EPA has published notice. EPA will issue the permit and transfer administration of that permit to the TNRCC, which will consolidate the two permits into a TPDES permit when either permit is renewed or amended).

Inspections/Enforcement: TNRCC is hiring 17 additional inspectors. The frequency of routine industrial wastewater compliance inspections is not expected to increase for small businesses, with the exception of complaints, severe or chronic noncompliance, and facilities discharging into impaired watersheds. Inspections will focus on major sources. Violations will not be handled differently than before state assumption of NPDES.

Changes in Stormwater Permitting: EPA is retaining administration of the Industrial Multi-Sector General Permit (MSGP) and Construction General Permit

until these permits expire (September 29, 2000, and July 7, 2003, respectively). TNRCC plans to have new general permits developed before these dates so that businesses covered by the existing permits can transfer coverage before permit expiration. TNRCC assumed administration of all individual storm water permits on 9/14/98. ■



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