

**Texas Commission on Environmental Quality
Small Business Compliance Advisory Panel
Meeting Minutes
Thursday, August 10, 2006, 9:30 AM to 2:00 PM**

Attendees:

CAP: Rob Curnock, Ken Legler, Mark Shelton, Brent Wade, and Sarah Walls

SBAC: Tag Coolidge, Ft. Worth SBAC; Joe Polanco, Dallas SBAC; Michael Harris, Michele Feenstra, San Antonio Manufacturer's Association; Carol Morton (VTC), Houston SBAC

SBEA: Tamra-Shae Oatman, Matt Baker, Andy Gardner, Tasha Burns, Daphne McMurrer, Melinda Houlihan, Glenda Swierc, Will Wyman, Joy Schultz, Brian Christian, Anne Marie Callery,

TCEQ: Kathleen Hartnett White, Chairman; Larry Soward, Commissioner; Glenn Shankle, Executive Director; John Steib, Deputy Director, Office of Compliance & Enforcement; Leonard Olson, Director of Intergovernmental Relations; Grace Montgomery-Faulkner, Deputy Director of Administrative Services

EnviroMentors: Michael Whitehead, W&M Environmental; Rob Rowell, City of Groves, Nancy Hunziker-Klaes, PBS&J; Nic Andreani, W&M Environmental; Lindsey Renfro, Hill Country Environmental; Erich Birch, Birch & Becker;

Other: Mary Miksa, Texas Association of Business; Lauren Crawford, TML; Paul Sugg, TAC; Donna Chatham, ARCIT

Action Items

- The CAP will explore the option of expressing a minority opinion in the rule and permit development process and will provide the Chairman with information on the opportunities for small business involvement in the rule, policy and permit development process and suggestions for change
- The CAP will provide project ideas to the Chairman
- The CAP will provide new legislation proposals to Mr. Shankle
- The CAP will draft a letter to the Lieutenant Governor with a list of candidates for consideration to be appointed to the CAP

Matt Baker, Director of SBEA

Mr. Baker was introduced to the CAP by Tamra-Shae Oatman. He gave a presentation on the activities and programs of the SBEA Division.

Chairman White

Chairman White discussed the compliance history rule and stated that it would not be taken up at Agenda for Commission consideration until there are three Commissioners to vote on it. She also expressed her support for the issues that the CAP has advocated for in this rule process.

The Chairman also discussed the penalty policy rule and stated that this too would not be taken up at Agenda until there is a third Commissioner. She expressed her support of the small business definition advocated by the CAP as a business with 100 employees or fewer. She did not have an answer for what the financial component of the definition should be but acknowledged that it is higher than many think.

Revised date 9/18/06

The Chairman talked about some of the air issues facing the state particularly the non-attainment areas in relation to the SIP. She stated that minor sources of air pollution account for a small portion of the problem but said that the EPA has pushed the state to find the smallest sources due to their cumulative impact.

There were a few questions from the CAP on the level of involvement from SBLGA on rulemaking and drafting permits. TCEQ staff explained that the section is given an opportunity to be on rule teams but not all permit development efforts.

Chairman White requested to be informed about the current procedures for including SBLGA in the rule and permit development process. She also requested formal input from the CAP on what they would like to see changed in the rule process.

Action: The CAP will provide the Chairman with information on the opportunities for small business involvement in the rule and permit development process and their suggestions for change.

Glenn Shankle, Executive Director

Mr. Shankle discussed the concerns the CAP had about being included early on in the rule and permit development process.

Mr. Shankle addressed the concerns of the CAP regarding the Edwards Aquifer enforcement policy that has been recently implemented by the TCEQ. He acknowledged that under his direction, the TCEQ decided to move forward with a new policy on enforcement for Edwards Aquifer violations that are of an egregious nature and that he did so without notifying the public in advance. He reminded the committee that it was in his authority to do this and believed that it was the right thing to do considering the sensitivity and uniqueness of the Edwards Aquifer. Mr. Shankle made it clear that he intends to be more sensitive to the need to notify the public in advance of other significant policy change of this degree in the future.

Mr. Shankle explained the new Agency policy on delinquent fees. He explained that any entity that is requesting a permit, permit renewal, license or registration would be denied if they had outstanding fees owed to the Agency.

Mr. Shankle requested input from the CAP on any new legislation for this next session.

Action: Provide new legislation proposals to Mr. Shankle.

John Steib, Deputy Director of Compliance & Enforcement

Mr. Steib gave an update on the status of the penalty policy rule and reminded the CAP of the Chairman's comments earlier regarding the need for a third commissioner before the Commission would take up the penalty policy rule for decision. He senses that the ED and the Commissioners support the 100 employee definition and that this will probably happen. He also received positive support for the 100% deferral concept but they are considering how this policy will be implemented on a case by case basis. Another CAP comment on not assessing a culpability enhancement for permitted facilities has received support from the Commission.

Mr. Steib provided an overview of the compliance history rule and indicated that all of the CAPs comments have been incorporated into the draft compliance history rule rule.

Mr. Steib reviewed the Dry Cleaner Initiative stats and declared it a success. More than 1700 sites were inspected in four weeks and more than 50% of those sites should have been registered with the TCEQ. More than 800 cases were referred to enforcement and 1 million dollars in fees were collected.

Commissioner Soward

Commissioner Soward expressed his appreciation of the CAP and other small business groups for being involved in the stakeholder process for the Enforcement Process Review. He very strongly encouraged the groups to remain involved in future rule and policy making and he specifically mentioned the State Implementation Plan.

Regarding the SIP, Commissioner Soward acknowledged that the SIP is focusing more on smaller sources such as boilers, compressors and other small power sources for NOx reductions.

Commissioner Soward encouraged the committee to meet more frequently so that involvement in agency activities would be easier and suggested using the VTC technology to do this. He reminded the committee that Agendas and Work Sessions are now available through a webcast and that public meetings may be next.

When asked about the vacancy on the CAP and whether he could help get it filled, Commissioner Soward offered to take the list of candidate names and work through the proper channels to submit to the Lieutenant Governor for consideration. He is also willing to follow up on the progress.

Action: Draft a letter to the Lieutenant Governor with a list of candidates for consideration to be appointed to the CAP.

Commissioner Soward discussed the status of the Penalty Policy. The issue of giving up to a 100% deferral was discussed and Commissioner Soward believes that he and the Chairman fundamentally are on the same page with this concept. Specifically, they would rather see money go to fix the problem so that compliance is achieved.

Tamra-Shae Oatman, Manager of SBLGA

Ms. Oatman discussed the projects that SBLGA worked on this past year. She also reminded the CAP of the new online services that were now offered at the TCEQ and showed them the E-Services and Listserves handouts.

Ms. Oatman reviewed the minutes with Mark Shelton, CAP Chair. The CAP approved the minutes and reviewed the action items from this meeting for the record.