



# Small Business Compliance Advisory Panel

## Meeting Minutes

Thursday, February 28, 2008

### Attendees

#### CAP Members

Mark Shelton, Chair  
Rob Curnock  
Brent Wade  
Laurie McReynolds

Sarah Walls, not present  
Ken Legler, not present

#### Agency Guests

Buddy Garcia, Chairman; Bryan W. Shaw, Ph.D., Commissioner; Glenn Shankle, Executive Director; Susana M. Hildebrand, P.E., Director, Air Quality Division; and Sharon Blue, Office of Legal Services.

#### TCEQ Staff Support

Grace Montgomery Faulkner, Small Business Ombudsman & Director, Small Business and Environmental Assistance Division; Brian Christian, Andy Gardner, Joy Schultz, Tara Lindgren, Jackie Linville.

#### EnviroMentors

Danny Brevard, Eugene Lindemann, Michael Whitehead, Rosemary Wyman

#### Small Business Advisory Committee Members (SBAC)

Joe Polanco, Dallas SBAC; Tag Coolidge, Fort Worth SBAC; Tim Schulz, Dallas SBAC

#### Others

Mary Miksa, Texas Association of Business; Paul Sugg, Texas Association of Counties; Michael Harris, San Antonio Manufacturers Association (SAMA); Karla Meyer, SAMA; Genora Young, City of Eden; Celina Hemmeter, City of Eden

### Action Items from the February 28, 2008 Meeting

Mark Shelton will follow up with Mr. Shankle about the vacant CAP position that needs to be filled by the Lieutenant Governors office.

A speaker on NESHAP & Dry Cleaner initiatives will attend the next CAP meeting.

Brian Christian will provide a briefing by e-mail on the Compliance History and Penalty Policy after the April 11<sup>th</sup> work session.

## **Presentations:**

### **Buddy Garcia, Chairman**

Chairman Garcia discussed major issues confronting the agency. He noted that air quality will continue to be an extremely important issue with the revised ozone standard. He highlighted the AirCheck Texas program, which helps to remove older, less efficient vehicles from the road. He noted that these challenges are against the backdrop of a growing population and changing EPA requirements.

Chairman Garcia also asked the Panel about their thoughts on NAFTA and its effect on Small Businesses. Mr. Shelton responded that he thought the biggest competitors are overseas, not from Mexico or Canada. Mr. Curnock noted that he felt it has encouraged business, but it does have some negative impacts on small businesses.

Chairman Garcia asked for the CAP's thoughts on what is going to keep Texas competitive. Mr. Shelton responded that in the environmental regulatory realm, understanding businesses issues and building trust will help.

### **Grace Montgomery Faulkner, Director, SBEA, Ombudsman**

Mrs. Montgomery Faulkner addressed the issue of Penalty Policy and Compliance History, noting that these issues will be discussed at a Commissioner Work Session on April 11, 2008. She encouraged everyone to attend or view the proceedings via the web cast.

Joe Polanco raised the issue of the definition of a small business, expressing concern that it is unclear. Brian Christian noted that the SBEA relies on the Federal Clean Air Act Definition of 100 or fewer employees but acknowledged that it does vary in other programs. Mrs. Faulkner suggested that interested persons come to the April 11<sup>th</sup> Commissioners Work Session to discuss the issue if they wish, or provide comments in writing.

### **Glenn Shankle, Executive Director**

Mr. Shankle stated that the major challenge before the agency is Air Quality. The priorities are the two SIP revisions for:

- Dallas/Fort Worth - Submitted proposal to EPA to be in compliance by 2009. EPA has asked TCEQ to enhance that proposal.
- Houston/Galveston/Brazoria – Governor Perry has petitioned the EPA for more time. A reclassification to severe would give the area until 2019 to meet the standard.

He also highlighted the Texas Emission Reduction Program (TERP).

Mr. Shankle also addressed the vacancy on the CAP, stating that he would work with the Lieutenant Governor's office to have the position filled.

He closed his remarks by informing the CAP that the agency was currently in the process of assembling legislative recommendations for the 81<sup>st</sup> Legislature. He encouraged the CAP to submit input.

Mr. Shankle was asked about having a full commission to work with. He commented that they will have a full agenda of issues, noting that they recently held a special Agenda to solely address enforcement cases. He added that most Enforcement cases involve small businesses, with the majority of those being PST cases. He stated that he would like to see that number be zero.

Mr. Shankle was then asked about the new commission's views on small business. He responded that the commission still supports small businesses.

**Susana M. Hildebrand, P.E., Director, Air Quality Division**

Ms. Hildebrand echoed the Chairman's and Mr. Shankle's comments on the State Implementation Plan (SIP). She explained the SIP process, noting that EPA was going to be likely issuing a new, lower ozone standard in March 2008. She also discussed the Texas Emission Reduction Plan (TERP). This program provides financial incentives for projects that reduce the emission of nitrogen oxides (NOx).

Ms. Hildebrand was asked about outreach or help for TERP grants. She noted that her division, with SBEA, developed a checklist to assist applicants with the application, and that the agency is helping to staff help centers in the DFW region to assist potential applicants there. She also noted other outreach efforts, such as billboards and advertising.

Ms. Hildebrand was then asked about when the agency expects to hear of EPA's decision on the reclassification of the Houston nonattainment area. She responded that TCEQ expects the decision this spring.

Ms. Hildebrand was asked about the timeline once the new ozone standard is issued. She responded that states will have one year to make designation recommendations to EPA once the standard is set the state has one year to say if they are meeting the standard or not. EPA gives classifications and final designations, and then they start the clock. Then state has three years to submit SIP revisions.

**Bryan W. Shaw, Ph.D., Commissioner**

Commissioner Shaw was introduced as the newest Commissioner, having been appointed on November 1, 2008. He discussed the commission's responsibilities to protect the public and the environment. He also described his interests in identifying better ways to reduce air emissions. He also expressed his comfort with the SIP.

**Sharon Blue, SEP Coordinator, Office of Legal Services**

Ms. Blue gave a presentation describing that a Supplemental Environmental Project (SEP) is an environmental enhancement and how to go about participating in one. She addressed third-party SEPs and offset requirements.

Ms. Blue was asked how respondents are informed about the program. She responded that respondents are notified during the enforcement process.

Ms. Blue was asked how much of the penalty can be offset. She responded that small businesses can offset up to 50% if the project has a direct benefit, less if it is an indirect benefit.

Ms. Blue was asked how many enforcement cases include a SEP each year, and how many of those choose to use a pre-approved SEP. Ms. Blue noted that approximately 20% - 30% of enforcement cases include an SEP, totaling approximately \$2 million - \$3 million per year. She also noted that 95% of respondents choose a pre-approved SEP.

**Brian Christian, Manager, Small Business and Local Government Assistance**

Mr. Christian started off with an update on the Compliance Commitment (C2) program, noting that it is a two visit program – the first visit is to identify any compliance issues, and the second is to make sure everything has been addressed and there is 100% compliance. If the facility is compliant, they will become a C2 partner and will be exempt from investigations for one year. In December 2007, SBEA had 43 requests from new entities. We normally average 7 or 8 request per month.

He then provided updates on Fiscal Year 2008 projects.

- Public Water System (PWS) – SBLGA conducted outreach to entities may be a PWS without realizing it. SBLGA identified 1000 potential systems, but fortunately only 30 were actually identified as a PWS. SBLGA worked with those entities to achieve compliance.
- Air
  - TERP – SBEA is providing staffing for assistance centers in the DFW area.
  - AirCheck Texas – SBEA worked on the marketing of the program, and on the recruitment and training of participating dismantlers.
  - NESHAP – There has been a lot of activity with this. We are doing outreach to Dry Cleaners on a Federal rule that states are required to implement. Additionally, July 7, 2008, is the deadline for Paint Stripping and Surface Coating operations to send notice that they are in compliance.
  - SIP – The SIP contains mandates on minor sources to reduce NOx emissions. Guidance documents are under development and outreach will be starting soon.
- Stormwater Construction General Permit – On March 5<sup>th</sup>, the fee structure has changed to be a one time flat fee versus an annual fee. E-permit is \$235.00 and paper is \$335.00. This is to encourage the use of electronic filing. The new permit will become effective the same day the old one expires.

- Wastewater – Workshops are scheduled for Recordkeeping and Reporting DMR in Houston, Dallas and Central Texas.
- Petroleum Storage Tank (PST) – Workshops around the state are scheduled.
- Agency Items – The Legislative Appropriations Request process is underway. Additionally, TCEQ now has the state divided into three Areas, instead of four.

**New Business:**

Brian Christian informed the CAP of the suggestion that future CAP meetings be Web cast. The CAP membership concurred.

It was discussed that TCEQ participates in an e-mail notification system called Gov-delivery. It was suggested that panel members sign up for this to receive various updates.