



Small Business Compliance Advisory Panel

Meeting Minutes

Friday, September 25, 2009

Attendees

CAP Members

Mark Shelton – Chair
Rob Curnock
Brent Wade – not present

Sarah Walls
Laurie McReynolds
Billy Bob McAdams – not present

Agency Guests

Diane Mazuca, Special Assistant to Executive Director; Dr. Michael Honeycutt, Director of Toxicology Division; and Beth Seaton, Special Assistant to Deputy Director of OCE

TCEQ Staff Support

Andy Gardner, Joy Schultz, Anne Marie Callery, Laressa Wong, Tara Lindgren, Peggy Loudder, David Hastings, Trish Esquivel, Clarence Grey, Michelle Bost, Jane Scheidler, and Gail Lindholm

EnviroMentors

Rosemary Wyman, Elwood Halterman, Peter Macler, Charles Vokes, John Syer, Angela Miles

Small Business Advisory Committee Members (SBAC)

Joe Polanco, Dallas SBAC

Others

Lennie Winkelman, Emerald Environmental; David Adkins, Talon; Chris Pepper

Action Items from the September 11, 2008 Meeting:

SBLGA will come up with some type of marketing to continue to get the word out about what the section has to offer and how they can assist.

Presentations:

Mark Shelton, Compliance Advisory Panel (CAP) chair

Mr. Shelton thanked participants for their attendance, recognized individuals that could not attend, and then asked for a motion to approve the minutes from the September 11, 2008 meeting. A motion to approve the minutes was made by Mr. Rob Curnock and all CAP members approved with no one opposing.

Beth Seaton, Special Assistant to Deputy Director of the Office of Compliance and Enforcement (OCE)

- ❖ During hurricane season 2008 many facilities did not have back up power required.
- ❖ Reviewed 5400+ back up power. Tried to confirm their requirement. SBLGA assisted in making calls to explain rule/funding.
- ❖ 591 facilities determined out of compliance and given NOV (10% out of compliance).
- ❖ 147 facilities still out of compliance as of August 2009 (2.7% facilities)

Mr. Shelton asked if this information included local governments. Ms. Seaton responded yes, and that it was and also some private business.

Mr. Gardner thanked Ms. Seaton for the partnership within Field Operations and the Small Business and Local Government Assistance Sections.

Diane Mazuca, Special Assistant to the Executive Director

Ms. Mazuca provided a thorough presentation on the Sunset Review process. She stated that the Sunset Review process is a requirement that happens every 12 years for all state agencies to determine if the agency should exist and review their functions. One of the items to look into during this process is 'how can we be more efficient and functional.' The review was moved up by 2 years during a special session with other Natural Resource agencies. TCEQ leadership is embracing the opportunity.

The Sunset Review board is made up of 5 senators, 5 house members, 2 public members and sunset staff.

Phase 1- Self Evaluation Report (SER), introduction to the agency. This phase is due October 29, 2009, which is when the public will be able to view. The report will be approximately 600 pages.

Phase 2- review of SER; you may be contacted because all Small Business Advisory Committees (SBACs) are listed. Anticipate in February/March being contacted. In early summer, they report on our SER and this report will make recommendations on agency staff, management changes and other changes.

Phase 3- Legislative process and bill created based on Commission recommendations. Must be adopted by both houses. Last sunset bill for TCEQ had 500 amendments.

Phase 4- SER-interests Section II (g) & (i); Section IV (i); Section VII (340 pages); Section VII (1); Section VIII; Section X; Section XII. Section IX-Policy issues-what will public hear about (ex. Public participation, enforcement, air permitting, water resources, monitoring)

Question: Does EPA have participation? Answer: Only listed as contacts and may be contacted by Sunset staff. However they may be more involved with state air permitting.

Question: Who appears at hearing? Answer: 60% general public and 40% regulated community.

Question: Are reports public record? Answer: Sunset Commission is responsible to make them available, but some agencies have been posted on Sunset Commission website and we'll have a link to the Sunset Commission website.

Kim Herndon, Air Quality Division, Chief Engineers Office

Air Quality Update

Ms. Herndon provided a status of Air Quality around the state including a map showing the 1997 standard-4th highest average for 3 years – 1997: equals or exceeds 85 ppb, Houston, Beaumont and Dallas/Ft. Worth.

Houston – SIP revision proposed and rule revision (lithographic printing-3/ton/year of VOC)
Rule revision Mass Cap and Trade for NOx and HRVOC.
Ozone levels are trending down
SIP public hearing Oct. 28 and 29

DFW – Attainment demonstration submitted to EPA in May 2007
Rule revisions
Oct 29, Nov 2 public hearing for SIP changes
Oct 9-Nov. 11 open for public comment on SIP changes
Trending downward for ozone

Question: Are emissions from oil drilling included in emission inventory? Answer: We are reviewing those emissions.

Beaumont – Past December adopted maintenance plan
Down to 77 ppb
We have re-designation request to attainment, but not approved.

San Antonio – Bexar County recommended nonattainment for 2008 standard, but doing voluntary to meet even new standard.
At 74 ppb – design value

Austin – Design value 77ppb; only Travis County recommend nonattainment for 2008

Northeast – Design value 75ppb (Greg, Rusk, Smith)

El Paso – Continue to monitor attainment with 1997 and 2008 standard.
Design 75 ppb
Process re-designation attainment for county

Additional areas include: Corpus Christi, Victoria and Waco also have monitors

Lead standard recommended for non attainment partial Collin County based on specific industry.

September 16, 2009 – EPA will reconsider ozone standard, no official designation for 2008 standard.

2010 Standard Timeline

Dec 09 – New standard announced
Aug 10 – Published in Federal Regulations
Aug 11 – Designation by EPA
Dec 13 – SIPs due
2013-2030 Attainment deadlines

Question: Has EPA indicated range for 2010 standard? A: No, they have not determined range. Probably not higher than 75 ppb.

Information on Climate Change Rule:
epa.gov/climatechange/emissions/ghgrulemaking.html

Question: EPA disapproved parts of state air permitting program. What will be impact to small business?

A: Air permits are the best office to answer this question. Very early and SBLGA would be looking at it.

Question: Do we see going deeper to get attainment, such as area sources like dry cleaner, boiler?

A: We are going for biggest bang for the buck and we try to be cognizant of impact to small business but with future standard we can not see what/who will be impacted/controlled.

Question: Will mobile sources be allowed to be addressed on state level?

A: It will have to come from federal level and federal government needs to help us. We do not control cars with exception of TERP and emission testing, and non-road engine requirements.

Dr. Michael Honeycutt, Director of Toxicology

Risk = Toxicity (danger) X Exposure

- We use ESL to assess the toxicity of chemicals
- Effects screening levels – chemical – specific level in air set to prevent short and long term health effects and nuisance odor conditions
- ESL averages – short term (1 hour) health, odor and vegetation
 - long term (lifetime) health, vegetation
 - 1 in 100,000 theoretical cancer level is what TCEQ looks at
 - We rarely permit more than 1 carcinogen with exception of refineries because crude oil has a lot of carcinogens but we monitor heavily in these areas.

Exposure + toxics-all the other besides 6 chemicals monitored by NAAQS.

- ❖ Air monitoring is how we get air data
- ❖ Evaluate data
- ❖ 64 monitors in Texas (fixed site) – we get a lot of data
- ❖ Pick areas to put monitors down wind of non industrial area
- ❖ Benzene- good indicator of air quality. And it is most risky ambient air to human health
- ❖ We have two monitors above the acceptable levels

Air toxics are local not regional like ozone.

Air pollutant watch list (APWL)

- ❖ Dynamic list of areas with pollutants at level of concern.
- ❖ Permits get more review, investigation
- ❖ P2 focus, public hearings
- ❖ 12 APWL in 11 counties (small neighborhood areas)
- ❖ Gas finder – IR camera was helpful in Lynchburg Ferry example to lower benzene – long path to fix VOC leaks
- ❖ Industry put in their own monitors to help save product and money

- ❖ Coast Guard helpful to determine barges that are leaking and P2 to help identify their problem areas
- ❖ Lynchburg Ferry is open for public comment to get removed from list

Question: What is radius of monitor when determining where to locate them?

A: Within 1 mile of trigger industries; some circumstances 3 miles.

Andy Gardner, Section Manager, SBLGA

Mr. Gardner discussed current projects in SBLGA.

APWL – Assistance

DFW, Dow-Crom

East Texas, International Paper.

So we can help air quality overall and help delay more regulations on small business (indirectly)

Water Rights – Local Government assistance. There will be more activity in drought response.

Petroleum Storage Tanks – Development of Compliance guidance document. Fourteen modules have been written in plain language. They will be mailed to 11,000 owners, advertising modules and 10 workshops in 2010. Out of service storage tanks finding funding to remove those tanks. Some stimulus funding may be used.

Texas Small Water Operators Training – Moved to SBLGA and we are working to spend all the money so we can benefit citizens of Texas.

MS4 Phase II- Working with outreach to get small cities that need assistance to get permit and come into compliance.

Ideas to help reach regulated small businesses?

- ❖ How can we get to those audiences not connected to associations?
- ❖ Do we need to identify industries affected by recession?

Question: Does Comptroller have email access?

A: No, we don't and will it be put into junk mail?

- ❖ Radio PSA, news releases, billboards
- ❖ Suppliers of materials for different industries – we have had similar success.
- ❖ Some folks don't even know they are regulated by us.
- ❖ Website blogs, local bar association/lawyer or accountants
- ❖ Sales tax send in – comptroller office put note on the online payment
- ❖ Big button on front page of TCEQ website “the easy button”
- ❖ Colleges, chamber of commerce, Small Business Development Center, A&WM Association

Ted Hazen, Section manager – Pollution, Prevention and Education

Mr. Hazen discussed the Texas Environmental Excellence Awards. He mentioned that we have a challenge getting small business nominations. He informed that nomination applications are due by October 16, 2009 and the application is available at teea.org. This year there is a new category for water conservation. Small businesses can apply for small business category or other applicable categories. Winners receive Governor and TCEQ recognition. The award ceremony focuses on work done and that winners get a media blip and recognition in their community.

Question: If Trade Fair goes to once every 2 years, will this follow suit?

A: Yes, but we are still determining if it will go to a 2 year cycle. Trade Fair and Awards will be happening in 2010.

Mark Shelton thanked everyone for their attendance and said we will be coordinating the next meeting.