



Small Business Compliance Advisory Panel (CAP)

Meeting Minutes

Monday, August 29, 2011

Attendees

CAP Members

Mark Shelton – Chair
Rob Curnock
Brent Wade
Sarah Walls
Laurie McReynolds – not present
Billy Bob McAdams – not present

Agency Guests

Jaya Zyman-Ponebshek, Assistant Director, Water Quality Division; Melinda Johnston, Special Assistant, Enforcement Division; and Mike Wilson, Assistant Division Director, Air Permits Division

TCEQ Staff Support

Brian Christian, Andy Gardner, Will Wyman, Tara Lindgren, Jane Scheidler, Amy Rivera.

EnviroMentors

Erich Birch, Elwood Halterman, Charles Ouseph, Sheri Larson, Curt Campbell, Gunter Warnche, Al Espinosa.

Others

Kim Millette, Emerald Environmental; Rey Chavez, SAMA.

Opening Remarks:

Mark Shelton, Compliance Advisory Panel (CAP) chair

Mr. Shelton thanked participants for their attendance, recognized individuals that could not attend and introductions of all attendees were made.

A motion to approve the minutes from the December 10, 2010, meeting was made and seconded with no one opposing.

Presentations:

Brian Christian, Director to the Small Business and Environmental Assistance Division

Sunset Update: House Bill 2694 - Our agency has just completed a review by the Sunset Commission and was approved by the legislature to continue for 12 more years. Recommendations made by the Sunset Commission will give the CAP ample opportunities to engage in things such as the penalty policy, supplemental environmental policies and air quality.

Legislative update: TCEQ anticipated budget reductions two years ago and began holding back on filling vacant positions. As a result of those actions, we did not have to cut any positions and were able to re-allocate personnel to accommodate the Agency's needs. SBEA lost 27 positions and had to reallocate 15 personnel within the agency. Most of those positions came from the Pollution, Prevention and Education (PPE) section within our division. Executive management has made it clear that the division's priority is Small Business and Local Government Assistance (SBLGA).

Jaya Zyman-Ponebshek, Assistant Director, Water Quality Division Status of Air Quality

The Construction General Permit (CGP) expires in 2013. This is relevant because the new effluent guidelines that EPA has promulgated, 40 CFR 450, will not be effective until this permit is re-issued to include those guidelines. Facilities should operate as usual until that time. There will be stakeholder meetings and everyone is encouraged to participate.

The Multi-Sector General Permit (MSGP) just renewed on August 14, 2011. Notice of Intent (NOI) must be submitted by November 14, 2011 for coverage with the new permit. Some changes were made to the permit, including changing benchmark parameters. If you measure below the parameters for two years there is no need to continue monitoring. There were also changes made to sector requirements and verifications for oil and gas operations. A "qualifying" rain event is no longer designated by a rainfall amount, but if there is actually runoff from a rain event.

It looks like EPA is ready to issue their Pesticide General Permit (PGP) allowing the TCEQ to move forward with their permit. It is scheduled to be presented at agenda on October 18, 2011.

Melinda Johnston, Special Assistant for Office of Compliance and Enforcement

Sunset Legislation requires the TCEQ to make changes to the penalty policy, general enforcement policy rule and compliance history rule.

Some of the proposed changes to the agency's penalty policy are the statutory cap being raised from \$10,000 to \$25,000 and revising the percentages of the cap that penalties are based on.

A proposal for the general enforcement policy rule has been presented to the commissioners. This is the rule that actually puts enforcement policies into rule such as, guidelines for issuing corrective action orders, guidelines on when the TCEQ should refer to the Attorney General, culpability and good faith efforts to name a few.

Changes to the compliance history rule include no longer requiring the TCEQ to include EPA actions unless they are readily available, NOV's will only be included from prior year instead of prior five years, there will be a 30 day review period for owners/operators to review their rating before it's posted on the internet. The biggest change is that the ratings no longer have to be uniform. These changes will take effect September 1, 2012.

Mike Wilson, Assistant Division Director for Air Permits

TCEQ is currently working with EPA to address the State Implementation Plan (SIP) Gap. Some changes related to this include an additional public notice for case-by-case air permits.

Air Permits is currently reviewing Maintenance/Startup/Shutdown (MSS) for different industries.

Another issue that is impacting industry around the state is changes to the National Ambient Air Quality Standards (NAAQS). EPA has changed some of the standards and has provided no guidance or delayed guidance on how to comply with the new standards. The TCEQ has been working with EPA for that guidance.

Mr. Andy Gardner, Section Manager for Small Business and Local Government Assistance

Our focus for 2012 continues to be customer service. We are working on four major projects; drought, oil and gas, environmental summits, troubled water systems.

SBLGA has been very active assisting with drought issues and will continue as long as the drought does. We have been answering the hotline and are in the process of planning drought workshops.

We will be coordinating four environmental summits this year. The focuses of these are intended to get locals engaged in addressing their own environmental issues.

The oil and gas project will have us working with the support businesses for that industry, e.g. R.V. parks and truck washes.

We are working on developing asset management tools for small troubled water systems and providing workshops to prepare them to use those tools.

If an ozone standard is issued, undoubtedly there will be new areas of Texas that will be in non-attainment and we will be involved with rule making for that and any outreach that may be needed.

Mark Shelton, CAP Chair

Open floor for comments, concerns and questions

Action Items: Opportunities for the CAP to engage

1. Penalty Policy; Sarah Walls will call Andy about submitting comments.
2. Compliance History; depending on how the stakeholder process develops, the CAP would like to provide comments.

There were no more questions and the meeting was adjourned.