

Small Business Compliance Advisory Committee (SBCAC)
Meeting Minutes June 25, 2008

Meeting was held at: 1730 East Elm St.,
Jefferson City, MO 65102

Members present: Pam Cain, Gale Holsman, Robin Cole III, and Amber Boykins via
conference call

DNR present: Lucy Thompson, Carlton Flowers, David Lamb, Jim Froelker, Steve
Boone, Gus Ralston, Dave Woolery, Judy Bowman, Nicole Eby, Tiffany
Campbell, Sara Veasman, Nathan O'Neal, Scott Totten, Carrie Smith,
Leanne Tippett Mosby, Irene Crawford, Lisa Miller. Jim Crocker

Guest present: Debbie Wurst, City of St. Louis APC, Scott George, MO SBRFB, Krista
Zurkamer, MO SBRFB

I. Call to order

Meeting was called to order at 10:00 a.m.

II. Minutes

Minutes from the March 2008 meeting were approved.

III. Update on Ombudsman Activities

Scott Totten, Carrie Smith, Judy Bowman, Jim Froelker, Dave Woolery, Mike Alessandrini

Since August 2005, when the Director developed the Ombudsman program, the Ombudsmen have visited almost 5,800 communities, businesses, or individuals in the state. About 24% of these visits resulted in a referral to a region or program. The Ombudsmen have hosted 103 town hall meetings for the Director to visit one on one with local leaders and the public. One thousand six hundred twenty-nine people have attended these meetings. Various publications are provided to the public during these outreach efforts.

Ombudsmen look for consistency in the Department's actions and recommend process and communication improvements. There is a definite need for communication. One of the biggest roles the Ombudsmen fulfill is that of a facilitator and one who encourages communication. The Director wants the Ombudsmen out in front of the problems before they happen, to prevent the problems from happening.

The Ombudsmen have been successful in dealing with various opportunities. The following are some of the issues they have successfully worked on:

1. Communication problems between small companies and the Department.

2. Illegal failing lagoons owned by businesses. Best solution would be to have access to a sanitary sewer.
3. The cost of remediation of leaking underground storage tanks.
4. The new federal ozone level.

Many companies want to do the right thing. The Ombudsmen help them achieve this.

IV Small Business Regulatory Fairness Board

Scott George and Krista Zurkamer

Mr. George is the chair of the Small Business Regulatory Fairness Board as well as a small business owner. Ms. Zurkamer is the administrative support for the board. She is located in the Jefferson City office of the Department of Economic Development, which is where the board resides. The Small Business Regulatory Fairness Act created the board. Small businesses are defined as a for-profit company with 100 employees or less. The Board has nine members. Five are appointed by the Governor, one each are appointed by the House and Senate Majority, and the Speaker of the House Minority and the President Pro Tem. One member is a Representative and one member is a Senator, the rest are from outside small businesses. The Board was formed in the latter part of Governor Holden's term. During Governor Blunt's term the board was significantly upgraded. A brochure on the board and ??? was handed out.

The Missouri board was patterned after the federal board in the Federal Office of Advocacy. The chief head of the Federal board is Tom Sullivan, from the National Ombudsman office. The federal group was formed in 1996 to make sure federal agencies are fair to small businesses. They want the agencies to work with small businesses, to get out of the "coercion" mode of enforcing regulations and into the mode of cooperation. The Department of Natural Resources Ombudsman program is a perfect example of using the mode of cooperation.

The federal agencies put a model bill together and rolled it out to the states. Thirty-eight states now have some form of regulatory fairness. This activity varies from state to state.

The Small Business Fairness Board works to facilitate conversation between the agencies and the effected small businesses. The small business can communicate with the Board in a hearing or they can do it individually. When the comment comes in to the Board, they look at it and then send it to the proper agency. Each agency has a liaison with the Board. The Department of Natural Resources liaison is Leanne Tippett-Mosby. The liaison takes the comment from a small business and acts the same way the ombudsman do, with a slightly different perspective. The liaison's job is to make sure the small business is treated fairly.

The Board encourages the small business to go through all the review processes when there may be a violation. The Board does not overturn violations. The Board asks the liaison to make sure the small business is treated fairly and to see if there is a better process to deal with the issue. The Board expects a substantial response from the agency within 60 days.

The Board looks at compliance and enforcement issues. The statute allows waiving the fine in certain instances if it is a first time offence. An IRA focus group on small businesses found that 80% of the focus group said they just want to comply with the regulations but need help. Three percent of the focus groups found that they want to lie, cheat, and steal and avoid all taxes to the extent possible. The IRS actually set up a small business division that has a two-fold mission – 1) help the 80 percent comply and don't treat them like the three percent and 2) hunt the three percent down and prosecute them to the fullest extent of the law. Small businesses were pleased with the result.

Another major area of responsibility is evaluating regulations that are being proposed. Our statute says that all agencies must get small businesses involved during the creation of a regulation if it affects small businesses. The small business needs to be involved in developing a solution to an environmental problem that will meet the needs of the Department as well as not bankrupt the small business.

When we get the Small Business Impact Statement we have a regulatory alert system. Mr. George suggests the Ombudsmen and Committee members sign up for Department of Natural Resource's regulations. (*To sign up please go to <http://www.sbrfb.ded.mo.gov/alert.htm>.*) The regulatory alerts go to the associations and anyone interested. The comments are routed to Ms. Tippet-Mosby.

If regulations affect small businesses then it is so noted in the process. Mr. George also reviews the Missouri Registry to make sure regulations that affect small businesses are so noted unless the regulations is exempted from noting the small business impact. On new regulations there are three exceptions to the small business impact requirement.

1. The federal government requires implementation. If it meets this exemption, please let Ms. Zurkamer know so that if the implementation is noted without an impact statement the exemption will be noted. (This exemption does not apply if the small business impact was not noted on the federal level.)
2. It is an emergency rule. Emergency rules can be implemented without getting small business involved, but if it is converted to a permanent rule small business impact needs to be evaluated.
3. Codifying legislative language is exempt.

The final major area of responsibility is a periodic review every two years of every regulation that effects small businesses and see if it is still needed. The next periodic review report is due June 13, 2009. DNR's two years ago was over 100 pages. The Board also evaluates (and reports) the agencies' approach to small business. The Board does this with A's through F. (*Please see attached 2007 "report card"*)

The Board holds hearings around the state. The next one is in September 3, 2008, in Springfield, MO. The Committee is encouraged to come. The Board encourages small businesses to come. Agencies are asked to testify as to how they address small business impact.

The Committee asked how the Board did outreach. Their response is that the Board contacts individual companies and associations on a case by case basis. This contact is sometimes done in response to newspaper articles or regulations being implemented without an impact statement.

Discussion followed concerning the role of the Small Business Compliance Advisory Committee especially its interaction with the Small Business Fairness Board. It was proposed that the Board could send pertinent issues to both the Ombudsmen and the Committee. It was also suggested that the committee might be able to obtain leads from Ombudsmen interactions with companies.

V. Presentations

A. Gasoline Dispensing MACT

Nicole Eby

Two new regulations concerning gasoline distribution was recently enacted by EPA. These regulations are for facilities that are not regulated by other major federal standards. The regulation 40 CFR 63 Subpart CCCCCC pertains to gasoline dispensing facilities. The regulation 40 CFR 63 subpartBBBBBB pertains to distribution, bulk terminals, bulk plants and pipelines. This presentation was given on Subpart CCCCCC because that will affect a large number of small businesses. It will affect basically every small gas station in the state.

Every gas dispensing facility (gas stations, etc.) must use best management practices concerning cleaning up spills to reduce emissions. Any gas dispensing facility that dispenses over 10,000 gallons per month, which is most facilities, must also do additional things such as provide submerge fill pipes, drop fill tubes, and some additional management practices.

If your gasoline dispensing facility dispenses over 100,000 gallons per month a vapor balancing system will be required at your facility.

New gas stations need to meet this requirement upon start up. Existing gas stations must comply by January 10, 2011. Initial notification by the facility (reporting that they will comply with the regulation) was due by May 9, 2008.

Stage I Vapor Recovery is the next thing that gas stations will have to worry about. A Stage I Vapor Recovery system captures gasoline vapor emissions that would normally be released into the atmosphere during the filling of a storage tank.

The Department has been working with the Petroleum Marketers Association and coordinating with the Hazardous Waste Program's Tank folks to try to get the word out to everyone.

Kansas City facilities between 10,000 and 100,000 gallons per month are already compliant due to state regulations. All St. Louis facilities already have the physical

requirements in place. The noted Kansas City and St. Louis facilities will just need to notify the Department.

The following websites have additional information:

<http://www.epa.gov/ttn/atw/area/gdfb.pdf>

http://www.epa.gov.ttn.atw.area.gasdist_example.doc

http://www.epa.gov/ttn/atw/area/gdf_example.doc

http://www.epa.gov.ttn.atw.area.gasbulk_example.doc

<http://www.epa.gov/ttn/atw/area/bulkgasb.pdf>

B. Ozone

Tiffany Campbell

There is a common saying about ozone, or smog, “good up high, bad nearby”. There is an ozone level in the stratosphere that protects us from the sun. But when it is on the ground and we are breathing in, it causes breathing problems and health issues, particularly for those who are young, old, or outside a lot.

You cannot control ozone directly. It is not a primary pollutant. It is a combination of two pollutants that we call Oxides of Nitrogen (NO_x), a component of combustion, and Volatile Organic Compounds (VOC), from such as gasoline, paint, and solvents. They are aromatic; you can tell they are there. NO_x is mainly from the combustion of carbon sources; electric generating units, and cars. We mainly see ozone in the summer. That is because it takes sunlight and heat to produce it. Ozone really does not have a lot of visual aspects itself, that is other particle in the air, but when you see the hazy yellow looking air you can assume that there are high ozone levels as well. What we have seen in the past under the old ozone standard was that it was mainly an urban pollutant. You saw it in major cities all along the east coast. Now with this lower standard we are also seeing that based on NO_x transport over long distances, it is also becoming a rural issue. So it is not just going to be your major cities that are having higher ozone levels.

Why do we and EPA care about ozone?

According to the Clean Air Act, EPA is required to set national ambient air quality standards or NAAQS. There are six of them. Ozone is one of them, NO_x, which is one of the components of ozone is the second one, and there are four others. EPA is supposed to review these health based standards every five years. In reality it does not happen every five years, it is usually involves someone suing them, and then EPA moves forward on developing a new standard.

EPA is required to review the scientific information that has changed since the last time they set the standard. A lot of times the information is new and developing, especially in the subject of ozone. We are always learning more about it as there are always new studies being done about it. EPA reviews this information and so does a body of scientists, which is called the Clean Air

Scientific Advisory Committee, (CASAC). They issue their recommendations to EPA. EPA takes into account what they have suggested, and then also comes up with their own ideas.

The old 1997 standard.

EPA refers to the two ozone standards by 1997 and 2008 to minimize confusion. In 1997 the standard that was set was the primary health-based human standard. And the secondary standard, a plant-based or welfare based standard, is more about how ozone effects plant growth and those types of situations. In the 1997 standard they are both set at 80 parts per billion(ppb). At the time the standard was developed, the monitoring equipment was not accurate enough to determine the last number (0 in the 80 ppb) so the number could actually go up to 84.

You take an eight hour value. You take the fourth highest value at a monitor for each of three years. These values are averaged together to give you what is called the design value. That is how you determine a monitors compliance or noncompliance. So previously if the “design value” at a monitor is 85 or above at the old standard you violated.

Since 1997 there have been a lot more studies done and they have acknowledged that the standard was not protective of health.

The new 2008 standard

Now the primary standard is set at 75 ppb. It is 75, there is no rounding, we can measure to that second number. If you are 75 or lower you meet the standard, if you are 76 or higher you violate. The secondary was set the same number again. This is a contentious issue at the moment.

There is a map of all of our current monitors that have three years of data or more. Most of them are set in Kansas City and St. Louis. That is not that surprising because under the old standard we always knew that our problems were in our major metropolitan areas. The one monitor in Greene County at Springfield has been joined by a second monitor. This is the first year for it. There is another monitor, but it just started, it is slightly north of Springfield, to see what is coming after it goes through that urban area.

Two are in areas that you probably haven't seen before. One is at Eldorado Springs in Cedar County, and another is at Mark Twain State Park. Both of those are considered our out state or rural monitors to give us an idea of what the ozone levels are outstate.

C. Asbestos

Nathan O'Neil and Sara Veasman

I work in the Asbestos Enforcement Unit. I handle demolition and renovation notifications. Any time there is a demolition or renovation in the state

that is not in the local offices of St. Louis City, St. Louis County, Kansas City, or Springfield, they have to come through me. I approve those notifications.

I am Sara Veasman. I also work in the Asbestos Enforcement Unit. I process the certification applications and register all the abatement contractors. We also both do enforcement action against companies that do not comply with the regulations. Mostly for demolitions for failure to notify and to inspect facilities.

Lucy Thompson

A preliminary draft memo given to the committee. There is a list of Chamber of Commerce that we propose to send brochures that our Public Information person has put together. Brochures given to committee members to look over and decide if it should be sent to Chamber of Commerce or not. Committee members will let Lucy know if they want to send out the brochures and when, where, and how.

VI. Regional Office

Irene Crawford

I am with the Northeast Regional Office, headquartered in Macon, MO. We cover 30 counties and boarder up against Iowa and Illinois. Jefferson City is in our jurisdiction. We have 39 staff and in addition to air we also work on hazardous waste, solid waste, scrap tires, water pollution, public drinking water. We do some permitting, especially in water pollution and the burn permits for air pollution. We primarily do inspections which are required by EPA and we investigate citizens concerns, called in reports and now the EAV's. The largest cities in my region are Columbia, Jefferson City, and Hannibal. Everything else is small towns and rural. We have Premium Standard Farms which is a large hog operation and ?????Cattle, which is the largest dairy in the state. We have just opened three satellite offices, Booneville, Kirksville, and Hannibal.

VII. Legislative Update

David Lamb

Opacity Rule – Was adopted by the MACC. A restriction of emission of visible. This was an administrative rule. Cleaned up definitions and incorporated the most recent test methods for measuring opacity into the rule. This rule will go into effect in three to four months.

The MACC meeting is tomorrow. One of the things on the agenda for tomorrows meeting is three rule items to adopt the most recent federal regulations. They adopt the most recent federal new source performance standards, the MACT regulations and National???? standards for ????? air pollutants.

Emission Fee Rule – Not making any fee changes but are making ????? changes. Filed with SOS on May 19, 2008. This will reduce the amount of reporting for small businesses.

Open burning – We just consolidated this rule, but are opening it up again. This is to add a provision that will allow companies to burn certain ??? for vegetation, emergency situations, or situations where there is no other feasible way to get rid of the ?????.

We are looking to start a workgroup in the next month or two that will be looking at some of the Stage I issues, the new gasoline requirements, etc. Small businesses are more than welcome to participate in the process.

VIII. Old Business

Draft letters were handed out by Lucy Thompson for discussion during the next meeting.