

Small Business Compliance Advisory Committee (SBCAC)

Meeting Minutes Wednesday, September 21, 2011

Meeting was held at: 1730 East Elm Street in Roaring River Conference Room

Members present: Dan Bunch, Pam Cain, and Gale Holsman. T. Robin Cole, III was present via conference call

DNR present: Trisha Berve, Darcy Bybee, Tiffany Drake, Nicole Eby, Carlton Flowers, Calvin Ku, and Lucy Thompson

Others present: Becky Greenwald, Regional Advocate, U.S. Small Business Administration

I. Call to Order

Meeting was called to order at 10:10 am by Gale Holsman, Vice-Chairman

II. Minutes approved from May 25, 2011 meeting

III. Enforcement – Compliance Assistance

Darcy Bybee and Nicole Eby

Darcy Bybee and Nicole Eby discussed the organization and main roles of the staff in the Compliance/Enforcement Section—compliance assistance, enforcement, report/record reviews, policy determinations, performance testing oversight, asbestos, etc. They focused on how the Section works with companies to bring them into compliance - either before or after a violation is formally noted. The Section's primary interest is compliance with the regulations. Penalties are used to emphasize the need for compliance. The Section strives to be fair, consistent and reasonable with regard to penalties or other enforcement actions.

Darcy and Nicole provided members with copies of the Program's Fact Sheet, *A Guide to Our Air Pollution Enforcement Process* (<http://dnr.mo.gov/pubs/pub2059.pdf>). The description of the basic process for settlement of a noted violation was provided. They noted that most of the time settlements can be negotiated between the enforcement case managers in the section and the company or individual responsible for the violation. Sometimes the responsible party will refuse to communicate with the case manager. This can be out of fear of the Department or possibly because they believe the Department will go away if they ignore them. The majority of the time a company is referred to the Attorney General's office is because the company refuses to communicate with the Department.

The Committee offered to act as a go between with fearful companies. Let them know that the Department is reasonable and the best they can do for themselves is to keep the lines of communication open with the Department. Darcy and Nicole said they would work with Lucy Thompson and the Committee when issues arise where they might be helpful.

Robin Cole talked about the perception of MoDNR Enforcement among the regulated community. He stated that there are a lot of negative attitudes towards DNR and Enforcement staff due to the way that some of the inspectors have handled violation situations in the past by being more punitive than helpful and explaining why rules are being enforced as such. Mr. Cole suggested that the MoDNR be invited to the Southeast Region area to have the Enforcement staff speak at a public meeting in order to build positive exposure. He suggested that we discuss common items that get people in violation of the rules like open burning.

IV. **Guest Speaker**

Becky Greenwald

Ms. Greenwald is the Regional Advocate for the U.S. Small Business Administration – Office of Advocacy. She is based in Des Moines, Iowa.

Regulatory burdens are much greater for small companies than they are for larger companies. Small firms spend 4 ½ times as much per employee to comply with environmental regulations than a comparable large firm. The Office of Advocacy is a voice in Washington, D.C. for the small business.

The Small Business Compliance Advisory Committee also works with and for small businesses. Ms. Greenwald provided the Committee with newsletters and information on small businesses. The Committee discussed what they do. They agreed to work with each other when it is appropriate.

Information on the Committee was sent to Ms Greenwald after the meeting. The information provided by Ms. Greenwald was sent to Mr. Cole and is available electronically.

V. **Ozone**

Tiffany Drake

On September 2, 2011, President Obama announced that the reconsideration of the ozone standard had been suspended. The evaluation of the ozone standard will return to the schedule defined in the Clean Air Act, which means no additional actions would be taken on the standard until 2013. The Clean Air Act requires EPA to review the latest scientific information and standards every five years. EPA announced that the standard of 75 parts per billion (ppb), set in 2008, was the “rule of law”.

The Program is unsure at this time which time period will be used to determine non-attainment areas, and how the processes under the 2008 standard will proceed. This will

affect certain areas in Missouri. The number of areas in Missouri that were originally proposed to be designated nonattainment assuming 07-09 monitoring data will be reduced if EPA allows the state to use the data to the 08-10 timeframe. Tiffany Drake will let the committee know of any new developments.

Ms. Drake also discussed the SO₂ standard that is being evaluated. St. Louis and Kansas City are the areas that have significant exceedances of the new one hour standard. However, Springfield was also designated nonattainment as it violated the standard at that time of boundary recommendations. SO₂ can usually be attributed to stationary sources that do combustion. At this time, modeling guidance for the standard has not been provided by EPA; therefore, it is unclear what the effects of the nonattainment will be.

***SINCE THE MEETING:** On September 22, EPA announced that they would look at the most recent quality assured monitoring years to determine nonattainment under the 75 ppb standard. For Missouri, 2008-2010 are the most recent quality assured years. Based on these monitoring years, only the St. Louis Area has monitors that show nonattainment with the standard. Therefore, the recommendation for the 2008 standard has been revised. At this time only the following areas have been recommended for nonattainment: St. Louis City, and the counties of St. Louis, St. Charles, Jefferson and Franklin.*

Also, SO₂ modeling guidance from EPA has been released in draft form. Unfortunately, this guidance has not provided as much assistance as was hoped. Therefore, internal discussions as well as those with stakeholders will help develop a modeling protocol to assist with SO₂ modeling guidelines.

VI. Update of Legislation, Regulations, and Activities and Effect on Small Businesses

Lucy Thompson

There are several regulations that will hold a public hearing for at the next Missouri Air Conservation Commissions on September 30, 2011.

- 10 CSR 10-6.070 (amendment) New Source Performance Regulations
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- 10 CSR 10-6.075 (amendment) Maximum Achievable Control Technology Regulations
- 10 CSR 10-6.080 (amendment) Emission Standards for Hazardous Air Pollutants
- 10 CSR 10-5.480 (amendment) St. Louis Area Transportation Conformity Requirements
- 10 CSR 10-6.400 Restriction of Emission of Particulate Matter from Industrial Processes

The first three regulation changes incorporate federal regulations into state regulations. Additional regulations will not be applied to small businesses because the regulations have already been imposed. Any affect to small businesses would have already been discussed in prior meetings.

The fourth regulation is a clarification of job duties and should not directly affect small businesses. The fifth regulation will only affect wet corn milling drying operations.

EPA recently put into effect the new regulation on area source boilers. This affects all size non-gaseous fuel burning boilers that are located in facilities that do not have a hazardous air pollutant part 70 permit. Since it excludes natural gas and propane boilers it will not affect many small businesses in Missouri. This regulation has been discussed at previous meetings.

Because of funding issues, the job duties for the local agencies are either being cut or reduced. Local agencies provide assistance to the companies and will be missed.

VII. Outreach and On-Site

Carlton Flowers

Carlton Flowers provided an update of recent small business assistance activities. Three examples of small businesses successfully receiving help for various compliance issues were included.

Ott Distributing of Bolivar purchased a closed farm products business to obtain their dip tanks for coating farm implements and other metal products. The company was previously permitted. Assistance was given to Ott Distributing to apply for a new construction permit. However, given the types of thinners used by the previous company, Ott Distributing was potentially a major source for HAPs. Alternative thinners were suggested for use by the company, and the construction permit was modified. Rather than having the potential of becoming a major source, the company may now be considered a de minimus source.

Edwards FRP of Sedalia is a company that was formerly downgraded from a federal operating permit facility to a Basic operating permit facility. After the downgrade, the company constructed a new work station to manufacture above ground storage tanks, but without a construction permit. This brought the company back to major source status, and also got the Enforcement Section involved. Assistance was given to complete a new construction permit application, and a spreadsheet was developed to ease the burden of reporting their activities and emissions for the MACT rules that apply to their facility. Also, the small business assistance team worked as a go-between with the company and the Enforcement section to help them get back into full compliance.

Midwest Shingle Recycling Company of St. Louis received assistance for obtaining a construction permit after the City of St. Louis inquired about the necessity of a permit. This was a special case because the department wants to encourage businesses like this who promote the recycling of waste products. The challenge with this process was finding a way to allow the company to grind recycled asphalt roof shingles while abiding by asbestos demolition regulations. Assistance was given to complete a permit determination, and a full construction permit application was required. The determination was upgraded, and the company was able to obtain the full permit and is currently operating without any hindrances.

VIII. New Business

The Committee requested that we invite Director Pauley to their next meeting. They would like to discuss the Small Business Compliance Advisory Committee with her and ask that she discuss her vision for the Committee.

Pam Cain will also invite EIERA to the next meeting. They are involved with working with small businesses.

Robin Cole brought up the fact that the asbestos PSA (Public Service Announcement) lack “pizzazz”. Pam Cain offered to discuss the issue with the Information Services Director, Judd Slivka.

IX. Adjourn

Ms Berve will coordinate with the committee on early December dates for the next meeting.

Meeting adjourned at 1:10pm.