

**SMALL BUSINESS COMPLIANCE ADVISORY COMMITTEE
MEETING MINUTES
April 17, 2019**

Members Present: Dale Kaplan (Chair), Walter Schroth, Jeremy Hancher, Rebecca Oyler, Ed Boito, and Julie Zorn (for Michael McManus)

Others Present: Susan Foster, Nancy Herb, Susan Hoyle, Samantha Harmon, Allen Landis, Keith Rearick, Chris Trostle, Kirit Dalal, Valerie Schaeffer, Charles Boritz, Caroline Zepp, and Jennie Demjanick

Call to Order

The Small Business Compliance Advisory Committee's (SBCAC or Committee) April 17, 2019, meeting was called to order by the Chair, Dale Kaplan, at 10:00 a.m. in the Rachel Carson State Office Building, 12th Floor Conference Room, Harrisburg.

Introductions

Members of the SBCAC and the audience introduced themselves.

Administrative Items

Approval of Minutes from Previous Meeting

The January 23, 2019, draft SBCAC meeting minutes were approved unanimously as written.

Chair Kaplan approved Julie Zorn as an alternate for Michael McManus for the meeting.

Informational Items

Environmental Management Assistance Program (EMAP)

Jeremy Hancher, EMAP Program Manager, provided an update on EMAP activities. During the first quarter, EMAP fielded requests for assistance related to March 1st reporting deadlines. These included biennial residual waste reporting, air emissions inventory, and State-Only Operating Permit reporting, which can vary from permit to permit.

EMAP staff presented at the Pennsylvania Occupational Safety and Health Administration (OSHA) Consultation Program staff meeting on March 13th to discuss EMAP services and will participate in a September 2019 educational program for a wire industry trade association.

On March 15, EMAP staff presented at the small business workshop in Bradford, PA hosted by the Clarion SBDC entitled "Understanding Occupational and Environmental Regulations." Other presenters included the US Department of Labor, OSHA, and IUP PA OSHA.

Dates of future workshops are:

- June 4 – Ridgway, PA
- October 3 – Clearfield, PA

EMAP will present at the DEP Statewide Air Quality Meeting in State College on April 23. EMAP is looking forward to connecting with DEP AQ staff to discuss the types of compliance issues EMAP sees and EMAP services that are available.

Mr. Hancher reported that in the first quarter of 2019, EMAP received 50 requests for technical assistance; 22 of them were received through the EMAP hotline. Of these, nine were for permit-related assistance, five air-related, one waste-related, two water-related, and one seeking information related to encroachment permits. Seven of the requests were from small businesses referred by DEP staff or through the DEP website. Thirteen were referrals by PA SBDC business consultants. Other sources of referrals included other EMAP clients, the IUP PA OSHA Consultation Program, EPA Region 3, the Allegheny County Health Department, and the Pennsylvania and Delaware Cleaners Association. EMAP provided 77 small businesses with in-depth technical assistance. EMAP environmental consultants conducted seven on-site assessments at small businesses. Major work output included: 10 Request for Determination (RFD) forms; four Plan Approval applications; 13 State-Only Operating Permits; and three Allegheny County Health Department (ACHD) installation/operating permits.

EMAP plans to start doing outreach to remind perchlorethylene (perc) dry cleaning businesses of the December 2020 deadline after which the use of perc dry cleaning machines is not allowed in dry cleaning facilities located in buildings that also contain residences (co-residential).

Small Business Ombudsman Report

Ed Boito distributed an update on the status of the 2018-19 Small Business Advantage (SBAG) grants. For 2019, the SBAG program provides \$1,000,000 for projects to reduce energy use or pollution or for natural resource protection. The grant round closed in late February. There were 202 grants awarded totaling \$992,000 with an average grant amount of \$4,900.

Draft Proposed Rulemaking for Control of VOC Emissions from Gasoline Dispensing Facilities (Stage I and Stage II)

Chris Trostle provided an overview of Stage II vapor recovery systems, noting that the existing requirement for gasoline dispensing facilities (GDF) to be equipped with Stage II vapor recovery systems applies in the 5-county Philadelphia area and the 7-county Pittsburgh-Beaver Valley area. In 2012, EPA published a widespread use of Onboard Refueling Vapor Recovery (ORVR) analysis. EPA's analysis showed that the emission reduction benefit from Stage II systems was approaching the cross-over point, after which Stage II vacuum assist systems would cause an increase in emissions due to incompatibility with ORVR systems installed in newer vehicles. The widespread use finding allowed states to begin the process of removing Stage II requirements from their State Implementation Plans.

Due to the declining benefit of Stage II systems and the need for future decommissioning, DEP published notices of “Suspension of Enforcement of the Stage II Vapor Recovery Requirements for New and Newly Affected Facilities” on August 18, 2012, and for “New and Modified Equipment” on November 12, 2016.

To prevent an increase in emissions from leaks and spills, DEP plans to continue to retain the requirement for annual leak testing with an option to install a continuous monitoring system. DEP also plans to require low permeation hoses and dripless nozzles when two manufacturers have certified nozzles available. About one-half of the fuel dripped from nozzles will end up in the air and one-half in the ground water. Low permeation hoses reduce evaporation to approximately one-eighth the evaporation from conventional hoses.

Walter Schroth asked for information about the difference between high and low evaporative gasoline and the impact of ethanol content. DEP explained that low evaporative gasoline reduces the emissions from filling the underground storage tanks and leaks. The gasoline volatility is determined by the properties of the gasoline. The gasoline is required to meet the Reid Volatility Pressure (RVP) standard, regardless of its ethanol content. As an ozone control strategy, the Philadelphia area has a requirement for reformulated gasoline. The Pittsburgh-Beaver Valley Area previously had a requirement for low RVP gasoline, which is no longer in effect.

Mr. Hancher suggested communicating the savings from the prevention of leaks and evaporation of gasoline. Mr. Schroth pointed out that the fuel savings from preventing drips from nozzles and evaporation from hoses are savings for the consumer but not for the GDF owner.

Chair Kaplan reviewed the concurrence letter with the Committee.

Rebecca Oyler indicated she was not comfortable with the proposal to regulate businesses with requirements beyond federal regulations. Ms. Oyler indicated a better estimate of the number of small businesses should be obtained, as well as consideration for a phase-in or other assistance for affected small businesses. DEP pointed out that the hoses and nozzles need to be replaced every two to four years and the cost analysis did not consider this depreciation. Mr. Schroth suggested exempting small businesses from the requirements.

Chair Kaplan offered a motion to concur with DEP’s recommendation to move the draft proposal to the EQB for consideration as proposed rulemaking. Mr. Boito seconded the motion. Mr. Schroth moved to amend the statement to add language to the letter to get more information about the impact on small businesses. Ms. Oyler seconded Mr. Schroth’s motion to amend the motion to request a realistic estimate of the cost impact to small businesses of replacing the equipment, the cost difference between the equipment required and conventional equipment, and the number of small businesses affected. Ms. Oyler suggested contacting the trade association for small gas stations. The Committee approved the motion to amend unanimously (6-0-0), and DEP staff agreed to return to the Committee later in the meeting with a revised concurrence letter.

Draft Proposed RACT Rulemaking for Control of VOC Emissions from Oil and Natural Gas Sources

Charles Boritz summarized the recommendations of EPA's Control Techniques Guidelines (CTG) for the oil and natural gas industry. EPA issues CTG for existing sources in certain VOC source categories. Because Pennsylvania is in the Ozone Transport Region, DEP is required to adopt statewide regulations that implement the recommendations of the CTG to satisfy Reasonably Available Control Technology (RACT) obligations for the ozone standard. The implementation deadline for all RACT requirements of the CTG is January 1, 2021.

DEP's draft proposed rulemaking controls VOC emissions, which has a co-benefit of reducing methane emissions. For each source of VOC, DEP's draft proposed rulemaking achieves equivalent or greater VOC reductions than the comparable CTG requirement. The draft proposed rulemaking will affect the following sources of VOC in the oil and natural gas industry that were in existence before the adoption of the regulation:

- Storage vessels
- Natural gas-driven pneumatic controllers
- Natural gas-driven diaphragm pumps
- Compressors (centrifugal and reciprocating)
- Fugitive emissions components

Mr. Boito asked who conducts the Leak Detection and Repair (LDAR) testing. DEP responded that some larger companies buy the equipment and conduct their own LDAR testing, while other companies contract a third party to conduct the testing. DEP added that vendor quotes for contracting the testing were used in the cost effectiveness analysis.

Ms. Oyler asked why DEP proposes a lower VOC threshold for storage vessels. DEP explained that the lower VOC threshold is intended to prevent backsliding due to existing restrictions under DEP's existing conditional exemption for these sources.

Chair Kaplan reviewed the concurrence letter with the Committee and asked whether there were any additional questions. Mr. Schroth asked for confirmation that the changes between this version and the version the Committee discussed at the January SBCAC meeting were mainly language changes. Except the changes to the storage vessel requirements, DEP confirmed that the changes were made to conform with PA regulatory formatting requirements or to improve clarity.

Mr. Schroth offered a motion to concur with DEP's recommendation to move the draft proposal to the EQB for consideration as proposed rulemaking. Mr. Boito seconded the motion. The Committee approved the motion unanimously (6-0-0).

Driving PA Forward

Susan Foster congratulated Samantha Harmon for recently receiving the Secretary's Award for her excellent work related to setting up and administering the Driving PA

Forward suite of grant and rebate programs. Ms. Harmon provided a brief update on each of the eight Driving PA Forward programs. These programs are funded by Pennsylvania's share of the Volkswagen settlement. Ms. Harmon indicated that all charts and program guidelines are available on the Driving PA Forward website.

Election of Officers

Mr. Schroth offered a motion, which was seconded by Ms. Oyler, to retain Dale Kaplan as Chair and Michael McManus as Vice Chair for another term. The motion passed by unanimous vote.

Other Business/Discussion

The Committee acknowledged the difficulty of analyzing the impact of proposed regulations on small businesses but noted the analysis is essential.

DEP staff provided a revised concurrence letter to reflect the amended motion passed by the Committee for the draft proposed rulemaking for the control of VOC from GDF (Stage I and II). The revised letter reflects the Committee requests for DEP to provide information in the proposed rulemaking about the estimated costs and savings, both initially and ongoing, to affected small businesses; an estimate of the difference in cost to small business GDF owners and operators of replacing current dispensing hoses and nozzles with the equipment in the proposed rulemaking, instead of the currently allowable equipment; and an estimate of the number of affected small businesses. Mr. Schroth offered a motion to concur with DEP's recommendation to move the draft proposal to the EQB for consideration as proposed rulemaking with the requested information noted in the Committee letter. Mr. Boito seconded the motion. The Committee approved the motion unanimously (6-0-0).

The next SBCAC meeting is scheduled for July 24, 2019. [Note: The July 24 meeting was subsequently cancelled.]

Adjournment

The SBCAC meeting was adjourned at 12:30 p.m.