

**SMALL BUSINESS COMPLIANCE ADVISORY COMMITTEE
MEETING MINUTES
January 23, 2019**

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

Others Present: Susan Foster, Nancy Herb, Samantha Harmon, Don Smith, Caroline Zepp, Keith Rearick, Chris Trostle, Charles Boritz, Valerie Shaffer, and Jennie Demjanick

Call to Order

The Small Business Compliance Advisory Committee's (SBCAC or Committee) January 23, 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. DEP staff congratulated Chair Kaplan on his reappointment by Governor Wolf to the Committee and thanked him for his continued service. The Committee welcomed two new members, Jeremy Hancher and Rebecca Oyler, both recently appointed by Governor Wolf.

Administrative Items

Approval of Minutes from Previous Meeting

The October 24, 2018, draft SBCAC meeting minutes were approved unanimously as written.

Informational Items

Environmental Management Assistance Program (EMAP)

Jeremy Hancher, EMAP Program Manager, provided an update on EMAP activities. During the fourth quarter, Widener University held a Ribbon Cutting Ceremony for EMAP. Remarks were made by the Widener University President, Dean of the School of Business and the Widener Small Business Development Center (SBDC) Director. Jeremy Hancher, EMAP Program Manager, and Ed Boito, DEP Small Business Ombudsman, also spoke at the event.

EMAP staff attended the Pennsylvania SBDC Small Business Growth Forum held in Harrisburg on October 30-31. Among notable items was a presentation by the Indiana University of Pennsylvania (IUP) Pennsylvania Occupational Safety and Health Administration (OSHA) Consultation Program. Realizing the similarities in small businesses served, IUP PA OSHA and EMAP began talks to explore possible collaborative opportunities. In March, EMAP staff will speak at an IUP PA OSHA staff

meeting to discuss EMAP services and to educate IUP PA OSHA staff regarding what to look for in terms of environmental issues when visiting various facilities across the state.

EMAP staff plans to participate in small business workshops hosted by the Clarion SBDC entitled “Understanding Occupational and Environmental Regulations.” Other organizations participating include the US Department of Labor, OSHA, and IUP PA OSHA. Dates of the workshops are:

- March 15 – Bradford, PA
- June 4 – Ridgway, PA
- October 3 – Clearfield, PA

Mr. Hancher reported that in the fourth quarter of 2018, EMAP received 37 requests for technical assistance; 19 of them were received through the EMAP hotline. Of these, 15 were for permit-related assistance, 12 air-related, one waste-related, one water-related, and one request for a general assessment of a manufacturing operation. Six of the requests were from small businesses referred by DEP staff. Seven of the requests were referrals by PA SBDC business consultants. Other sources of referrals include the IUP PA OSHA Consultation Program, the EPA Region 3 Business Assistance hotline, and Philadelphia Air Management Services. EMAP provided 70 small businesses with in-depth technical assistance. EMAP environmental consultants conducted nine on-site assessments at small businesses. Major work output included: 11 Request for Determination (RFD) forms; five Plan Approval applications; 13 State-Only Operating Permits; and three Allegheny County Health Department (ACHD) installation/operating permits.

During the fourth quarter of 2018, EMAP assisted small businesses with a response to a technical deficiency letter, renewal of a stormwater no-exposure certification, annual stormwater reporting using DEP’s Greenport system, and applications for the DEP Small Business Advantage Grant (SBAG) program. EMAP also answered questions related to general permit applicability for portable rock crushers and the Driving PA Forward program for Level 2 EV charging stations.

Chair Kaplan suggested EMAP reach out to the new Philadelphia AMS Director to promote EMAP services to Philadelphia County small businesses. Mr. Boito indicated his interest in attending some of the OSHA seminars. Mr. McManus offered that the DCED Business One-Stop Shop could promote the seminars and possibly participate in them. Chair Kaplan remarked on the power of this Committee in connecting various groups to help small businesses. Mr. Schroth is a member of the tri-county workforce investment board (WIB). He explained that the WIB primarily looks at ways to resolve employment issues, but sharing information about the workshops with the WIBs throughout the state could be an effective way to spread the word to many small businesses.

Small Business Ombudsman Report

Mr. Boito distributed an update on the status of the 2018-19 SBAG grants. The SBAG program provides \$1,000,000 for projects to reduce energy use or pollution. This year

the SBAG program is open to farmers and landowners for projects that protect streams. For the 2018-19 grant round, approximately \$857,000 has been awarded, as of January 22, 2019. Mr. Boito noted that no applications have been received for the Pollution Prevention Assistance Account (PPAA) loans. He continues to inform applicants with larger SBAG projects that PPAA loans are available, but small businesses have been using conventional commercial loans instead.

Mr. Schroth asked for more information about the grain dryer SBAG project. Mr. Boito explained that the grant supported replacement of a 1969 grain dryer with a new one that uses much less propane and electricity.

Ms. Oyler asked for examples of “Natural Resource Protection” category projects. Mr. Boito explained that the category includes projects such as riparian buffers and streambank fencing that prevent runoff to waterways to help with DEP’s Chesapeake Bay obligations. Mr. Boito added that he has been working closely with the Conservation Districts and the US Department of Agriculture Natural Resource Conservation Service in this area.

Preliminary Draft Proposed Amendments to the Stage II Vapor Recovery Regulations

Chris Trostle provided an overview of the 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.

Mr. Trostle explained how Stage II vacuum assist systems work to control emissions that would otherwise be released to the atmosphere when refueling a vehicle not equipped with an Onboard Refueling Vapor Recovery (ORVR) system. In 2012, EPA published a widespread use of 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. 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. Many of the larger operators, such as Sheetz and Costco, have regularly contacted DEP to inquire about the status of the Stage II requirements and when decommissioning of these systems will be allowed.

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.

The Committee asked questions about the cost of continuous monitoring systems, leak testing, low permeation hoses, and dripless nozzles. Continuous monitoring systems cost approximately \$6500 per station. The hanging hardware (includes low permeation hose and dripless nozzle) costs approximately \$250 - \$300 more than conventional equipment. Leak testing costs approximately \$1000.

Ed Boito noted that many GDFs are corporately owned and asked whether it is possible to identify those that are small businesses. DEP has survey information that is helpful; however, GDFs are not permitted, so the detailed information that DEP has for permitted facilities is not available.

Mr. Schroth asked about the impact on air quality in the Philadelphia area, which is particularly impacted by emissions from mobile sources and is Pennsylvania's biggest ozone challenge. DEP responded that there is an abundance of NO_x in the Philadelphia area, making the VOC emission reductions more important because ozone production is VOC-limited in the area. Extensive modeling would be needed to quantify the impact on ozone concentrations.

Preliminary Draft Proposed Regulations for the Oil and Natural Gas Industry

Charles Boritz summarized the recommendations of EPA's Control Techniques Guidelines (CTG) for the oil and natural gas industry. EPA issues CTGs 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 CTGs to satisfy Reasonably Available Control Technology (RACT) obligations for the ozone standard. January 1, 2021, is the implementation deadline of for all RACT requirements of the CTGs.

On March 9, 2018, EPA requested public comment on a potential withdrawal of the CTG due to its reconsideration of requirements of the 2016 New Source Performance Standards (NSPS) for these same sources. Despite EPA's proposed withdrawal of the CTG, DEP intends to continue to develop the regulations for existing sources at natural gas and oil facilities with due consideration to the proposed changes. The regulation 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

Chair Kaplan asked whether the cost of the requirements is justified and referred to the requirement of Act 76 to evaluate the impact of every regulation on small businesses. DEP responded that the CTG recommendations constitute the minimum requirements for these sources, and EPA has completed the cost analysis. For storage vessels, DEP has a more stringent threshold of 2.7 tons VOC per year. Ms. Oyler asked if this regulation will also affect conventional oil and natural gas sites, which may include smaller oil and gas drillers. DEP explained that the CTG applies to the oil and gas

industry, as EPA does not recognize the distinction between conventional and unconventional operations. To comply with the Leak Detection and Repair (LDAR) requirements, smaller operators may need to contract a testing company. However, smaller operations may not meet the applicability thresholds in the regulation.

Chair Kaplan expressed his appreciation, noting that Mr. Boritz was very successful at making the difficult, technical information understandable to the Committee.

Mr. Schroth asked if the rule impacts landowners or only the owner/operator. Mr. Boritz responded that DEP cannot answer that question because there is too much variability in the details of lease agreements. Ms. Oyler pointed out that this issue is not specific to this regulation and may have been addressed in the regulations developed by the oil and gas program.

Driving PA Forward

Samantha Harmon provided an update on the Driving PA Forward suite of grant and rebate programs and discussed 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. DEP plans to develop an interactive map to display project data. Three programs opened since Ms. Harmon last updated the Committee in October.

The first is the onroad rebate program for Class 4-7 trucks, school buses, shuttle buses, and drayage trucks. Mr. Schroth referred to the 1992 – 2009 model year restriction and asked whether replacement of an older model year would be excluded. DEP confirmed the older model year vehicles are not eligible and explained that DEP cannot change that condition because the model year restriction is directly from the trust agreement. Mr. Schroth asked whether the replacement is required to be a new vehicle. DEP clarified that the replacement vehicle must be a new vehicle of the current or previous model year.

The second program opened in November 2018 and is a competitive grant program for Class 8 Truck and Transit Buses. DEP is currently scoring the 14 applications received.

The annual PA State Clean Diesel Program also recently opened. The PA State Clean Diesel Program is an existing program, funded primarily through allocations under the federal Diesel Emission Reduction Act (DERA), that has been rolled into the Driving PA Forward set of programs. This was done because Volkswagen settlement funding was used as the state's matching funds in DEP's grant application to EPA for the federal DERA funds, enabling DEP to receive additional bonus funding. The PA State Clean Diesel Program has broader eligibility criteria than the other Driving PA Forward programs and will have approximately \$2.5 million available this year. [Note: Program closed for applications on February 28, 2019.]

Ms. Harmon requested the Committee's assistance in reaching out to small businesses that may have delivery trucks or other vehicles eligible for one of the Driving PA

Forward programs. Chair Kaplan suggested that Ms. Harmon and Ms. Oyler work together to write an article for the NFIB newsletter.

Three additional programs will be opening in Spring 2019. The ocean-going vessel shore power grant program in Philadelphia and Erie will provide funding for installation of shore-side infrastructure for shore-powered connection for ocean-going vessels. These systems will allow ships that have the hook-up to use the electric grid for power, instead of using auxiliary engines for power. The second program is for forklifts, airport ground support equipment and port cargo handling equipment. This program only allows electric replacements or repowers. The third program is for ferries, tugs and freight switchers.

Mr. Schroth referred to the grant program criteria for forklifts greater than 8,000-pound capacity, noting that many small businesses use forklifts in the 6,000- to 8,000-pound capacity, which would be excluded. Mr. Schroth asked if the smaller forklifts could apply under the offroad category of the PA State Clean Diesel Program. Ms. Harmon offered to check whether Auxiliary Power Units (APU) and forklifts are currently eligible under the DERA program. [Note: Ms. Harmon provided follow-up information after the meeting. Forklifts are likely included under the "Cargo Handling" category and are therefore eligible. For Class 8 long haul trucks and school buses only, APU listed on EPA's SmartWay Verified Technologies list would be eligible.]

Other Business/Discussion

The next SBCAC meeting is scheduled for April 24, 2019. [Note: The April 24 meeting has been rescheduled to April 17.]

Adjournment

The SBCAC meeting was adjourned at 12:38 p.m.