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ANALYSIS

Clean Air Requirements May Be A Nasty Surprise To Many Small Businesses

The Texas Air Control Board (TACB) requires many companies to acquire air quality permits before constructing a facility that might emit air pollutants. However, thousands of companies have been exempt from the permitting process either because their facilities were constructed prior to the promulgation of air quality regulations ("grandfathered facilities"), or because they were eligible for a standard exemption covering facilities (including small businesses) that were not expected to release significant amounts of air pollutants. Although many of these sources individually emit only minimal amounts of air pollutants, taken together they are a significant problem.

- Kirk Watson, TACB chairman, estimates that small businesses contribute more than 50% of all toxic emissions released in Texas.

Federal legislation (the 1990 amendments to the Clean Air Act) mandates that the states begin to control emissions from small facilities -- requiring busi-

About this Issue

Air Quality Permitting Requirements: The Impact on Small Businesses in Texas is the first of two reports in a study of Air Quality Permitting in Texas undertaken by the League at the request of the Lt. Governor.

This *Analysis* issue summarizes the findings and conclusions in this first report. Copies of the full report are available at no charge to League supporters; others may purchase the report for \$7.50.

nesses that are only small air pollution sources to apply for permits, to install pollution control equipment and to take other steps to reduce their emissions. Under existing timelines, November 1995 is the target date for all companies subject to permit requirements to have filed applications with TACB.

IMPACT ON SMALL BUSINESS

The new permitting requirements may impose severe hardships on small businesses in certain industrial sectors. Auto paint and body shops, cotton gins,



TRL WINS TOP AWARD

The League won the highest award given by the Government Research Association at the GRA's annual meeting held in August. The *Most Distinguished Research* award was won by "Putting the Pieces Together: Texas Business and Dropout Prevention".

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dry cleaners, furniture refinishers, and print shops are among those that could be hit the hardest. In these industries, many proprietors may have to purchase pollution control equipment costing thousands of dollars, or to pay steep enforcement penalties.

COST COULD BE HIGH

One estimate suggests that nationwide 150,000 small companies will be required to spend as much as \$10,000 to \$15,000 each (in addition to the cost of any control equipment) merely to meet permit requirements -- such as for paperwork, consultants and modeling.

Monitoring devices could cost an additional \$10,000 to \$50,000.

The Texas Automobile Dealers Association reports that one research study estimated that the new law could cost small businesses as much as \$300 million nationwide.

The new rules probably will come as a nasty surprise to many firms that have been unable to afford to spend their limited time and money keeping track of changing environmental regulations. Furthermore, some companies may not be able to secure loans to pay for the necessary equipment as banks may often see them as high risk investments.

- TACB has estimated that there are 23,000 small businesses in Texas which could be affected.

TEXAS TAKING THE LEAD IN SMALL BUSINESS ASSISTANCE

To cushion the blow for small businesses, the federal legislation mandates that states create small business assistance programs (SBAP) for businesses with fewer than 100 employees. These state programs must include mechanisms for collecting and processing information, for assisting small businesses with pollution prevention and detection of accidental air contaminants releases, and for informing businesses of their rights and obligations.

An ombudsman's office to help small businesses learn about the federal requirements and obtain the necessary permits in a "timely and efficient manner" is required.

Texas is ahead of the other states in implementing its program, and TACB's goal is for its SBAP to be the first state program that is fully operational and to serve as a model for the rest of the country.

The ombudsman, as the small business representative to the TACB, already has been trying actively to achieve the program objectives. Among other things proposed is an expansion of the minor source compliance policy so that businesses would not be assessed a penalty for first-time violations of TACB rules if the violation is corrected within a specified period of time.

The office also is working with the SBAP to develop a proposal for a financial assistance program to help small businesses pay for control equipment.

THE GREEN REVOLUTION

There is no denying an increasing public awareness and concern about environmental issues. Whereas, a decade ago, environmentalism was the domain of a small group of passionate activists, today it has become the affair of a large proportion of consumers and business people.

A recent *New York Times* poll found that 80% of respondents agreed with the statement: "Protecting the environment is so important that requirements and standards cannot be too high, and continuing environmental improvements must be made regardless of cost."

Consumers are beginning to make choices based on the environmental awareness of businesses. The National Automobile Dealers Association president expressed one industry view: "We know environmentalism is not a fad. It's here to stay, and we must all learn to understand it, adapt to it, support and benefit from it....We must not let others portray us as environmental villains."

CONCLUSIONS AND RECOMMENDATIONS

Under the new federal clean air requirements, the number of small business owners who must obtain a permit of some sort will be increasing exponentially. Similarly, because of new limits imposed, there will be a significant number of companies in noncompliance with air quality rules.

Many of these businesses will need technical and financial assistance to comply with the rules. Many of those will be intimidated by the seemingly overwhelming amount of work necessary to obtain a permit or to reduce their emissions.

In 1993, the TACB will be merged into the new Natural Resources Conservation Commission (NRCC). Many of the following recommendations will affect the new agency as well.

Minor Source Policy. The ombudsman's proposal for a minor source compliance and enforcement policy that would allow companies currently violating any air quality rules to come into compliance without being penalized for first time violations should be given positive consideration by the TACB's governing board. (A "one-time-only"

ENVIRONMENTAL PARTNERSHIPS

A plan for "small business environmental partnerships" is being developed by the Texas SBAP. The idea is to develop a coalition of consultants, attorneys, local chambers of commerce, businesses, environmental groups, and colleges to assist small businesses in voluntary compliance with environmental laws.

Examples of these partnerships include using community colleges to conduct workshops, encouraging larger companies to help their smaller customers to achieve compliance, and setting up a cadre of technical experts (consultants, attorneys, engineers) within a community to give free advice to small companies.

Some environmental consultants already have agreed to donate time to the project. The SBAP is seeking consultants who will be willing to donate 100 hours per year to the effort.

TOLL-FREE ASSISTANCE

TACB has established a toll-free small business assistance hot line. Call 1-800-824-7247 for help and information about new air quality regulations.

small business minor source policy will be effective November 15, 1992.)

Centralized Small Business Assistance Programs. The NRCC should consider establishing a centralized office to assist small businesses in all environmental regulatory matters. A centralized office could assist small firms by answering general questions, by sending out relevant materials, and by referring callers to the appropriate person for assistance with technical matters.

Multipurpose Packets. The TACB currently is developing regulation packets with customized materials for certain industries; after the merger, the NRCC should consider packets that contain industrywide information about all applicable intraagency regulations.

Communication/Notification. The SBAP should continue to develop a communication system to inform small businesses of all the services available. Quite simply and succinctly, if the small firms cannot be identified and notified, the SBAP will be a failure - good intentions notwithstanding.

Environmental Audits. The SBAP should proceed with its comprehensive audit program, and the legislature and the TACB should ensure that it receives adequate funding.

IN MEMORIAM

Edward Clark, former partner with Clark, Thomas, Winters & Newton in Austin, died this month. Mr. Clark was an honorary Life Member and served on the League's executive committee for many years.

Guidelines for Consultants. The TACB (and subsequently, the NRCC) should develop a brochure which gives small business owners tips on how to choose a consultant; the brochure could be included in the multipurpose packet.

Interagency Cooperation. The TACB governing board should ensure that a good working relationship continues among all divisions relative to getting small businesses into the regulatory fold.

These recommendations only spotlight areas that should be given high priority as the TACB wrestles with ways to implement the federal clean air requirements without killing off many small businesses.

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