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Economy • Good Sense



# STATE SMALL BUSINESS ADVOCATE

THE UNIVERSITY OF TEXAS-PAN AMERICAN  
  
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1995  
Annual  
Report



Healthy Environment • Strong Economy • Good Sense



STATE SMALL  
BUSINESS ADVOCATE

1995  
Annual  
Report



**The team that gives small business common-sense answers to questions on environmental regulations:**

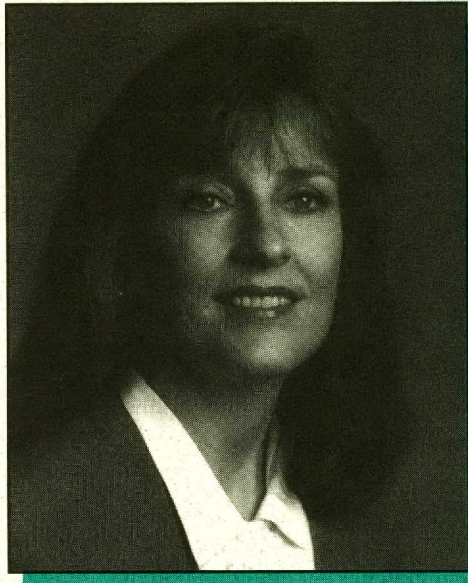
**Row One - Tamra-Shae Oatman (State Small Business Advocate)**

**Row Two (left to right) - Sarah Bolz (Director of Research and Planning), Kathy Ramirez (Coordinator of Advocacy Development)**

**Row Three - Rebekah Strachn-Cole (Customer Service Coordinator), Emily De Marria (Intern), Shana Norton (Intern), Santos Olivarez (Director of External Affairs)**

**Row Four - Keith Caldwell (Small Business Affairs Assistant), V.J. Eastwood (Policy Development Assistant), Adam Haynes (Director of Policy Development), Faye Hobson (Intern)**

**Row Five - Marty Kramer (Program Specialist), Helen Artz (Intern)**



From the Advocate....

This year, perhaps more than ever, government has been reassessing its role in many areas, particularly with respect to environmental regulations. A common-sense approach to environmental regulations moved government from a command-and-control mentality to one of teamwork, flexibility, and customer service.

From its inception three years ago, the State Small Business Advocate's Office has been a pioneer of this customer-oriented approach. Only by listening to the people in the small business community can we give them a voice in shaping environmental policies.

The Advocate's Office continues to hold the belief that the coexistence of a healthy environment and a strong business climate, indeed, makes good sense. This 1995 Annual Report outlines the State Small Business Advocate's efforts to ease the burden on small businesses while encouraging voluntary compliance with environmental laws.

As we report our progress of the past year, we are pointing towards even more successes and better customer service. The State Small Business Advocate's Office will continue to help both the environment and small businesses prosper. We welcome your comments on how to better serve the environment, the people, and the small businesses of Texas.

Sincerely,

A handwritten signature in black ink that reads "Tamra-Shae Oatman". The signature is written in a cursive, flowing style.

Tamra-Shae Oatman

Small Business Advocate

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## **The Office**

The State Small Business Advocate's Office is an independent division of the Texas Natural Resource Conservation Commission (TNRCC) that provides a common-sense voice for small businesses affected by environmental laws.

The work of the Advocate's Office focuses on seven areas:

- Cutting red tape
- Recommending policies designed to ease the burden on small businesses
- Resolving small business complaints
- Establishing Small Business Advisory Committees
- Identifying financing resources and partnerships
- Assessing the economic impact of environmental laws
- Ensuring easy-to-understand language in the documents small businesses receive

### **Mission**

The mission of the State Small Business Advocate's Office is to promote environmental quality and economic growth by assisting small business in complying with air, water, and solid waste regulations.

"Oh—I listen a lot and talk less. You can't learn anything when you're talking."

— Bing Crosby

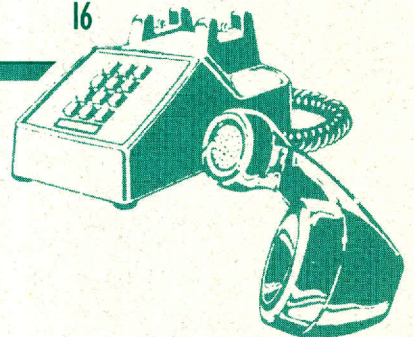
## Hot Line Calls

Whether in need of an answer to a simple question or help in finding financing for pollution-reducing equipment, assistance for small businesses is only a phone call away. And now, the Small Business Advocate's Office and the Small Business Technical Assistance Program have consolidated phone lines so small businesses can find solutions by calling just one number: (800) 447-2827.

During the fiscal year, the hot lines of both offices received 3,441 calls.

The following chart shows the number of hot line calls by category.

<b>HOT LINE CALLS</b>	
<b>CATEGORY</b>	<b>CALLS</b>
Advocacy	185
Compliance Audit Program	42
Complaint	41
Compliance/Permit Assistance	2,266
Financial	76
General Information	660
Innovative Technology	11
Other	21
Small Business Assistance Information	123
Volunteer Program	16





## **Customer Service**

To assess customer satisfaction, each quarter the Advocate’s Office surveys people who have called the toll-free number. This feedback gives the office valuable information on what we are doing right as well as identifies areas where we can improve our service. Following are a few excerpts from people who have received help from the Advocate’s Office:

*“I was facing fines and an investment in new equipment due to changes made to an adjacent building. With your help, I was able to come into compliance without being fined or forced to buy new equipment.”*

Customer from Plano

*“Your office set up a meeting on grit traps that helped us in many ways.”*

Customer from Odessa

*“Your work is very helpful for our minority-owned small business.”*

Customer from Beaumont

*“If not for your assistance, I would have had to spend my money to pay a fine (and still would have been in violation) rather than use the money to buy the storage tank I needed to come into compliance.”*

Customer from El Paso

*“Without your help, I wouldn’t have known where to dispose of surplus drugs.”*

Customer from Houston

*“Your office got my fine reduced substantially and helped me come into compliance. Thanks!”*

Customer from San Antonio

**"The proof of the pudding  
is in the eating."**

— Cervantes

## **Selected Case Studies**

Nothing demonstrates the work of the State Small Business Advocate's Office more than real solutions for small businesses.

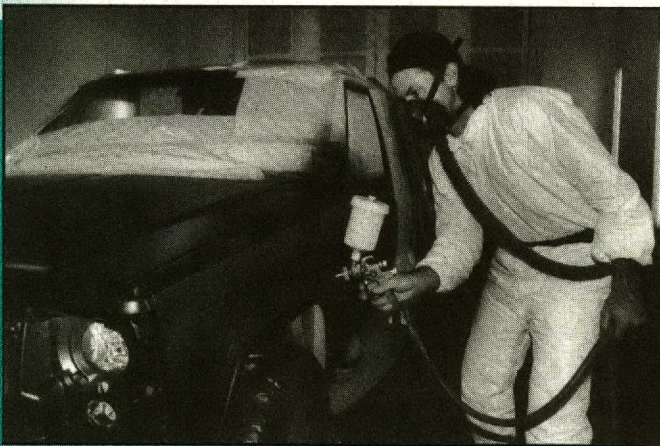
### **Problem Solving**

L&L Tools is a small business that manufactures castings for airplane parts. The company uses acetone for many applications: as a catalyst for drying, as a cleaning agent for surfaces and tools, even for washing hands. The owners of the company did not realize that because of the amount of acetone they used, they required an environmental permit.

After L&L Tools was issued a violation for not having a permit, they turned to the Advocate's Office. Working with the TNRCC's Regional Office, the Advocate's Office provided compliance assistance to the business. The Advocate's Office suggested L&L Tools find ways to cut their acetone usage to qualify for an exemption. As a result, the business found substitutes, developed a management plan for acetone use in the workplace, and refined company procedures for producing the parts. L&L Tools cut its acetone use by more than half and saved money while coming into compliance under a standard exemption.

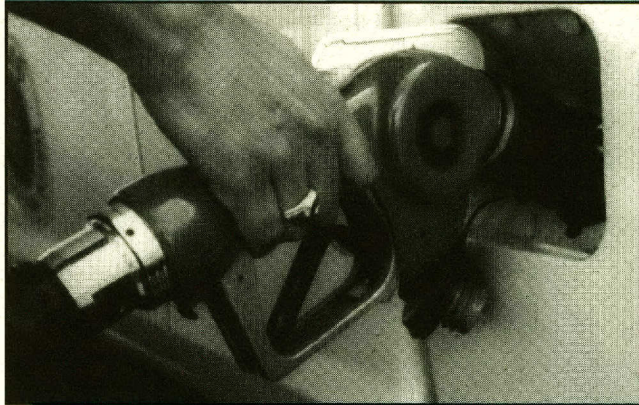
### **Cutting Red Tape**

Auto body repair shops have been targeted for inspection by the TNRCC. The shops should be operating either under an existing standard exemption or a new standard exemption #124. There are often many requirements for compliance for auto body shops, including pollution-reducing equipment and record keeping.



**There are often  
many requirements  
for compliance for  
auto body shops...**

**The TNRCC required gas stations to install Stage II vapor recovery equipment on pumps.**



After an initial inspection phase, many shops were found to be out of compliance. Some had incomplete work on required pollution-prevention equipment. Others had inadequate record keeping. Coming into compliance required following a time-intensive and frustrating process that could stretch out for 180 days.

To make this a more manageable process, the Advocate's Office, together with the TNRCC Legal Division and Field Operations, developed a Standard Agreed Order (SAO). The SAO is an agreement signed by a business owner that states the business will come into compliance within 30-60 days and be assessed a zero-dollar penalty. What once took months is now accomplished in a matter of hours.

**Small Business Assistance**

The TNRCC required gas stations to install Stage II vapor recovery equipment on pumps. Small, independently owned stations were eligible to file an application for an extension on installing the equipment. However, many of the requests for extension were denied because stations failed to meet qualifications or improperly filled out the form.

The Advocate's Office provided advice and suggestions on developing the Stage II denial letter. The letter included the hot line number for station owners who needed more information or assistance. The Advocate's Office offered advice to businesses that wanted to reapply for the extension and provided leads for financial assistance to purchase the equipment.

## **Selected Case Studies** *continued*

### **Advocacy for Fairness**

The El Paso Oxygenated Fuels Program was audited by the EPA in 1994. The audit questioned why so many violations were given zero-dollar penalties under the Minor Source Policy (MSP), a program which encourages voluntary compliance with air regulations by eliminating the first-time penalty. The Advocate's Office sent a memorandum to the EPA to support the use of the Minor Source Policy. The memorandum explained that violations often were found at stores in poor neighborhoods where premium gas remained in fuel storage tanks for longer periods of time. Most of the violators who used the MSP complied either the same day or the following day.

### **Recommending Policies**

The Advocate's Office received a call from a medical waste hauler located in West Texas. This small business owner was concerned with new industry rules proposed by the TNRCC. The medical waste hauler pointed out that the requirement to pick up and dispose of waste within 48 hours would be difficult since the nearest disposal center was 800 miles away.

The Advocate's Office worked with the agency's Waste Evaluation Section to make the rules equitable for all parties. The new rules include a time extension for haulers who cover more than 350 miles, allowing 96 hours for pickup and disposal.

The extension gives small transportation companies time to gather enough material to make long trips from West Texas to disposal centers located in the central and eastern part of the state. At the same time, the rules prevent large haulers from stockpiling massive amounts of material before treating waste. The new rules will also protect the health of citizens by limiting the amount of medical waste that accumulates before being treated.

### **Tax Incentives**

Keeping costs down is one of the keys to survival for small businesses. But costs are unavoidable for the thousands of small businesses that must comply with environmental laws. Pollution-prevention and control equipment is costly, and any assistance to offset these expenses is a welcome relief.

To help small businesses control these costs, the Advocate's Office worked to develop and

implement Proposition 2. This law amends the Texas Constitution to exempt from property taxes certain equipment used for the prevention, monitoring, control, or reduction of air, water, and land pollution. Most of the pollution-control equipment will be tax exempt based on a percentage of the cost. Some equipment may be 100 percent deductible.

A list of eligible equipment has been compiled by the TNRCC. The list includes equipment such as water impoundments, storm-water containment systems, basins to settle waste solids, auto paint booths, and closed-loop dry cleaning machines.

### **Problem Mediation**

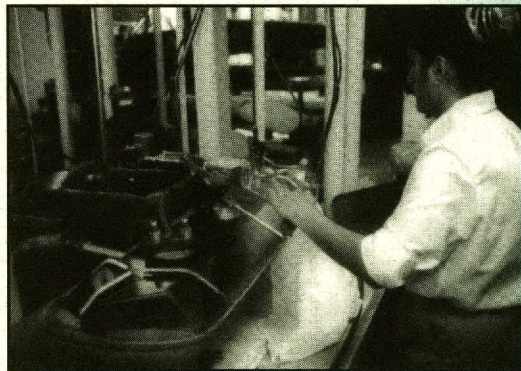
In the early part of 1995, an inspector with the TNRCC responded to a public complaint about a dry cleaner. An inspection found the business in violation due to improper hazardous waste disposal, improper storage, and the lack of an emergency plan.

The regional office informed the Small Business Advocate's Office of the case and asked for help.

Through the Advocate's Office Golden Triangle Small Business Advisory Committee, a meeting was scheduled with representatives of the dry cleaner, the Advocate's Office, TNRCC Region 10, and the Minority Business Council.

The Advocate's Office opened the lines of communication between the parties and provided the dry cleaner with compliance assistance. After making corrections, a follow-up inspection revealed the dry cleaner was in compliance. The state and the business owner saved time and money by resolving the issue at the regional level rather than going through the enforcement process at the state level.

**...a follow-up inspection revealed the dry cleaner was in compliance.**



**"Knowledge is of two kinds.  
We know a subject  
ourselves, or we know  
where we can find informa-  
tion upon it."  
— Samuel Johnson**

## **Roundtables**

One year ago, the State Small Business Advocate kicked off a campaign to identify some of the most pressing environmental regulatory problems facing Texas small businesses. The campaign called for holding a roundtable and inviting small business owners to express their views on environmental laws affecting their industries. The forum worked so well that U.S. Senator Kay Bailey Hutchison co-sponsored four additional roundtables in 1995.

Nearly 100 small business owners participated in the roundtables held in Dallas-Fort Worth, Houston, El Paso, and San Antonio. Common concerns surfaced throughout the roundtables. The top four were burdensome regulations, excessive paperwork, enforcement methods, and the negative economic impact of environmental regulations.

The Advocate's Office developed a formal response to every issue raised by small business owners as well as a plan of action to address each concern. This plan will serve as a guide for state and federal agencies to address the future needs of small businesses.



**The Advocate's Office developed a formal response to every issue raised by small business owners...**

The issues raised during the roundtables were divided into one of the following categories, each of which is followed by actions necessary to address concerns:

**Communications.** Increase outreach efforts to inform small businesses of new or pending environmental rules.

**Economic Impact.** Provide a mandatory cost/benefit analysis for all environmental regulations.

**Enforcement/Compliance.** Emphasize assistance with compliance rather than enforcement.

**Environmental Liability.** Eliminate joint and several liabilities under the Conservation Environmental Response Compensation and Liability Act (CERCLA).

**Good Science.** Base environmental regulations on sound science and follow with a review by the Science Advisory Board or other independent scientific committee.

**Paperwork.** Streamline or combine reporting requirements to eliminate duplicative and burdensome paperwork.

**Regulations.** Provide clear explanations of new rules and how they impact small businesses. Offer assistance in filling out forms and preparing technical reports.

**Recycling.** Develop pollution-reducing products and processes that maximize the economic viability of a small business with the least impact on the environment.

**"If politics is the art of the possible, research is surely the art of the soluble."**

— Sir Peter Medawar

## Research

The 1995 report, *The Price of a Clean Environment*, follows *The Price of Clean Air* published by the State Small Business Advocate in 1993. This update adds information on water and waste compliance and takes another look at the cost of pollution-prevention and control equipment needed by some industries. The report found that an estimated 60,000 small businesses in Texas are affected by environmental regulations at a cost of more than \$1 billion. The following cost estimates by industry are included in the report:

<b>Compliance Costs For Selected Industries Statewide</b>			
<b>Industry</b>	<b>Small Businesses Statewide</b>	<b>Cost Per Facility &amp; Environmental Controls</b>	<b>Industry Cost</b>
Asphalt Manufacturers	65	\$650,000 scrubber, baghouse	\$42,250,000
Auto Body - Painting	5,058	\$51,500 booth, spray guns, prep area, gun washer	\$260,487,000
Auto Repair	4,738	\$4,000 recovery \$900 reclaim \$51,000 booth, spray guns, gunwasher, prep area	\$17,056,000 \$426,000 \$80,546,000
Cotton Gins	402	\$100,000 cyclones, screens, filters	\$40,200,000
Dry Cleaners	3,357	\$19,000 recovery dryer \$40,000 dry to dry	\$6,450,000 \$87,280,000
Furniture Manufacturers	466	\$100,000 baghouse	\$46,600,000
Gasoline Stations	3,870	\$55,000 storage tank \$31,500 stage II	\$212,850,000 \$40,225,000
Hospitals	137	\$125,000 scrubber sterilizer	\$17,125,000
Metal Finishers	317	\$50,000 water clarifier	\$15,850,000
Newspapers / Print Shops	3,910	\$40,000 solvent substitutes	\$156,400,000
Refrigeration / AC Repair	192	\$900 recovery \$4,000 reclaim	\$129,600 \$192,000
Wood Finishers	24	\$21,500 booth, spray guns, gunwasher	\$516,000
<b>TOTAL</b>	<b>22,536</b>		<b>\$1,025,033,500</b>

For the purpose of this report, costs are estimated for all businesses in each industry. Businesses in compliance are included in these costs.

The Advocate's Office contracted with Texas Southern University to survey how environmental laws affect minority-owned businesses in Texas. The survey was designed to identify difficulties minority-owned businesses face in meeting environmental requirements. The survey identified two problems: 1) A lack of information on how to comply with rules; 2) Difficulty in securing the financial assistance necessary to comply with rules.



## **White House Conference on Small Businesses**



The Advocate's Office helped facilitate two regional White House Conferences on Small Businesses (WHCSB): one on February 21 in San Antonio, the other on February 28 in Arlington.

Created as an independent commission by Congress, the WHCSB provides a constructive, non-partisan forum for small business people through state, regional, and national conferences (the Texas delegation to the national conference included 64 elected and 33 appointed delegates).

The WHCSB regional conferences coordinated by the Advocate's Office provided an opportunity for Texas' small business entrepreneurs to express their views and propose recommendations concerning small business policy to the Clinton administration and Congress.

Recommendations from the regional conferences include the following:

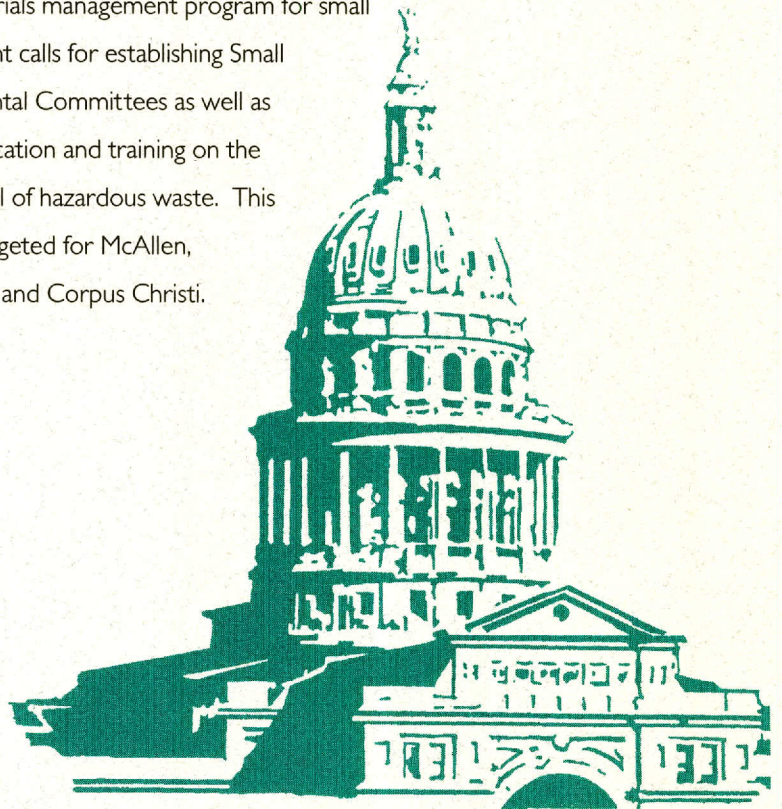
- An overhaul of the government's regulatory policy that would set an expiration date for all regulations; a common date for all new regulations to take effect; and provisions that would prevent regulatory agencies from funding their budgets through fines.
- A requirement that Congress do an economic impact analysis to determine the impact of environmental regulations on small businesses.
- An opportunity for trade and small business associations to comment before and during the draft stages of new regulations. The EPA should adopt a publication policy that requires the EPA to share draft regulations with the regulated communities during draft phases.
- The establishment of an independent board or the identification of an existing group for the review of scientific data, cost/benefit analyses, and risk assessments before issuing EPA regulations.

## Legislative Assistance

The Small Business Advocate's Office works with legislative bodies to address the interests of small businesses. This year, the Advocate's Office served as a resource for the House Environmental Regulations Committee on House Bill 242 during the 74th Texas Legislature. HB 242 called for the establishment of the Small Business Air Compliance Fund. This fund would provide financial institutions with state-backed guarantees for small business loans earmarked for the purchase of pollution control equipment. In addition, the Advocate's Office staff served as resource witnesses for the Senate Natural Resource Committee on Senate Bill 424. SB 424 established a payment schedule for small businesses in the enforcement process at the TNRCC.

## RCRA Grant

The EPA awarded the Advocate's Office a Resource Conservation and Recovery Act (RCRA) grant to establish a more comprehensive hazardous waste and materials management program for small businesses. The grant calls for establishing Small Business Environmental Committees as well as providing more education and training on the handling and disposal of hazardous waste. This project has been targeted for McAllen, Brownsville, Laredo, and Corpus Christi.



**“Obviously, a man’s judgement cannot be better than the information on which he has based it.”**

**— Arthur Hays Sulzberger**

## **Outreach**

Outreach to small businesses continues to expand. The first mail-out from the Advocate’s Office reached approximately 3,000 small businesses in Texas. Today, more than 10,000 small businesses regularly receive information on new or proposed environmental laws through a quarterly newsletter and monthly articles in regional business and trade journals.

Nearly 100 presentations were made to small business groups, trade associations, and other interested organizations throughout the state.

## **Plain Language Program**

Environmental regulatory information is often highly technical and complicated. In order to comply with laws, small business owners must first have a clear understanding of what is required of them. The Advocate’s Office adopted a Plain Language Policy to ensure that small businesses receive documents written in easy-to-understand language. A computer program checks materials for grammatical errors. The program also measures the complexity of the vocabulary in each document.

The Advocate’s Office and the Small Business Technical Assistance Program also send documents to Small Business Advisory Committees to get opinions from small business owners and outside experts who review documents and comment on how to make them reader-friendly.

The Advocate’s Office supports a plain language policy for the entire agency and works with other TNRCC divisions to produce easy-to-read documents.

## Small Business Advisory Committees

Two new Small Business Advisory Committees were established in the Beaumont-Port Arthur area and in San Antonio. Small business advisory committees were already in place in Dallas, Fort Worth, Houston-Galveston, and El Paso-Juarez. The committees increase the effectiveness of the Advocate's Office by providing real-world input on the environmental issues impacting regulated industries. Committee members include small business owners, bankers, environmentalists, industry representatives, health professionals, municipal leaders, and other concerned citizens.

The committees advise the Advocate's Office on the concerns of businesses most effected by environmental rules. Committee members also provide valuable insight into the needs and concerns of their industries.

For example, advisory committee members in Dallas worked with the Dallas Seroptimists Club on a symposium titled Small Businesses and the Clean Air Act. The symposium won an award for community outreach. In addition, committee members developed and produced a Small Business Guide to Cleaner Air in preparation of the summer's Ozone Action Days.

The Fort Worth committee helped coordinate a lender-borrower seminar for small businesses. Advisory committee members also helped sponsor the Hazardous Waste Seminar for Conditionally Exempt and Small Quantity Generators.

Members of the El Paso-Juarez advisory committee conducted a survey to determine the amounts, types, and commonality of solvents used by small businesses. The group conducted the study to determine what industries may benefit from using substitutes for pollution-emitting substances.

Houston committee members participated in and helped coordinate an Environmental Financing Roundtable. Committee members also assisted in developing the environmental component of the U.S. General Store, a federal one-stop information center.

The Golden Triangle committee in Beaumont-Port Arthur conducted a survey of the region's dry cleaning operations to determine the impact of the industry's emissions on air quality in the area.

Members of the San Antonio committee coordinated and hosted a Small Business Environmental Issues Roundtable. The committee also sponsored an Environmental Financing Roundtable.

## Compliance Advisory Panel

This year, the third component of the Texas Small Business Assistance Program became a reality. The State Small Business Compliance Advisory Panel (CAP) met twice this fiscal year to undertake its oversight duties. Members of the panel will perform the following tasks:

- Prepare advisory opinions on the effectiveness of the State Small Business Advocate's Office and the Small Business Technical Assistance Program.
- Prepare advisory opinions on the degree and severity of enforcement.
- Prepare periodic reports for the EPA on the compliance of the Advocate's Office and Technical Assistance Program with the provisions of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act.
- Review information for small businesses to ensure it is understandable to the lay person.

The CAP is made up of members from across the state:

**Albert Apodaca** is a CPA and co-founder and partner in the accounting firm of Apodaca Jensen & Co. in El Paso.

**Lynda Billa Burke** is small business owner and a councilwoman for District 3 in San Antonio.

**Beverly Hartsock** serves as the deputy executive director for the Office of Policy and Regulatory Development at the Texas Natural Resource Conservation Commission in Austin.

**David Mendez** is an executive vice president with Texas Commerce Bank in Houston.

## Compliance Advisory Panel *continued*

**Mary Miksa** serves as the interim chairwomen for the CAP. She also is the manager of governmental affairs for the Texas Association of Business in Austin.

**James Motheral** is president of Motheral Printing Company, a 60-year-old family-owned business based in Fort Worth.

**Forrest Smith** is an attorney-mediator and senior partner in the law firm of Caolo & Bell, L.L.P. in Dallas.

## Minor Source Policy

The Minor Source Policy encourages voluntary compliance with air regulations by eliminating the first-time penalty assessment for many small businesses. Since the adoption of the Minor Source Policy in 1991, an estimated 237 small businesses have used it to come into compliance.

Small business owners who receive a first time Notice of Violation (NOV) may be able to avoid a first-time penalty under this policy. To qualify, a small business must meet all the following criteria:

- Must have 100 or fewer full-time employees.
- Must be independently owned and operated.
- Cannot be a Major Source of air emissions.
- Does not repeatedly violate the TNRCC rules.

A small business owner also must comply with following:

- Control emissions in a way acceptable to the TNRCC. The owner also must meet any deadlines for a permit application or a standard exemption.
- Use control measures to reduce emissions.
- Not willfully ignore TNRCC rules.
- Not have received an Agreed Order under this policy before.

## **Moving Forward with Commitment**

As we move into 1996, the State Small Business Advocate's Office reaffirms its commitment to help small business comply with environmental regulations. Towards this goal, the State Small Business Advocate's Office and the Small Business Technical Assistance Program will be combined into one office. This new office will chart a course for the future of small businesses and the environment.

To order additional copies of the State Small Business Advocate's Office  
Annual Report, Fiscal Year 1995, please contact:

State Small Business Assistance Program  
P.O. Box 13087 - mc 106  
Austin, Texas 78711-3087  
1-800-447-2827 or (512) 239-1066  
Fax (512) 239-1065  
or contact Publications  
at (512) 239-0028

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