

Cecelia Hartley

From: Sunset
Sent: Tuesday, November 30, 2010 11:05 AM
To: Cecelia Hartley
Subject: FW: Comments on TCEQ Sunset Report
Attachments: TCEQRecs.doc

From: GK Sprinkle
Sent: Tuesday, November 30, 2010 10:26 AM
To: Sunset
Subject: Comments on TCEQ Sunset Report

This comment comes from the Daily Court Review, Houston, and the Daily Commercial Record, Dallas. We are very pleased that sunset staff did not recommend the elimination of any public notices. TCEQ is a very important agency for the public. We all breathe the air and drink the water. Protecting this important resource now and in the future is critical to maintain the health of Texans. We support the Commission Staff's concern in Issue 3 that the compliance history fails to measure an entity's performance, but we go further in detailing the ways in which the current means of providing information to the public on an entity's compliance history also fails. We did not specifically provide language changes to this statute. But we think that transparency in government and the availability of information for the public could be expanded in two ways:

- 1) First, the agency should look at the possibility of limited newspaper publication to do more public outreach. The agency provides the public with access not only to its compliance histories, flawed though that might be, as well as to its guidelines, rules, policies and planning documents through e-mail lists. However, it recruits the public only through its website and through personal contacts when staffers make presentations. Its website currently averages only 3200 unique visitors a month while the Houston Chronicle gets almost 7 million unique visitors per month. This doesn't count those who get the print version of the paper. We think a limited outreach through newspaper publication in large papers around the state will be more effective, especially as travel around the state for agency staffers might well be curtailed because of budget cuts.
- 2) The agency's effort to provide the public with the compliance history of permittees on its website is flawed. In the attached response to Sunset staff we have detailed how difficult it is for the public to get information on a company. We suggest that once a year or whenever an entity gets or has a "poor" compliance history numerical rating, the entity should be required to publish this information in a newspaper in the county or counties in which it serves the public. The entity should include its name, location by city and county, its rating and classification along with the date it was rated. The entity should also list any violations, state enforcement orders, state and federal court judgments, federal consent decrees, criminal convictions and chronic excessive-emissions events that have been recorded as part of its compliance history during the past year or time period which resulted in a change in the compliance history numerical rating. Further, we recommend that the entity include the internet web address to access information on the TCEQ website regarding its compliance history.

Thank you for giving us the opportunity to respond to this report. We appreciate the hard work of the Sunset staff members in examining this complex agency. We hope that our response will bring the issue of public notice and participation in the important activities of the agency to the Commission's attention.

Sincerely,

GK Sprinkle
for the Daily Court Review, Hosuton
The Daily Commercial Record, Dallas.
history.

From the Daily Court Review, Houston, and the Daily Commercial Record, Dallas

Here is our supporting information for our recommendations to increase transparency and public notice for TCEQ

RECOMMENDATION ONE: Greater outreach to the public to inform them that they can get on TCEQ e-mail lists to learn about the agency's guidelines, rules and policies, as well as its planning documents.

We suggest that TCEQ publish legal notices in newspapers outside of the Texas Register. We think that once a year, TCEQ should publish a notice in 3 to 4 statewide papers to inform the public that it has stakeholder groups that will meet throughout the year to give input to the agency on its guidelines, rules, policies, and planning documents, and to also tell them of the availability of e-mail lists for the latest information regarding the entities regulated by TCEQ. The notice should be published in both the print and on-line versions of these newspapers and indicate how the public can get on the e-mail lists or contact the agency by phone or mail. The notice should also include a way for individuals to be informed of any enforcement actions in their area. If it was not cost prohibitive, the agency should publish notice in a newspaper seeking public input on local enforcement issues.

Currently, the agency distributes business cards with information on how to get on the e-mail lists and contact the agency. Agency employees distribute the cards when they make presentations on their activities. It is possible that the current budget cuts may reduce the number of presentations that agency staff can make around the state, perhaps allowing them to make presentations only in Austin or in cities where agency staff are located.

Providing a once a year notice in a limited number of papers would reduce the costs associated with funding travel. It will also make the agency's actions more transparent to the general public. A 2010 newspaper research report, which is available to anyone interested, shows that newspaper publication is still the best way to reach a majority of the public. This publication shows that 45% of the public, nationwide – it is higher in Texas, reads newspapers daily and this figure is 74% when newspaper websites are included. In a comparison of unique visitors to the Houston Chronicle's website, 6,859,405, the TCEQ website received only 3,800 visitors. [The Chronicle stats are for December 2009 while the TCEQ stats are the monthly average from Jan. 2010 to June 2010.] Combining the number of unique visitors to TCEQ, the city of Houston, Houston ISD, and Harris County together accounted for only 9.37% of the total number of visitors who came to the Chronicle's website. Members of the public are more likely to read a newspaper than either come to the agency's website or read the Texas Register.

Two kinds of ads are currently published by permittees when they want to reach the public for comment – small classified ads and larger ads required to be one-quarter of a standard-size or tabloid-size newspaper of general circulation, and the headline on the notice must be in 18-point or larger type. The later are more costly, but would attract more attention. The former would be found in an area that people already read when they are looking at public notices.

The biggest potential difficulty is the cost for publication in a newspaper and its associated

website in the case of those papers which may require an extra charge. The cost charts for four different governmental entities in the newspaper research report show that publication costs for all legal notices are a small part of an agency's budget. Costs vary depending upon the size of the ad and the paper in which the ad is published. Also costs for newspaper advertisements will be less than sending agency staff outside of their area to do presentations. Newspapers are particularly well read in rural areas which might require longer travel distances for agency staff.

RECOMMENDATION TWO: Once a year or whenever an entity gets or has a "poor" compliance history numerical rating, the entity should publish this information on its compliant history in a newspaper in the county or counties in which it serves the public. The entity should include the internet web address for accessing information on the TCEQ website regarding its compliance history. The TCEQ should make its website compliance information history and its website permitting and enforcement actions more complete and easier to access

The entity should include its name, location by city and county, its rating and classification along with the date it was rated. The entity should also list any violations, state enforcement orders, state and federal court judgments, federal consent decrees, criminal convictions and chronic excessive-emissions events that have been recorded as part of its compliance history during the past year or time period which resulted in a change in the compliance history numerical rating.

It would be easier for the public to access the compliance history of TCEQ with a search via industry or type of permit which would generate the names of permit holders and the information on their compliance information history and enforcement actions. The agency would benefit the public if it allowed the public to generate a list of every entity that got a poor compliant history number as opposed to the current process which is to ask for the agency to generate that list and send it to them. This is expensive for both the agency, and if it charges the person who asks, that individual as well.

BACKGROUND: Currently TCEQ's website format on its website doesn't have complete information on an entity's compliance history. Also it is difficult to find what is happening with agency actions related to permitting, enforcement, and compliance history, of its regulated entities. There doesn't seem to be an easy way to look at a list of all entities and see exactly what the enforcement action for that entity is. Also there is no listing of the violations, if any, that caused an entity to have a poor compliant history. There is also no way to draw up a list of entities with specific compliant history. In particular, it might benefit the public to be able to get a list of every entity with a poor compliant history.

The public would benefit from having more information in a more user friendly format for every aspect of TCEQ's permitting and enforcement actions. Although enforcement actions and compliance history reports are currently on line in a searchable format and in an ASCII format that allows the public to download and examine the information, it is not easy to use this information.

The public can't readily see all the entities and scroll through them because, first, the public must know the name of a particular regulated entity. Nor can the public really understand what the contemplated enforcement action is and how to read the compliance history for these entities. There is nothing in the on-site information about the actions the company has taken which

resulted in any particular compliance history. There is no information on the company's violations or various orders. There is no way to search by the kind of compliance history such as finding all poor performers. And finally the public needs a certain amount of computer expertise to download and examine the entire list of entities.

The **benefits** of this recommendation is that newspapers are still the most trusted and verified source of information for the public as shown in the 2010 Newspaper Research report which find 74% of the public reading the print and on-line version of newspapers. Unique visitors to governmental websites are low as a percentage of those who go to a newspaper's website. For example TCEQ unique visitors per month are only .06% of the number of unique visitors that come to the Houston Chronicle Website. Further, the public is much more likely to read a newspaper than the Texas Register even though both are on-line.

The potential difficulty is the cost of the advertisements. It would be cheaper to have these notices published in the legal notice section of the paper where we know that interested members of the public are used to finding legal notices. On other hand, if the information was published in an ad that was not smaller than one-quarter page of a standard-size or tabloid-sized newspaper of general circulation, and the headline on the notice was 18-point or larger type, it would be more likely to attract more of the public's attention.