

# THE PROGRAM

As part of Section 507 of the Clean Air Act Amendments of 1990 (CAAA '90), the U.S. Congress mandated that each state/territory establish a Small Business Stationary Source Technical and Environmental Compliance Assistance Program (SBTCP) to assist small businesses in complying with the requirements of the Act. Each SBTCP (also commonly referred to as Section 507 program) is required to include the following components:

- Small Business Ombudsman (SBO)
- Small Business Environmental Assistance Program (SBEAP)
- Compliance Advisory Panel (CAP)

The CAAA '90 also require each state/territory to develop or revise a State Implementation Plan (SIP), which addresses the implementation of an SBEAP. Almost all states/territories received approval from Environmental Protection Agency (EPA) for their SIPs implementing Section 507 of the CAA.

## **SMALL BUSINESS OMBUDSMAN (SBO)**

### **Federal Small Business Ombudsman (EPA)**

Established in 1982, the office of the Federal EPA Small Business Ombudsman (SBO) serves as an effective conduit for small businesses to access the EPA, and facilitates communications between the small business community and the Agency. The office reviews and facilitates disputes between small businesses and EPA. It also works with EPA personnel to increase their understanding of small businesses to enable them to adequately consider them during the development and enforcement of environmental regulations. The Office of Small Business Ombudsman is part of EPA's Office of Policy, Economics and Innovation.

The EPA SBO's primary customer group is the nation's small business community. Significant secondary customer groups include the state small business Ombudsmen, EPA regional Small Business Liaisons, and national trade associations serving small businesses. The EPA SBO's duties include:

- Overseeing and monitoring all state Small Business Environmental Assistance Programs to determine their progress, and how well the state programs are working;
- Making periodic reports to Congress on compliance with the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;
- Reviewing information issued by the State SBEAPs to ensure that it is understandable to small businesses;
- Serving as liaison between small businesses and the EPA to promote understanding of Agency policy and small business needs and concerns;

- Advocate on behalf of small businesses within the EPA

In response to the identified needs of the Office’s target customer groups, the SBO has undertaken a variety of major outreach efforts, including:

- Staffing a small business toll-free hotline that provides regulatory and technical assistance information;
- Maintaining and distributing an extensive collection of information and technical literature developed by the various EPA program offices;
- Making personal appearances as a speaker or panelist at small business related meetings.
- Interfacing on an ongoing basis with over 45 key national trade associations representing several million small businesses and with state ombudsmen who serve businesses at the local level. Also, stays in contact with over 400 additional national organizations that represent millions of small businesses;
- Providing guidance on the development of national policies and regulations that impact small businesses;
- Tracking development and implementation of regulations affecting small businesses in support of the Regulatory Flexibility Act.

The SBO actively seeks feedback on its responsiveness to small business inquiries and ever-evolving needs, primarily in the areas of technical assistance and advocacy. The SBO can “package” relevant information for the most effective and efficient delivery through training seminars, factsheets, or position papers to a targeted audience.

In 1986, the SBO also began serving as the Agency’s Asbestos Ombudsman. In this role, the Office focuses on asbestos-in-schools requirements and handles questions and complaints. Information concerning asbestos management may also be obtained through the small business toll-free hotline at (800) 368-5888.

Additionally, in 2003, the SBO was designated EPA’s Point of Contact under the Small Business Paperwork Relief Act of 2002.

### **State Small Business Ombudsmen**

The state/territory Small Business Ombudsmen (SBOs) serve as the small business community representatives where small businesses are impacted. The SBOs’ key responsibilities include:

- Reviewing and providing recommendations to EPA and state/local air pollution control authorities regarding development and implementation of regulations impacting small businesses

- Assisting in the dissemination of information about upcoming air regulations, control requirements, pollution prevention and other matters relevant to small businesses
- Advocating on behalf of small businesses within the agency
- Facilitating and promoting discussion of issues between small businesses and the agency
- Developing, or reviewing and commenting on, pertinent materials and guidance about environmental matters for small business

### **Federal Small Business Environmental Assistance Program (EPA)**

EPA, through the federal SBEAP, provides technical guidance for the state SBEAPs in the implementation of their programs. The Federal Small Business Environmental Assistance Program (Federal SBEAP) is coordinated by the Information Transfer Group (ITG) of the Office of Air Quality Planning and Standards (OAQPS). Services provided by the federal SBEAP include:

#### Electronic Access

- The Federal SBEAP is actively involved in expanding the use of electronic media as a tool for access to EPA information by small businesses, state SBEAPs, and the general public.
- The SBEAP homepage ([www.smallbiz-enviroweb.org](http://www.smallbiz-enviroweb.org)) provides access to a large and diverse array of small business assistance information and materials. Numerous links to other helpful small business-related sites are also provided. The SBEAP homepage serves as a communication link for states SBEAPs and includes a list of state and EPA Small business program contacts. It also provides a forum to share information and outreach materials developed specifically for small businesses.
- The EPA SBO homepage (<http://www.epa.gov/sbo>), provides useful information about EPA activities which concern small businesses and provides links to several other useful websites to help both state programs and small businesses.
- The Office of Air and Radiation, Policy and Guidance homepage (<http://www.epa.gov/air/>), part of the Technology Transfer Network, contains proposed and final rules; background, guidance, and plain-English fact sheets; and implementation strategy updates and schedules.

#### Plain English Guidance Materials

- The Federal SBEAP prepares materials for use by the states to explain new EPA rules in plain English. These include detailed guidebooks with options for compliance, including pollution prevention; sample reporting and record-keeping forms; and sample calculations. These are distributed to state SBEAPs as well as directly to small businesses. Both hard copy and electronic formats are provided to allow for state-specific customization and reproduction as needed.

### Satellite Seminars

- The Federal SBEAP works with EPA's SBO and OAQPS's Education and Outreach Group to present a series of satellite downlink seminars to educate small businesses and assistance providers on new EPA regulations.

### Annual Conference

- EPA holds an annual National SBO/SBEAP Conference, which is co-sponsored by the EPA SBO and OAQPS's Federal SBEAP, with participation by various divisions and EPA program offices. The majority of the conference planning and presentations are carried out by the states through a planning committee. The purpose of this conference is to:
  - Facilitate communication among the state programs.
  - Facilitate implementation and operation of small business assistance programs.
  - Interpret regulatory and policy developments affecting small businesses.
  - Share EPA activities and programs to assist state SBEAPs.

### **State Small Business Assistance Programs**

- The state SBEAPs refer small businesses to appropriate specialists for help with specific technical needs.
- State SBEAPs also provide information and assistance to small businesses on matters of:
  - Applicable requirements under the Act
  - The rights of small businesses under the Act
  - Compliance methods and acceptable control technologies
  - Pollution prevention and accidental release prevention and detection
  - Permitting guidance
  - Audit Programs
- Services provided by state SBEAPs include:
  - Toll-free hotlines
  - Websites
  - Notice of impending impacting regulations
  - Fact Sheets and other informational materials
  - Workshops
  - Site visits
  - Compliance Tools

### **SBO/SBEAP National Steering Committee (NSC)**

The SBO/SBEAP National Steering Committee was created in 1995 to represent the interests of the Small Business 507 Programs (507 Programs), and also to provide a networking and communications tool between the programs and EPA's SBO and EPA's OAQPS. One representative from each EPA region serves on the Steering Committee, along with an alternate from each region. Steering Committee representatives participate in monthly conference calls; serve as conduits for information to other assistance providers in their respective regions; and act as focal points of contact to disseminate information to and from the 507 Program service providers. The Steering Committee provides a vehicle for identifying and resolving problems faced by the 507 program service providers and, through partnerships with EPA's SBO and OAQPS, works towards mutually effective solutions.

As the 507 Programs developed and networking between state and federal programs grew, new service providers requested guidelines or more formal written documentation as to the membership and organization of the Steering Committee. These guidelines were developed in an attempt to provide a frame of reference for all.

The Steering Committee addresses issues or topics which impact or relate to all or most of the state programs. Due to the diverse array of those issues, during discussions on the future of the 507 programs at the 2002 SBO/SBEAP National Conference held in Chicago, Illinois, state programs recommended that the Steering Committee establish subcommittees to address specific issues, identified by the group at the conference. Six subcommittees were established as follows:

- **Awards Subcommittee** - The mission of this subcommittee is to identify awards that might be given or applied for in order to gain recognition for the achievements within the 507 programs, including the small businesses they serve, and to promote visibility for the services the programs provide.
- **Guidelines Subcommittee** – The mission of the subcommittee is to explore the usability and relevance of EPA's guidelines for implementation of Section 507 of the 1990 Clean Air Act Amendments throughout the SBEAP/SBO network. Once the relevance and usability are determined, the subcommittee will strive to create a dialogue with EPA to discuss modifications.
- **Multimedia Subcommittee** – The overall mission of the subcommittee is to explore the status of multimedia assistance throughout the SBO/SBEAP network, develop a definition of that assistance, and consider development of resources to help programs with this issue.
- **Promotional Subcommittee** – The overall mission of the subcommittee is to promote the activities of and exposure to the state SBEAPs (507 programs).
- **Technical Subcommittee** – The charge of the subcommittee is to look at technical issues and rulemakings that are of interest and impact to small business and consequently to the Small Business Assistance Programs. Technical issues and interests were approached as a basic building block in the early foundation of the National Steering Committee. Central to

the subcommittee's goals has been the desire to get involved in EPA's rulemakings, policy decisions, and guidance development in the representation of small business interests.

- **Technology Subcommittee** – The charge of the SBO/SBEAP NSC technology subcommittee is to look at technology issues that are of interest to the Small Business Assistance Programs. The subcommittee's goals include addressing issues such as the definition of "technology," and provision of enhanced electronic communication and facilitation.

During the national conference held in Sacramento, California in 2005, further discussion ensued about the future of the 507 Programs. As a result, the group recommended that an additional subcommittee be added to address Program funding issues. The Steering Committee has not yet acted on this recommendation.

### **Compliance Advisory Panels (CAP)**

The Clean Air Act Amendments of 1990 required that each state and territory establish a CAP, comprised of no less than seven legislatively appointed members to:

- Render advisory opinions concerning the effectiveness of the state Small Business Assistance Programs, difficulties encountered, and severity of enforcement;
- Make periodic reports to the EPA Administrator concerning the compliance of the state Small Business Assistance Programs with the requirements of the Paperwork Reduction Act, the Regulatory Flexibility Act, and the Equal Access to Justice Act;
- Review information for small business stationary sources to assure such information is understandable by the layperson; and
- Have the Small Business Assistance Program serve as the secretariat for the development and dissemination of such reports and advisory opinions.

All state CAPs were established by 1994, and most operate within their respective state structure.

#### State Compliance Advisory Panels

The CAPs are state legislatively-appointed bodies consisting of at least seven members whose function is to review, assist, and advise on their state's Small Business Environmental Assistance Program (SBEAP). Appointees are as follows:

- 2 members who are not owners of small business stationary sources– selected by the governor to represent the public
- 2 members who are owners of small business stationary sources– selected by the lower house of the state legislature

- 2 members who are owners of small business stationary sources– selected by the upper house of the state legislature
- 1 member from the state environmental agency– selected by the head of that agency

Some states have chosen to appoint additional members to the CAP and may have more than 7 members. The CAP is an independent entity, operating outside of any agency.

### *CAP Responsibilities*

The official responsibilities of a CAP include:

- Rendering advisory opinions concerning the effectiveness of the state SBEAP, difficulties encountered, and degree and severity of enforcement.
- Reporting on the compliance of the state SBEAP with the Paperwork Reduction Act, Regulatory Flexibility Act, and Equal Access to Justice Act.
- Submitting information to the state SBEAP for the Annual Report as appropriate.
- Reviewing information from the state SBEAP and legislation for small business stationary sources to ensure it is understandable to the layperson.

CAPs are pursuing many diverse avenues in becoming effective partners in the technical assistance programs. The unique roles and specialized skills of the members make them valuable resources in the development of state SBEAPs. Effective communication among the three components of the programs and among all state CAPs will effectively and efficiently define the role of the CAP.

Some of the state CAPs have good connections in their respective business communities. This can be a useful tool for outreach activities. Also, the personalities involved and the level of commitment that individual CAP members bring to their groups can have a profound effect on the panel's effectiveness.

Using the directives outlined in Section 507 as to the role of the CAP, CAP members, along with their SBO and SBEAP, can shape the role of the Panels to best serve the particular needs of their states.

The value-added activities of these CAPs underscore the need for states without operational CAPs to complete the appointment process and initiate the CAP function.

### *Typical CAP Activities*

The statutes that define the mission of the CAP are written in fairly broad terms. They provide a general framework, but very little specific guidance about how the CAP should operate. However, these general directives allow flexibility from state to state as to how the CAP interacts with the SBO and SBEAP.

The following examples illustrate the types of activities a CAP may undertake to fulfill its mission.

- **Determine the difficulties encountered by small businesses in meeting regulatory requirements:**
  - Generate letters/surveys to the largest small business industry sectors to ensure that small businesses understand regulations, determine the cost involved to comply with regulatory requirements, and recommend action where appropriate
  - Review rule proposals and provide comments on behalf of small businesses
- **Determine the impacts of enforcement on the operations of small businesses:**
  - Ensure that any enforcement actions are workable, suitable, and cost effective
  - Address the misconception of small businesses that compliance only requires that they pay or apply for a permit
  - Summarize the difficulties encountered by small businesses in meeting the mandates of the law
- **Determine the effectiveness of the small business program (SBO and SBEAP):**
  - Review draft regulations for effects on small businesses and recommend changes
  - Help determine and prioritize the focus of the state program activities at a given time, based on impending regulations or other anticipated impacts
  - Evaluate promotional information for clarity, interest and effectiveness
  - Assist the SBEAP to implement a program to increase awareness of small business owners of compliance requirements
- **Work with SBO to review information developed by SBEAP for small businesses to ensure it is understandable and suggest changes as necessary:**
  - Ensure that the final documents distributed to small businesses are clearly written in plain English and are useable by laypeople



- **Act as intermediaries to bring small business issues to the attention of the SBO/SBEAP and, in some cases, help defend SBO/SBEAP activities**
- **Assist SBO/SBEAP in developing ideas and approaches to technical assistance, by providing contacts in industry, and by helping them prioritize projects.**

### *Membership*

- **Member Qualifications**

Experience and Qualifications of a good CAP member would include such things as:

- Expertise in the environmental and legislative arenas
- Time, willingness, and interest in volunteering for CAP work
- Enthusiasm, assertiveness, and belief that his/her participation matters to the betterment of small business
- Commitment to attending the meetings and willing to do the follow-up work or “homework” between meetings. This is a very important aspect of CAP work.

### *Chair*

A Chairperson must have time to guide the CAP. Time, expertise, and organizational skills are key. The Chair’s responsibilities include:

- Working with the SBO/SBEAP management to determine meeting schedule. Meetings can be regularly scheduled or based on request and on any developments since last meeting. The SBO/SBEAP support the actual coordination of the meeting.
- Coordinating meeting time and location with the support of the SBEAP
- Helping to format the agenda and bringing topics/speakers to the forum
- Reviewing, editing, and approving the final meeting agenda
- Leading discussions and facilitating meetings
- Reviewing draft minutes prior to distribution to all CAP members. The SBEAP is responsible for taking notes during the meeting and compiling and distributing the minutes

- Serving as primary contact to the public and SBEAP for the CAP
- Communicating with work groups, if any
- Coordinating subcommittees, if any
- Leading by example, and delegating specific duties to others.

### *Vice Chair*

The Vice-Chair typically mirrors the Chair's responsibilities in a learning capacity to ascend to Chair upon term completion, and assumes the Chair's responsibilities in the Chair's absence. State CAPs may choose to not have a Vice-Chair position.

### *Strategies to Expedite the CAP Appointment and Reappointment Process*

CAP members are appointed by the Governor, state legislators, and the head of the state air pollution permit agency. If the CAP has not yet been formed, the SBO and SBEAP may need to write letters and strongly encourage their legislators to complete the appointment process.

Typically, CAP appointment terms last two years on average. When it is necessary to reappoint or fill CAP vacancies, do so in a reasonable time frame. What's a reasonable time frame? As soon as possible! When a CAP member's term is drawing to a close, begin ahead of time to seek a replacement. Recruiting new members and getting a legislative appointment take time. Plan ahead. A CAP vacancy should be filled within a month but may take longer.

A variety of resources can be used to identify potential appointees:

- Individuals serving on other state or local committees also may be interested in serving on the CAP
- Current members can identify colleagues willing to serve
- Trade associations, environmental groups, and small business organizations can recommend active members who may consider a CAP appointment
- The Governor's office may have a section in charge of committee appointments that could identify appropriate candidates
- As the CAP's reputation grows, volunteers may come forward to request an appointment.

Most CAP members are introduced to the CAP and its workings upon appointment. Members of

the CAP should go through an educational process in which they learn about the regulations and procedures that govern the work of regulatory agencies, the work performed by their state's Ombudsman, and the SBEAP.

### *Staggered Appointment Terms*

Staggering appointment terms helps to ensure consistent activity in the CAP and provides for smooth transitions. Terms for CAP members could be any number of years, with members serving staggered terms. A benefit of staggering appointment terms for members is that old members can help train new members, and there will be no lapse in service.

### *Guidelines*

State CAPs are not required to develop guidelines; however, it is advisable that they do so. Several state CAPs currently have guidelines. These guidelines help set the framework or structure for CAP operation and interaction.

## **National Compliance Advisory Panel (NCAP)**

The NCAP was created in 2001 to represent the interests of and provide a national coordination vehicle for state CAPs. The NCAP is supported by the EPA SBO.

NCAP members serve as conduits for information to other CAPs in their respective regions. The NCAP advises the EPA SBO on small business issues and the effectiveness of the Section 507 programs. It reviews proposed and existing regulations as they affect small businesses; ensures such regulations are written in understandable, clear, laymen's terms; promotes establishment of CAPs in states where CAPs do not exist, and assists states in strengthening weak CAPs; acts as a unified voice to the U.S. Congress; assists each state or territory's CAP, Ombudsman and/or SBAP as needed; and advises the Agency of the small business perspective on environmental issues.

### *Mission*

The purpose of the NCAP is to foster small business success through improved environmental performance by:

- Assisting in the development, implementation, and continued improvement of the state CAPs, pursuant to Section 507 of the Clean Air Act as amended in 1990
- Facilitating communication among small businesses, state programs, the SBO/SBEAP, NSC, and the EPA.

- Promoting and marketing existing state program components, including:
  - SBO
  - SBEAP
  - CAP

### *Membership*

Any member of a state CAP is eligible to serve on the National CAP. The National CAP is comprised of regional representatives from each of the ten EPA regions, two members-at-large, the SBO/SBEAP Steering Committee Vice Chair or his/her designee, and EPA representatives. The Steering Committee Vice chair and EPA representatives are an integral part of the NCAP, but serve in an advisory capacity to the membership, and have no voting rights.

The officers of the NCAP consist of a Chair and a Vice Chair, who are elected by the voting members from the voting members. Representation and duties of officers and members are outlined in the National Compliance Advisory Panel Guidelines.

### **Multimedia Issues**

The state SBEAPs are mandated under the CAA to assist small businesses to comply with the Act. However, many programs are finding that their small business customers need information and guidance for all media—water, solid, and hazardous waste as well as air.

At this time, federal funding is not available for programs that wish to expand to multimedia; however, that has not stopped state programs from providing multimedia services. Some programs have expanded their services to multimedia assistance. Small businesses then can go to one source with all their environmental questions. Programs are finding that a “one-stop-shopping” approach, consolidated permitting, and multimedia compliance assistance make sense not only for small businesses, but for the technical assistance provider as well.