

Approved on May 14, 2007

Small Business Regulatory Review Board
February 23, 2006
Room 400 SE, State Capitol
Meeting Minutes

CALL TO ORDER

The meeting was called to order by Chairman Rick Petershack at 1:07 p.m.

ROLL CALL

Board Members Present: David Storey, Dennis Fay, Pat Cooper, Hal Bergan, Karen Vernal, Minoo Seifoddini, Bernard Ziegeweid, James Langdon, Pat LaShore and Rick Petershack

Board Members Absent: Larry Martin, Al Shea, Rep. Mark Honadel, Sen. Ron Brown, Laura Engan, Pat Farley, Jim Bohren and Randy Meffert

Staff Present: Carol Dunn, Jason Vick and Daniel Lindstedt

Others Present: Rosie Greer; Department of Health and Family Services, Aldeen Fjelstad, Paul Braatz, Bob DuPont, Jim Quast and Aaron Olver; Department of Commerce Department of Commerce, Ray Marchiori; SBA Regional Advocate, Dan Schwartzter; Wisconsin PPO Association, Bill Smith; National Federation of Independent Business; Mike Turner; Executive Director, Wisconsin Fertilizer and Chemical Association, John Montgomery, Office of the Insurance Commissioner, Jerry Deschane; Executive Deputy Vice President; Wisconsin Builders Association, and Duane Klein and Matt Laack; DATCP.

APPROVAL OF MINUTES

A motion by Dave Storey, seconded by James Langdon to approve the August 25, 2005 minutes as presented. Motion carried unanimously.

REPORT FROM THE CHAIRMAN

Chairman Petershack introduced Ray Marchiori. Mr. Marchiori is the Small Business Administration (SBA) Regional Representative for Wisconsin. Mr. Marchiori provided an overview of the services provided by the SBA and emphasized the importance of regulatory fairness for small business.

REPORT FROM THE SMALL BUSINESS OMBUDSMAN

Carol Dunn presented testimony guidelines which were developed to assist small business and associations in understanding what types of issues the Board has authority to hear. Carol refreshed the Board on their statutory authority for both new and existing rule review.

RULE REVIEW OF PROPOSED RULES

DATCP 33 – Fertilizer and Bulk Storage

Mike Turner, Executive Director of the Wisconsin Fertilizer and Chemical Association, testified about the small business impact analysis prepared by the DATCP. Mr. Turner stated that the affect on small business was not properly described in the economic analysis. Mr. Turner requested that the Board take action on his industry behalf and provide DATCP with a directive to accurately describe those small businesses and the economic impact in their analysis of the rule. Duane Klein of DATCP provided testimony on how the original impact analysis was prepared, future rule development efforts and the anticipated changes that would presented to the DATCP Board in May. Mr. Turner also requested that the Board require that DATCP have a discretionary enforcement rule in place as required under Act 145. Dennis Fay indicated a Scope Statement on discretionary enforcement would be going before the DATCP Board in April.

The Chairman announced that action on this rule would be taken under the Other Business portion of the agenda due to a time constraint in hearing from the other presenter.

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COMM 2, 20-21, 60 and 61 – Erosion Control, Sediment Control and Storm Water Management for the Construction of Buildings

Jerry Deschane, Deputy Executive Vice President of Wisconsin Builders Association, provided testimony (attached and made a part of the minutes) related to their position on Commerce's non-compliance with statutes by not providing a small business impact analysis for the proposed rule. Mr. Deschane requested that the Board issue a report to Commerce citing non-compliance with the statutes. Bob DuPont of Department of Commerce stated a meeting would be held to address WBA's concerns with rule.

OTHER BUSINESS

Rule Review Instrument

A motion was made by Karen Vernal, second by Dave Storey to accept as a revised the Rule Evaluation Instrument for New or Revised Rules. Motion carried unanimously.

Karen Vernal expressed concern regarding the ability to provide responses to the questions on the Rule Evaluation Instrument for New or Revised Rules. Hal Bergan and Dave Storey concurred that their limited understanding of the various parts of the rules made it difficult to utilize the New or Revised Rule Evaluation Instrument. Rick Petershack stated that the Board would not use the Rule Evaluation Instrument. The Board agreed to send comments to the agencies concerning their small business impact analysis and note other relevant concerns.

Action on Review of Proposed Rules

DATCP 33

A motion by Bernard Ziegeweid, second by Hal Bergan to send a report to DATCP acknowledging DATCP's small business impact calculation error. The Board further requests that DATCP consider the compliance costs of the rule based on the new research and consider methods to reduce the impact on small businesses in the final rule. Motion carried unanimously.

COMM 2, 20-21, 60 and 61 – Erosion Control, Sediment Control and Storm Water Management for the Construction of Buildings

A motion by James Langdon, second by Rick Petershack to send a report to the Commerce acknowledging the agency's non-compliance with the statutory requirements related to the small business impact analysis. The Board further requests that Commerce identify the costs associated with the proposed rule and make a determination about whether a substantial number of small businesses are significantly affected by the rule. Motion carried unanimously.

Bill Smith, National Federation of Independent Business

Bill Smith provided history of the Regulatory Flexibility Fairness Act. Bill Smith introduced Dan Schwartzer, Wisconsin Association of Insurance Underwriter. Mr. Schwartzer spoke about an Office of the Insurance Commissioner rule (INS-9) which did not come before the Board based on an analysis that he felt misrepresented the impact to small business. Mr. Schwartzer stated the cost implications of the rule would affect all small businesses. Carol Dunn was asked to follow-up with OCI regarding this rule.

Meeting Logistics

Karen Vernal discussed the need to better utilize the time during the meeting and suggested developing an evaluation tool to measure the effectiveness of the board. Rick Petershack acknowledged the value of an evaluation of meeting effectiveness. Ray Marchiori stated that he felt the Board was moving in the right direction in terms of meeting effectiveness and achieving the Board's objective.

PUBLIC COMMENTS

None.

FUTURE MEETINGS

Date to be determined.

ADJOURNMENT

A motion was made by Dave Storey, seconded by Bernard Ziegeweid to adjourn the meeting at 3:25 p.m. Motion carried unanimously.

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