

Texas Metals Advisory Committee (TMAC)

Meeting Notes
September 19, 2019

1. Call to Order

The regular meeting of the Texas Metals Advisory Committee (TMAC) was called to order at 9:08 a.m.

2. Roll Call

Present:

Arnold Gachman	Chairman	Metals Recycling Representative
David Bayouth		Metals Recycling Representative
Carlos Breeden		Metals Recycling Representative
Kevin Haynes		Metals Recycling Representative
Jim Shapiro		Metals Recycling Representative
Jesse Fite		Law Enforcement Representative
Robert Brown		Law Enforcement Representative
David Lankford		Industry Member
Jay Alexander	Major	Texas Department of Public Safety
Jeremy Dansby	Program Management Liaison	Texas Department of Public Safety
Justina Bagley		Texas Department of Public Safety

3. Minutes from June 25, 2019

Minutes from previous meeting were approved by all in attendance.

4. Introductions

Major Alexander opened with introductions for new board members and their proxies, formally welcoming David Lankford, Sheriff Waybourn, and his delegate Sgt. Robert Brown, and thanking them for their willingness to serve on the committee.

The new members spoke briefly about their backgrounds within the industry and their intent to help improve it via committee membership.

5. Reporting

a. Active Metal Recycling Entities

Major Alexander addressed a report on the state of, and explanation for, the 2019 DPS statistics. He stated that there had been a loss of approximately 100 MREs, expanding to say numbers were not tracked regarding how many of those 100 MREs had expired, or instead merely merged with previously established recycling entities.

b. Inspections

A total of 500 inspections had been conducted from January to August, which is an increase in numbers due to the Regulatory Services Division adding 50 civilian inspectors. The Department is looking to add an additional 25 to 30 inspectors in the next month.

c. Disciplinary Actions Taken

For the 2019 per annum, 239 final disciplinary actions were taken, a number which may include multiple actions against the same companies. Additionally, this total is not a finalized representation because many ongoing disciplinary actions have not been settled or closed due to litigation.

d. Complaints

Major Alexander made a point to the committee that thanks should be given to those MREs which call in to report so called “bad actors,” those metals recycling entities which are actively breaking the law.

Chairman Gachman asked how many MREs have been revoked or suspended. That information was not available immediately, so the major instructed a program management liaison to follow up with that number for the chairman.

- Post edit: that number was provided in an email to the chairman, showing 4 final orders of revocation and 1 final order of 30 day suspension.

6. Training

Major Alexander then covered the upcoming DPS provided metals training for program inspectors, discussing the training agenda and dates. He extended invitations to whomever from the industry would want to attend with directions for them to contact one of the program management liaisons for more information. The major explained the initial training would be basic and another, more in depth one, would be following.

Sgt. Fite asked if he had a block to instruct in this metals training.

Major Alexander replied that he would like for him to have a 2 hour block to teach on metal theft investigations.

Jim Shapiro asked which day of the training would include the MRE site visit.

Major Alexander demurred, wanting to answer at a later date as the full agenda had not yet been finalized.

7. 86th Legislative Session Update

Major Alexander moved on to explain there was nothing to report concerning the 86th Legislative Session. He stated that there would be changes coming to the administrative rules, however, and he would discuss these with the committee when they had been more fully flushed out at a later date.

Jim Shapiro asked about keeping stats for the next legislative session, and what goals and obligations the industry could meet by tracking numbers.

Various options regarding theft and convictions were discussed, with the consensus being that further discussion would be needed to avoid placing undue burden on company owners and operators.

Chairman Gachman asked how the committee could provide support regarding the sunset rule.

Major Alexander stated that such support was not necessary or even possible for DPS, but it might be necessary in the future for laws which will be in place in 2022 and 2024, laws that ATT wanted in place.

8. Thefts and Cash Transaction Cards

Mr. Lankford indicated that cell tower thefts have dropped, but cash transaction cards continue to be a problem.

Major Alexander explained that MREs are not fully compliant with cash transaction cards and are also not recording application times.

Jim Shapiro stated his concern that he believes 50% of MREs print and immediately hand out transaction cards.

David Lankford stated overall theft rate is down, but cell tower batteries and grounding wires getting worse.

Major Alexander suggested providing a picture or location, and for the MRE to fill out the online form an inspector could respond to in 24 to 48 hours. Major Alexander asked Mr. Lankford if he had pictures of the batteries, and Mr. Lankford responded in the affirmative. Major Alexander said he should send them in so DPS can circulate to MREs and law enforcement.

9. Texas Administrative Code – New Rules

Major Alexander asked if committee members had any major concerns or questions regarding new rules.

Jim Shapiro asked why there was a need to change.

Major Alexander responded that Senate Bill 616 has changes which, while not affecting the program directly, include changes to other programs that require changes to their rules, and the metals program would need to make adjustments to the rules for consistency across all programs in regard to wording and enforcement.

Jim Shapiro, Chairman Gachman, Carlos Breeden, and Kevin Haynes shared concerns about the language on “Ownership” and “Trust.”

Major Alexander offered to schedule a phone meeting with them along with DPS legal staff to go over all of the following concerns: definitions 36.1 (a), (k) - 36.11 (b) (1) - 36.34 - 36.36 - 36.51(3), (4) - 36.53(4) and 36.55.

Chairman Gachman (later supplemented by Jim Shapiro, Kevin Haynes, and David Bayouth) asked about scenarios involving divorcing couples where both owned part of the business or businesses, or couples who co-owned a business but one was convicted of disqualifying offenses after being licensed.

Sgt. Fite shared that the common procedure in Houston was to have the remaining partner(s) re-submit paperwork and have a new license in their name only issued.

Major Alexander requested input from phone attendees.

10. Settlement Conference Procedures

Major Alexander stated settlement conference procedures are being implemented in the new rules in order to alleviate the number of SOAH hearings, as well as in an effort to be fairer to owners/shareholders of companies who may not know that their employees are violating statute/rule.

a. Complaints

Major Alexander provided the website for Reporting Rogue Operators, and encouraged MAC members to share the information with other MREs and law enforcement.

b. Fraudulent Checks

Major Alexander specified MREs must tell DPS more frequently about the problem of check fraud so that stats could be set up to take to legislation. He further emphatically detailed that DPS cannot and will not take a partisan position on laws (existing or proposed) – specifically in this instance regarding check theft fraud and the need to address it legally.

c. Metal Theft Statistics

Major Alexander stated there needs to be a statistical baseline of metal theft across the state, and cumulative totals are needed. Comprehensive qualitative and quantitative data are what are required so that DPS analysts can break down the issue and provide to state legislature an accurate picture of the overall problem and any subsets that it may contain.

11. Fingerprinting

Chairman Gachman asked if fingerprinting from a CHL could be used for MRE licensee applications.

Major Alexander replied that changes were coming, but he didn't think that would be a problem. Major Alexander directed a minute's notation of 36.36(a) referencing 1956.035 on inspection authority, wanting a separate call at a later time with Sgt. Fite to discuss.

12. Ignition Interlock Device Vendors

David Bayouth asked about IID vendors, as they had been referenced in passing earlier in the meeting and he wanted clarification.

Major Alexander explained about ignition interlock devices, where a judge orders someone to have interlock device to blow into before starting their vehicle, and that there are roughly 50 vendors and DPS monitors them.

13. Future Agenda Items

No comments.

14. Adjourn

Major Alexander asked if there were any other issues for discussion, and attendees were in agreement that business was concluded. Meeting adjourned.