

CITY OF PHILADELPHIA

DEPARTMENT OF PUBLIC HEALTH AIR POLLUTION CONTROL BOARD

The March meeting of the Air Pollution Control Board was held Thursday, March 5, 2009, at the Municipal Services Building, 1401 John F. Kennedy Boulevard, 16th Floor, Room Y.

Eddie R. Battle, Chairman, presided:

ATTENDING: Eddie Battle, Acting Chair of the APCB
Joseph O. Minott, Member, APCB
Dr. Robert M. Patterson, Member, APCB
Nan Feyler, Chief of Staff,
Health Commissioner's Office
Tom Edwards, Member, APCB
William Miller, Member, APCB
Eric Allen Thumma, Member, APCB
Dr. Arthur L Frank, Member, APCB
Dr. Donald Schwarz, Member, APCB

STAFF: Thomas Huynh, Director
Air Management Services (AMS)
Henry Kim, Chief, Program Services, AMS
Roger Fey, Chief of Facility Compliance, AMS
Alison Riley, Voluntary Programs Coordinator, AMS
Edward Braun, AMS Program Manager
Edward Wiener, Acting Chief
Source Registration, AMS

GUESTS: Patrick O'Neill, Law Department
Eric Cheung, Clean Air Council
Dr Giridhar Mallya, Director of Policy & Planning,
City of Philadelphia, Department of Public Health
Dale Kaplan, PA Dry Cleaners Association
Max Itajuirre, Protection Cleaners
Carol Memberg, Pa Dry Cleaners Association
Jon Meljer, Drycleaners & Laundry Inst.
Nora Nealis, National Cleaners Association.
Jason Kim, Savoy Cleaners,
Korean-American Association
Carla Waite, Law Department
Tom McAllister, PDCA

Doe Lee, Cleaner
Joe Lattanzio, Dry Cleaner
Steve Risotto, HSIA
Tom Weir
Richard Bell, DSLP
Bill Danagon, PA SBCA EMAP
Nok You, Kim Dry Cleaners
Kitto Hahn, Dry Cleaner
Sang Soo Sui, BNJ Cleaners
John Lim, Dry Cleaner
Je-Wan Uh, Equipment Company
Jang Hee, KTH
Dg Yung Lee, Dry Cleaners
Kwaan kio Yim, Dry Cleaner
B Yung Yuiyulm, Royal Cleaners
Jea S Dyo, Sansom Cleaners
Jon Edelstein, Brownfields Coordinator,
City Rep/Commerce
Shinjoo Cho, Business Development Liaison,
Commerce Department, City of Philadelphia
Yeong Kwok
Yun S Silim, Flush Cleaners
Isaac An, DLI
Joe Man, CDC
Young Nam, KDCA
Allan Wang, Major Common Asian American Affairs
Jen K lee, Dry Cleaner
Sang Jeon, J Brite Cleaners
In Eium, Felix Cleaners
Janne Park
Ginan Kim, Riff Cleaners
Kwang Im, Rose Cleaners
Michael Dimitriyadis, World Business Exchange, Inc
Chang Park, Sunrise Cleaners
Leo Park, Pelham Plaza Cleaners

1. WELCOME

Patrick O'Neill speaks on how a regulation from the Air Pollution Control Board becomes an official regulation of the Department of Public Health. He also states that comments made today are recorded for the record of the Air Pollution Control Board; it is not the official comment on the regulation.

2. Action on Minutes

Change to the minutes – page 11 and the top of page 12, concentrations of PERC, it should read micrograms and not milligrams.

Minutes were accepted as corrected.

3. Program Update

Mr. Minott: In terms of the regulatory services activities with 299 citizens' complaints, are those clustered or are they really spread throughout the city? In other words, are we looking at a particular area of the city that's producing more of those complaints or is it all over the place?

Mr. Huynh: It depends on the nature of the complaint. If you look at noise mostly it would be in Center City. If you look for odors it would usually be in certain parts of South Philly and then in the Bridesburg area. And maybe we can pull more information for you depending on the nature of the violation and complaint.

Mr. Minott: Now the noise, is that a party late at night or machinery? What type of noise complaints? Is it people standing outside of a bar?

Mr. Huynh: The noise has to be mechanical, or people using instrumentation like amplified sound. Most of the noise we have is trash collection in the early morning or very late at night.

Mr. Minott: Okay. And then talking about the budget – I am extremely concerned about Air Management Services' budget. I am obviously cognizant of the fact that the mayor has told us that there are major, major funding issues for the City. And so, I think we need to take that seriously. On the other hand, I'm also aware that if you cut AMS's budget it's about a one to two or one to three for every dollar you get from the city you lose two in federal match dollars. I guess I would want to see if there's interest at the Air Pollution Control Board to send a very respectful letter to the mayor making that point. Just to make sure that whoever is doing the cuts that they are aware that you are not just cutting one dollar from the City you are really cutting three dollars from the City.

Ms. Feyler: If I could just respond on behalf of the City. Unless I wasn't listening carefully, there is no plan at this point to make that kind of cut. And I think – while we can talk and we have been doing some public forums about the budget – it is very, very, very serious. Just by way of background, the Department of Public Health has had to submit a 10%, 20% and 30% cut. We are very cognizant of where we don't put in general funds that match the maintenance of effort for grants we lose that money.

So, while I think you do want to play that role for us, I mean, I appreciate it, but I think that as of today that's not what we're looking at –

Mr. Minott: Are you suggesting that at this point such a letter from the Board would be premature? Or do you think it would be helpful?

Ms. Feyler: While I think it certainly never hurts. What I would suggest, frankly, is that perhaps someone from the Board could be in touch with Dr. Schwarz, Deputy Mayor, and Health Commissioner – who will be here later – and he can give you an update, and also ask about whether or not or when it would be useful. I know that there are concerns we have around Federal funding, State funding. The process is the Mayor is going to announce his budget March 19th, I believe, and then there will be City Council. So it is very important that we don't let Air Management and Environmental Health Services be impacted. It just isn't right now. I would say there isn't any harm, but I'm sure Dr. Schwarz would be happy to talk to anyone about what the Board should do.

Mr. Minott: Let me then propose that we designate someone to meet with the Health Commissioner to talk to him about the budget cuts and see if it would be helpful to us, as a Board, to write such a letter.

Mr. Battle: That's fine. Certainly myself, you –who else would like to –

Ms. Feyler: Well, if I could just warn you he's booked from like November. So, you want to figure it out when you talk with him today – but I think it's a great idea.

Mr. Battle: Okay, you and I, Joe.

Are there any other comments on Tom's report? Yes, please.

Mr. Miller: On the Pennsylvania Sampling and Testing Fees, is there a coordination requirement on the part of the State and the City to have the same regulation?

Mr. Huynh: Currently, we enforce the Pennsylvania regulation. We can charge the permits and plan approvals consistent with the State. But there is another fee when we send out people to do stack tests. We can enforce it, but we cannot implement it on a fee.

Mr. Miller: So, it is not part of the 127?

Mr. Huynh: No, it's 139.

Mr. Miller: And the fees have to be the same?

Mr. Huynh: Right.

Mr. Miller: And the City collects the fees?

Mr. Huynh: The City collects the fee and that fee is restricted under the Air Program.

Mr. Miller: It is restricted only to be used on the Air Program?

Mr. Huynh: Yes.

Mr. Minott: Can I follow up on what Bill is talking about – Is the City limited to those fees as they're set out in the State regulation, or could we have the City choose to go a little higher?

Mr. Huynh: No. It's whatever they say. It is restricted by the State.

Mr. Minott: So, it's whatever they say you charge, you charge.

Mr. Huynh: Yes.

Mr. Minott: No more, no less.

Mr. Huynh: Right.

Mr. Battle: Any other questions on Tom's report?

Mr. Weir: You indicated that there are two other monitoring sites to be set up, one at the Southwest Water Treatment and the other is Pier 70, are they going to be in the end of this month?

Mr. Huynh: Tom, the one at the airport within the next three months. We are not able to meet the commitment with EPA because right now we have to check with Procurement to buy the shelter, and when we have the shelter we are going to do that first.

The other one is an issue with the attorneys, so right now we still haven't gotten the site. I think they have agreed to let us put up the shelter, but the negotiations have been stopped because one of the attorneys has left the City.

Mr. Weir: I was just asking because is there a way to move this along?

Mr. Battle: I don't want to make a comment at this time. We have a full agenda today, and I want to stay focused on the agenda item. Thank you.

4. Old Business

Mr. Fey: Good Afternoon. My name is Roger Fey, Chief, Compliance Enforcement section of Air Management Services. This presentation is an update, basically, on our proposed emergency generator and fire pump regulation for Philadelphia.

a. Emergency Generator and Fire Pump

I'll go through a little bit of background here.

Philadelphia is not meeting its Air Quality Standards for Ozone. EPA may be unable to approve the Philadelphia State Implementation Plan for Ozone. And Nitrogen Oxide emissions are 75% higher on Ozone exceedance days than non-ozone days.

On April 23, 2008, AMS issued an order to restrict emergency generator testing when the Air Quality Index is greater than 100.

On August 5, 2008, the Air Pollution Control Board directed Air Management Services to draft a regulation to govern the use of generators on Air Quality Action days.

On November 5th, Air Management Services presented to the Board a proposed regulation that would limit operation of emergency generators and fire pumps during the ozone season in conjunction with Ozone Action on actual Ozone Action days.

During that meeting there were some comments and concerns about potential conflicts with the regulation with our existing fire code. So we went back and consulted with the Fire Department on November 14th and confirmed what those potential conflicts were and worked out some new language in the regulation.

So I'll go into, first, a general summary – these are the items in the regulation that haven't changed.

Proposed Emergency Generator & Fire Pump Regulations

There will be no testing or tuning during forecasted or actual Air Quality Action Days, that's one requirement in the regulation. Testing and tuning is permitted during ozone season between 5:00 PM to 11:00PM, if not on an action day. Permitted time may be extended to 7:30 AM if compliance with Philadelphia Noise Code can be demonstrated.

And now here is a list of revisions that we made based on our meeting with the Fire Department and these are in your copy of the regulations:

- definition of an emergency repair
- definition of a fire pump
- exemption for emergency repairs
- testing of fire pumps permitted after six consecutive air quality action days

Mr. Fey: Any questions?

Mr. Minott: Roger, it all looks fine. I guess the cynic in me would want to know whether you feel or Air Management Services feels that exemption is so broad, or could be interpreted in such a broad way that it's such a giant loophole, or do you feel it's fairly tightly drawn so that it's something you could live with?

Mr. Fey: The main spirit of the regulation is for emergency generators. So, we are limiting it at this specific time for the equipment. I think with the record keeping requirements, as long as they're keeping the records, we can show compliance with the regulation. Hopefully, through that enforcement process, we can make sure that they're properly meeting the requirements.

Mr. Battle: Motion has been made and seconded. Those in favor of adopting the controlling of emissions from emergency generators and fire pumps, say I. Opposed?

Motion approved.

b. Dry Cleaners

Mr. Battle: Next on the agenda are dry cleaners. We created an ad hoc committee to look into the regulation of perc in dry cleaners. And at this time I would like for Eric, who is one of the members of the ad hoc committee to give a report.

Mr. Thumma: There were four members of the ad hoc committee from the board designated, Mr. Battle, Mr. Minott, Mr. Edwards and myself, Eric Thumma. And we held three meetings of the ad hoc committee which was established on December 20th. The first meeting was on January 7th and members of the dry cleaning industry were invited to that meeting and did provide us with feedback and comments on the rule extracted at that time.

On January 21st the ad hoc committee met again and considered the comments provided by the industry. And a final meeting was held on February 7th with Dr. Mallya, who is the Director of Policy and Planning, and he provided the Board with his insight and additional views on the regulation at that time.

We gave consideration to the industries' comment and to Dr. Mallya's presentation informing the regulation that is before the Board today. And the recommendations of the ad hoc committee are consistent in today's proposed regulations. Thank you.

Mr. Battle: Thank you, Eric. Are there any other comments from the ad hoc committees' members?

Okay. Tom, could you proceed please.

Mr. Huynh: Roger, could you make your presentation about the new regulation.

Mr. Fey: Hello, again. I'll start off by reviewing the course of events that led us to this point today.

- September 4, 2007, the Air Pollution Control Board (APCB) directed Air Management Services (AMS) to draft a regulation to control dry cleaning facilities using perchloroethylen (PERC) as a cleaning solvent.
- August 5, 2008, the draft regulation was proposed to the APCB.
- September 10, 2008, the APCB met with the Pennsylvania and Delaware Dry Cleaners Association (PDDCA).
- September 16, 2008, AMS met with the Korean Dry Cleaners Association (KDCA).
- October 16, 2008, the Pennsylvania and Delaware Dry Cleaners Association emailed its draft version of the proposed regulation to AMS.
- October 24, 2008, AMS revised the draft regulation for the APCB's consideration.
- November 5, 2008, the APCB delays the vote on the regulation and forms an ad hoc committee to review the October 24, 2008 version of the proposed regulation after hearing comments from the Dry Cleaning Association.
- January 7, 2009, the APCB ad hoc committee has their first meeting and entertained comments from PDDCA and KDCA, as well as other industry groups.
- January 21, 2009, the APCB ad hoc committee met a second time and made some revisions to the proposed draft.
- February 20, 2009, the ad hoc committee had their final meeting to finalize the draft regulation.

Now, we will go over a summary of the Proposed Regulation as it appears now.

- No perc dry cleaning equipment shall be allowed to operate in a co-residential or co-sensitive facility after December 31, 2013.
- No perc in any new co-located facility or in conjunction with any new or replace or additional cleaning facility at any co-located facility.

- No perc dry cleaning equipment 15 years or older operating in a co-located facility after December 31, 2013.
- Stand-alone facilities have two years to upgrade to a fourth generation machine that also has spill containment.
- A vapor barrier or professionally designed exhaust system must be installed within 6 months from the effective date of the regulation.
- The Department may collect and analyze an ambient air sample for perc concentration during the operation of dry cleaning equipment at an occupied space co-located to the facility. When perc exceeds 40ppb, the facility has 30 days to take corrective action if it exceeds 200 ppb facility must be shut down.

(A copy of the PERC presentation is attached)

Mr. Battle: Are there any questions from the Board?

Mr. Minott: Just a general question, in the body of the regulation itself it talks about -- there's a footnote regarding the 25- foot barrier -- page 7, "25-foot buffer between processed ventilation emission points and all openings and nearby occupancies, the Department may require this distance be more than 25 feet based on computer modeling." And then that makes a reference to screen pre-modeling. Is that in the nature of a requirement or is that a suggestion?

After some discussion on Screen 3 modeling footnote there was a motion put forward which was seconded and voted on by all Board members to remove the footnote.

There is a discussion on Definition #8 and its inclusion to page 6. It was decided to allow some time to look into the definition and then come back to it following Dr. Mallya's presentation.

Mr. Battle: I would now like Dr.Mallya to come forward to give his presentation.

Dr. Mallya: Thank you to the Board and thank you to everyone for coming here today and hearing me on this piece.

My name is Dr. Giridhar Mallya, I am the Director of Policy and Planning for the Department of Public Health. I'm a family physician and a health policy researcher.

What I would like to do for you is just review some of the basics of perc or perchloroethylene, review the health effects in general, and then focus on cancer and noncancer health effects, and talk a little about the evidence for these health effects. And lastly, just to put the Air Pollution Control Board's proposed guidelines in a larger context, one key issue is that the Department of Public Health a crucial role of ours is to educate the public on public health and health issues. Much of this information came from a few

sources. One, our own literature review of these issues, and, two, lots of input from local, state and national experts.

So, let's talk about perchloroethylene first. It's called perc for short. It's clear, colorless, nonflammable chemical. It has a slightly sweet odor that readily evaporates at room air. It is used in dry cleaning and metal degreasing, and it's also used to make some consumer products like spot removers and wood cleaners.

Humans are primarily exposed to perc through inhalation. They can also be exposed through ingestion of the liquid or through contact with the liquid. But inhalation, breathing it in, is the main route of exposure. Once inhaled, most perc is excreted from the body within a few days.

Next I want to talk about the health effects of perc. When we talk about the health effects we can talk about effects and non-cancer effects. And we can also talk about effects from short-term exposure and effects from long-term exposure.

In terms of non-cancer effects, these effects are based on really strong animal and human evidence.

When we talk about cancer effects, there is good, strong animal evidence and limited human evidence.

Let's move to short-term exposure briefly. Short-term exposure to perc can cause effects on mucous membranes, the respiratory system and the neurologic system. So, to explain that a little more clearly, it can cause symptoms like a runny nose, irritated eyes, coughing, nausea, also, dizziness, headaches, confusion, difficulty walking and talking, visual changes, and even unconsciousness. So, those are short-term effects.

In terms of long-term exposure you can have the following effects; dysfunction of the kidney, liver or neurologic system, including changes in vision – like the ability to tell the difference between different colors or contrast – and you can also have cancers. There are cancers. There are associations between long-term exposure to perc and certain cancers, including cancers of the liver, esophagus and cervix and leukemia and lymphomas.

So, let's take a step back and look at some of the evidence for the non-cancer health effects. The main agency that has given us a lot of good information on this is called The Agency for Toxic Substance Disease Registry (ATSDR). It is part of the Department of Health and Human Services of the Federal Government. It has a congressional mandate and I just want to read that for you because I think it's important.

“The Agency for Toxic Substance Disease Registry serves the public by using the best science, taking responsive public health actions in providing trusted health information to prevent harmful exposure in disease related toxic substances.”

Their last major review of perc was in 1997. Through that review they established what is called, a minimum risk level (an MRL). A minimal risk level is an estimate of an imminent exposure to a hazardous substance, in this case perc, that is likely to be without appreciable risk of a health effect. So, in other words, if you are exposed to levels below that threshold or guideline it is very, very, very unlikely that you will have health effects. But, at levels above that guideline there is a real potential for harm. So, this review in 1997 established two MRLs. One was for acute exposure and acute exposure minimal risk level was 200 ppb. So, acute exposure is defined as continuous exposure between one and fourteen days. Acute MRL here is 200ppb, so that means if you're exposed to levels less than that it is very, very unlikely that there will be non- cancer health effects. But at levels above that, the levels above 200, there is a potential to cause harm.

TAPE STOPPED AND DID NOT PICK UP UNTIL AFTER A TEN MINUTE BREAK

MR. BATTLE: We will listen to comments from six people today with a time limit of three minutes each.

MS. MEMBERG: My name is Carol Memberg, and I am Executive Director of Pennsylvania and Delaware Cleaners Association. We are all really aware of your commitment to ensure a clean and healthy work environment for the people who work in dry cleaning plants. Since the inception of EPA, dry cleaners have always have been at the forefront of trying to get clean air. And when the regulation first came up, all the big companies sent their lawyers to say go away, the dry cleaners were the only ones to say, tell us what to do? We want to live in a clean environment. We work in places. Tell us what the rules are and we will try and follow them. We've always tried to develop rules and we've worked with all kinds of boards to get rules that would allow dry cleaners to live in their plants, work in their plants and provide a safe environment for everyone involved in it. And we are certain this can be done. We know that we can provide safeguards without bankrupting the company.

In order to help meet the goal, we did what the board asked and provided changes to the original draft. Here are some of the ideas that we proposed:

We suggested the installation of a high-tech ventilation system which can be as effective as or more effective than vapor barriers. This would allow some flexibility to get the same results. We know that maintenance is the real key to a clean environment. That's the thing that helps to keep the vapors from escaping.

We also know, for instance, the door gaskets are very hard to see where vapor spots occur. In order to prevent that, we have suggested that these gaskets be replaced every two years.

Because we know that Philadelphia is not in the position to have inspectors coming to every plant on a regular basis, we recommended that dry cleaners themselves pay for a mandatory inspection, routine maintenance inspection to ensure that their plants are in compliance.

And there are many ways that this can happen. But if these plants are inspected properly and maintenance is kept up to date vapor emissions are very, very low.

We thought maybe it's not necessary, but we know that people feel this strongly about this, we were the ones that added the idea of sensitive receptors.

These changes will allow plants to function while assuring clean air and a safe environment for those inside the plant and those who live along side of it.

All of these suggestions were accepted, however, instead of using them to replace the original ideas they were tacked on giving another layer of difficulty and another layer of bureaucracy for the plants to muddle through. And as a result, in the long term, after they make these expensive changes, they may still not be able to function.

So, we are asking you again to use the technology that is currently available to achieve your goals. By doing so, the business will continue to operate and contribute to our society.

Board discussion on number of speakers and time to be allowed.

MR. BATTLE: We will stop at quarter after 4.

MR. RISOTTO: My name is Steve Risotto, and I am Executive Director of HSIA, and I am representing the manufacturers of perchloroethylene. I want to be brief and I want to focus on two new requirements in this latest draft, ones that we haven't seen before, and that you haven't heard comment on before.

One is the monitoring authority under Section 5, which establishes indoor air standards of 40 and 200 ppb, the first such standards in the country. And the second is the responsibilities under Section 8 for property owners and managers.

I appreciate Dr. Mallya's testimony previously, but there a couple of things I do want to note, specifically, under ATSDR's description of MRLs, ATSDR says, "it is important to note that MRLs are not intended to define clean up or action levels." So, you are violating their recommendation by setting a standard with these numbers.

The other thing I want to know, and it's also important and I want to highlight, Dr. Mallya said these are based on continuous exposure. The 200ppb is for continuous exposure from one to fourteen days. The 40 is from one to over a year, 24/7 for 365. That is ludicrous to make those assumptions for a co-commercial, for a deli, for a pizzeria, because nobody is going to be in there continuously.

So, what you are doing is creating standards that are far beyond the absurd in terms of health protection.

Now, in terms of the provisions, you are including in here the responsibility of the property owner and manager for maintenance of that cleaner. You are asking the property

owner/manager to micromanage that cleaner. What you are going to do is – and I didn't see that you talked to the property owners and managers, so they don't have a clue that this is coming, so watch out because they are much more powerful than the dry cleaning industry. In addition, the first thing they are going to do is they are going to break the lease of that cleaner and get them the hell out of there. Thank you.

MR. KIM: Before last night, I was trying to prepare a speech, if I may, to talk about our direction, our dry cleaners as a whole. We were begging for a board to consider not only to focus on the environmental issue but also on the economic issue. Right now the economy is really bad. We are making a lot of changes and you're making dry cleaners do a lot of changes and it costs a lot of capital investment. I'm looking at a really bad timing, and second of all, we are providing a lot of different suggestions that could work, but for some reason the Board is not considering them at all. We do not know the reason why you're not accepting our proposal.

At the last August meeting when you told us we needed to provide a proposal, but then there was never a follow up. Instead, contents were taken out of ours and added on to the revision of the Board. And then at the November meeting, as far as I understand, Ms. Feyler requested a small group meeting. So, an ad hoc committee was formed and we were there. The only thing we did was – just like now -- we spoke and we left. There was no negotiation, no reason why some of our comments are not being accepted. We don't know what is going on here except that you somehow come up with the rules and regulations. As late as last night, the latest revision I received by email. So, I'm not even sure whether I can plead for any consideration for dry cleaners. I don't think this is going to work. But this is what I will do as a leader of an organization, I'm going to go back and tell my members that there's no hope in the City of Philadelphia running a business. So, what I am going to tell my members is that there isn't any opportunity. You have to reduce your operation and dry cleaning business. If they have to change the machine by your requirements and all the rules and regulations that they have to comply the cost is going to be a tremendous amount of money. Why should they reinvest their capital in the City of Philadelphia when outside the county, outside the city limits there's no restriction other than a –

MR. BATTLE: Thank you, thank you.

UNNAMED SPEAKER: To follow-up on Jason, what we have not seen from all of this is a rationale and scientific data presented to us behind the decision to accelerate the compliance dates for dry cleaning machinery using perc different than what the Federal NESHAP have come out, and we would like to continue to impress upon you that that's an important part of why the City has decided to make us the most onerous and regulated part of the whole country.

We would also like to review the economic impact as Jason has said, if you look at 45 stores being put out of business by 2013, if the average store does \$450,000 you have a loss of revenue of \$20 million dollars, four to five people per store, you go 225 jobs lost. I know the City has such a great economic situation that a couple hundred jobs doesn't mean anything to the City of Philadelphia, but to us small business people it means a lot.

I would like to continue to impress upon you not to vote this regulation in, to just defeat it completely. Thank you.

MR. MEIER: Thank you to the Board for allowing me to speak. We had really no dialogue. What we had was, we speak, they take it they add it on to our proposal, now we'll have a proposal that will surely put many of the people in this room out at some time.

We already have a NESHAP provision that's out there. It was reviewed after ten years and re-finalized back in 1996, which is what we are living by today.

Industry's proposal protects human health in the environment. Industry did not nor has it ever attempted to negotiate a role that does not accomplish this goal. In fact, this proposal that industry set out is one of the toughest in the United States. The difference between the industry's proposal, which is being put out right now by staff, is that our proposal, while tough, will keep most dry cleaners in business, not all of them because we also have the economy to look at as well. They are going to have to do a lot of work to stay in business under the industry's proposal.

The difference between industry's proposal and what staff has put out is that staff's recommendation is akin to using a flame thrower to light a candle. It is an absolute, complete overkill. We have presented one of the toughest regulations in the United States.

What continues to come, as well, is the use of alternative technologies. Somebody can just go in and put another machine with another technology in there, and that is going to be tougher and tougher to do. Right now the fire standards which are mostly converted to the International Fire Code in the United States, is preventing all class three solvents, the biggest alternative being used in this country, from being used without a sprinkler system. You have insurance concerns, you have liability concerns of people who are renting the property to the dry cleaners, and now just recently, within the last two months, there was lawsuit brought in part by the Resource Defense Council against the South Coast Air Quality Management District as we sit here talking about non-attainment issues and VOCs. That lawsuit has prevented dry cleaners in the State of California from putting in a hydrocarbon machine for the next 12 months. That's going to go all the way over here. This is not a singular issue for the State of California. It will go in California – and this is after they said there are all kinds of alternatives out there – not true. All the alternatives had their issues, they have their risks. This regulation, if it goes through, will put many cleaners out of business. Make no mistake about it. The industry's proposal is one of the toughest in the United States. It's a hard working proposal, one that I wouldn't have thought about until I started coming to the meetings in Philadelphia. Thank you.

MR. CHEUNG: My name is Eric Cheung and I am senior attorney with the Clean Air Council. We are a nonprofit environmental group dedicated everybody's right to breathe clean, healthy air.

MR. BATTLE: Let me interrupt. There is an association with the speaker and board member Joe Minott's organization. Joe, you are head of the Clean Air Council?

MR. MINOTT: I am.

MR. BATTLE: And as you mentioned, you are senior attorney of the same organization. So, we want everyone to realize the relationship. Proceed.

MR. CHEUNG: The Council agrees and supports the decision by the Air Pollution Control Board to regulate perc for dry cleaning establishments within the city limits. As mentioned before, perc is classified by the United States Environmental Protection Agency as a probable human carcinogen. While the Council understands that this is not the official public comment. We did want the Board to know that there is strong support for this proposed regulation in the environmental health community. We are particularly concerned about the emissions of perc from dry cleaning establishments that share a wall with residences or businesses.

I think the case for protecting residents is self-evident. Protecting workers who are employed in businesses who share a wall with the dry cleaner using perc is just as important. Employees of such businesses could be working next door eight hours a day, five or six days a week during the hours that the dry cleaners are most likely to be using their perc equipment. We cannot know the age and health of those next to the dry cleaning establishment and the Council therefore urges the Board to adopt regulations that protect the most vulnerable.

The Council will be testifying more fully at a public hearing and I urge residents to attend.

MR. LATTANZIO: I'm a dry cleaner. I'm 55 years old. Perc is poison. I will tell all of you in the room it's poison. My father has a bag and my mother died of amyloidosis. Everybody knows it's no good. They come over here, they're nice people, honest working people. They don't have \$50,000 for a cleaning machine. They are trying their best to survive. The gentleman here said the times are hard. This is hard on everybody. If you give them ten years, the machines are dead by ten years. They will have to buy a different one and everybody's happy. Perc is gone forever. California doesn't have it, other states are getting rid of it. You will be with everybody else. You will have done your job. They will have to get rid of the machines by 2018. Thank you.

MS. NELLIS: My name is Nora Nellis, and I'm with the National Cleaners Association and I feel your pain. My mother died of kidney cancer, my father of lung cancer and neither of them were dry cleaners.

We would all love to have someone to blame for things that go wrong in our lives. I heard it referred to a couple of times as a probable carcinogen. My understanding of perc is that it is so ambiguous on the human side that rides on the continuum between possible and probable. But, having said that, there's a couple of things I want to address, because in case my accent didn't give me away I'm from New York, and New York came up a couple of times here.

In 1992, 93, 94 and 95, New York went down the road you're traveling now 18 years ago. New York investigated, New York checked, New York tested, New York did everything under the sun. The New York experience predicted that you would have found perc vapors in the daycare center in the facility located next to a cleaner. Why? You've got a common pipe chase. Why? Construction is cosmetic. It's not vapor tight. I'm not in the least bit surprised. You had a hole around the pipe feeding the toilet in that daycare that was two inches. There was dry rock wall that went straight over to the dry cleaner. It would have been amazing if you didn't come up with a hundred parts per billion. Now, the irony is the first three consecutive days you people tested you had single digits in that bathroom. Tell me how all of a sudden we go back three weeks later and three weeks after that and three weeks after that we got forty, fifty times that level. I mean, I would love to see the documentation on that test. You've got a drop ceiling, you got drywall between the cleaner and the daycare, and what kills me about this – and Mr. Minott said this – you've spoken about it a number of times, anytime you want to go out and inspect a plant with people who have been there and done that and will be more than happy to help you solve the problem. Not create an issue, but solve the problem. We would be happy to go with you. Not once did anybody from AMS or anyone else on this Board said come out with us, show us what you're talking about. It's appalling that you people would sit here and say we've been talking to industry. No, we've been talking. You've been sitting. And it's like a fore gone conclusion that this is going to go through. New York solved its problem 15 years ago. We don't have elevated levels any more. I spent a day in Albany where I went into legislatures who were giving me hugs and kisses. I come in here and feel like a pariah, and I'm a good person. I don't want to see those kids exposed to one iota of perc that they don't have to be. But I'm more interested in the kids. If I had seen those high levels that second time I would have tried to solve the problem. I would have at least got them to plug up that hole and not leave it there. My three minutes are up. Thank you.

MR. BATTLE: Is there a motion from the board?

UNAMED: I move that we adopt the regulation as amended by Patrick O'Neill.

MR. BATTLE: Is there a second? Having none the motion fails. Any additional comments before we move on?

5. New Business

Next meeting of the Air Pollution Control Board is scheduled for July 22, 2009 at 2:00pm.

6. Adjourn

