

0001

1 CITY OF PHILADELPHIA DEPARTMENT OF PUBLIC HEALTH
2 MEETING OF THE AIR POLLUTION CONTROL BOARD

3 * * * *

4 Thursday, June 24, 2010
5 Philadelphia, Pennsylvania

6 * * * *

7 BOARD MEMBERS PRESENT:

- 8 EDDIE R. BATTLE, Chairman
9 NAN FEYLER, JD, MPH, Chief of Staff, Health
10 Commissioner's Office
11 WILLIAM C. MILLER, PhD, PE
12 THOMAS V. EDWARDS
13 JOSEPH O. MINOTT
14 ERIC THUMMA

15

16 ALSO PRESENT:

- 17 THOMAS HUYNH, Director of AMS
18 ALISON RILEY, AMS
19 PATRICK K. O'NEILL, Deputy City Solicitor
20 HENRY KIM
21 NORA NEALIS
22 JOHN MYER
23 JASON KIM

24

0002

1 HELD AT:

- 2 Municipal Services Building
3 1401 JFK Boulevard, 16th Floor, Room Y
4 Philadelphia, Pennsylvania

5

6 REPORTED BY:

- 7 Molly Hallinan, RPR

8

9

10

11

12

13

14

15

16

17
18
19
20
21
22
23
24
0003

CLASS ACT REPORTING AGENCY

Registered Professional Reporters

1420 Walnut Street	133 Gaither Drive
Suite 1200	Suite H
Philadelphia, PA 19103	Mt. Laurel, NJ 08054
(215) 928-9760	(856) 235-5108

1 (Whereupon, the proceedings commenced at
2 approximately 2:06 p.m.)
3 CHAIRMAN BATTLE: Good afternoon, everyone. I'm
4 Eddie Battle. I chair the Air Pollution Control Board.
5 Today is Thursday, June 24, 2010. It's two o'clock,
6 and we are in session.
7 I'd like to make two announcements: One, on
8 Sunday, March 14th of this year, Dr. Robert Paterson
9 died peacefully at home at the age of 63. Dr. Paterson
10 was a member of the Air Pollution Control Board since
11 1999 and was instrumental in the passage of several
12 important legislations. Tom Huynh and myself -- I'm
13 sorry -- Tom Huynh and I attended the memorial service
14 for Dr. Paterson on March -- I'm sorry -- Friday, March
15 26th of this year.
16 Also, number two, on June 7th of this year, the
17 Health Commissioner submitted the name of Dr. Shannon
18 P. Marquez, Executive Associate Dean of the University
19 of the Sciences in Philadelphia to the Mayor for
20 appointment to the vacant position on the Air Pollution
21 Control Board. Dr. Marquez has over 18 years of
22 experience in the environmental health field and is a
23 member of -- I'm sorry -- is a member of the Board of
24 Health. She's not here today obviously, but we expect

0004
1 to see her at the next meeting.
2 I would also move on from that and ask Bill --
3 we'll introduce ourselves and members of the Board.
4 MR. MILLER: Bill Miller, Temple University.
5 MR. THUMMA: Eric Thumma, Board member, citizen of
6 Philadelphia.
7 MS. FEYLER: Nan Feyler, Department of Public
8 Health.
9 CHAIRMAN BATTLE: You know me.

10 MR. MINOTT: Joe Minott, Board member.
11 MR. HUYNH: Tom Huynh, AMS Service Director.
12 CHAIRMAN BATTLE: Tom is not a member of the
13 Board, but he is -- he's Director of Air Management
14 Services as he said.

15 Let's move to number two, minutes. Have you had
16 an opportunity to review your minutes? Do you have any
17 additions or corrections to the minutes? If not, I
18 have just one question on the minutes. On page four,
19 you see where it says number five, new business and
20 above that Ed Battle? That second sentence, "We have
21 six members present," then this is my question: We
22 have a total of 12, what is that in reference to?
23 Then, should we strike that because I don't know
24 what --

0005

1 MS. FEYLER: The silence is deafening. I'd strike
2 that.

3 CHAIRMAN BATTLE: Are there any other additions or
4 corrections to the minutes? Then with your permission,
5 we'll accept the minutes with that minor correction.

6 Tom Edwards, welcome.

7 MR. EDWARDS: Thank you.

8 CHAIRMAN BATTLE: Tom is also a member of the
9 Board.

10 Number three, program updates. Tom?

11 MR. HUYNH: Good afternoon, Chairman Battle,
12 members of the Board. My name is Tom Huynh, Director
13 of AMS.

14 I would like to report to the Board our progress
15 in the last meeting in February 2010. So far, we have
16 three unhealthy days for ozone, May 1st, June 19th and
17 22nd. As you know, Philadelphia is classified at
18 non-attainment area for ozone particulate matter of
19 less than 2.5 microns for 24 hours and per annual.

20 Air monitoring: We are in the process of
21 installing air monitoring at the Baxter NCore site at
22 the plant in Philadelphia. We anticipate that the sale
23 will begin in July of this year. We also identified a
24 site at Pier 53 South at the location for the new river

0006

1 port air monitoring station.

2 From February 1, 2010 to May 31st, we have

3 reviewed 187 permits and licenses and responded to 557
4 citizen complaints. We performed 792 inspections for
5 this period. We issued 234 violations, resolved 67,
6 and collected \$38,713 in fines and penalty.

7 State implementation plan: The Pennsylvania
8 Department of Environmental Protection has submitted
9 the Philadelphia SIP 2.5 to the federal Environmental
10 Protection Agency on April 12th of this year.

11 Regulation Five: The amended Regulation Five was
12 posted in the public notice. We did not receive any
13 comment, and it become effective in April 26, 2010.
14 Right now, we're in the process of submitting that
15 amendment to Pennsylvania and to submit for EPA for the
16 state implementation plan for ozone.

17 Regulation 10: We have been working with staff
18 members from the City Department to develop guidelines
19 for industry as directed by the Special Master of the
20 Pennsylvania State Supreme Court in order to implement
21 Regulation 10 in Philadelphia.

22 The Law Department has advised us to redraft the
23 regulation. We expect for the Board to receive it
24 sometime in September.

0007

1 Regulation 14, Dry Cleaning Facilities: We have
2 revised the regulation at the Board recommendation for
3 the last meeting. The Ad Hoc Working Group met on June
4 16th and recommended to the Board for consideration.
5 The draft regulation requires dry cleaning facility to
6 do a quarterly self-monitoring report that wish to use
7 PERC after December 31st. They have been able to
8 demonstrate to comply with 40 ppb during the operation.
9 The regulation also prohibits the use of n-Propyl
10 Bromide for dry cleaning.

11 EPA update: On March 3, 2010, EPA promulgated the
12 National Emissions Standard for Hazardous Air
13 Pollutants for existing stationary compression ignition
14 reciprocating engines. About 30 engines will be
15 affected in Philadelphia.

16 On March 22nd, EPA proposed to add new industry
17 sources to the mandatory greenhouse gas reporting
18 program. We currently have 31 in that sector. The
19 proposal would require the collection of greenhouse gas
20 emission data from the oil and gas sector and emitted

21 fluorinated gas and facilities that inject and store
22 carbon dioxide underground. The new sources under the
23 proposal would begin to collect data on January 1, 2011
24 and submit their first annual report to EPA on March
0008

1 31, 2012.

2 On March 26th, EPA issued the final rule on
3 National Renewable Fuel Standards. This rulemaking
4 incorporates changes to the existing RFS program as
5 required by the Energy Independence and Security Act of
6 2007. The sets new greenhouse gas emission threshold
7 for renewable fuels and new limits on renewable biomass
8 feed stock. This rule will be in effect July 1, 2010.

9 On April 1, 2010, EPA and the Department of
10 Transportation issued a rule that said greenhouse gas
11 emission and incorporate improved corporate
12 over-average fuel economy standards for light-duty
13 vehicles. Starting in the 2012 model year, the rule
14 requires automakers to improve fleet-wide fuel economy
15 and reduce fleet-wide greenhouse gas emission by five
16 percent each year. By the 2016 model year,
17 manufacturers must achieve 35.5 miles per gallon or 250
18 gram of carbon dioxide per mile.

19 On April 5, 2010, EPA finalized general conformity
20 regulation. The revisions are up-to-date to general
21 conformity regulations in 2004 and 2007. This revision
22 will be effective July 6, 2010, and the expansion of
23 the Philadelphia Airport and the river port will be
24 subjected to this reg.

0009

1 On April 30, 2010, EPA issued a final rule control
2 engine and fuel standard for new marine compressed
3 ignition for ocean-going vessels. Beginning in 2011,
4 new engine is expected to result in 15 to 25 percent
5 decrease in NOx level and by 2016, they have to yield
6 -- they have to yield the selected catalytic reduction
7 in 80 percent in NOx reduction. All the ocean vessel
8 had to deal one percent overfill instead of right now
9 we use about three to four percent.

10 On the same day, EPA also proposed Area and Major
11 Source Air Toxics Standards for Industrial Boilers.
12 EPA proposed emission and limits for mercury, dioxin,
13 particulate matter, hydrogen chloride and carbon

14 monoxide for boilers and that went cold, oil, biomass
15 or gas, all of the natural gas, refinery gas with heat
16 input over 10 million BTUs. In Philadelphia, we have
17 about 25 boilers burning oil. We don't have any one
18 that burn coal, but we have 125 boilers that burn oil
19 and gas.

20 MR. MINOTT: 125?

21 MR. HUYNH: 125 burning oil and gas, 25 burning
22 oil only, so 150 total.

23 On May 13, 2010, EPA issued the final tailoring
24 rule raising the threshold and phasing in deadlines for
0010

1 permitting greenhouse gas emission from a stationary
2 source. The final rule required permit from the
3 facility that already subjected to the PSD program that
4 prevents oxygen deterioration and the title five
5 program begin in January 2, 2011. They had emission
6 decrease on CO2 more than 75,000 tons. Beginning July
7 1, 2011, all the facility with potential to emit one
8 hundred thousand ton of CO2 will be required to report
9 it. We estimate that five facilities in Philadelphia
10 will be subjected to the rule.

11 On June 3, 2010, EPA finalized a new one-hour SO2
12 National Ambient Air Quality Standards at 75 parts per
13 billion based on a three-year average of one-hour daily
14 maximum concentration. EPA also revoked the existing
15 primary standard for SO2, which are currently at 140
16 ppb over 24 hours and 30 ppb over a year. Based on our
17 air monitoring data for the last three years at 36 ppb,
18 we expect that we will be in obtainment for new
19 standards.

20 The airport: On May 27th, we received a comment
21 from the EPA to the Federal Aviation Administration
22 regarding the draft general conformity demonstration
23 for the airport expansion. It required the City of
24 Philadelphia to obtain additional emission reduction
0011

1 credits to offset the emissions increase due to the
2 airport expansion.

3 Yesterday, the Greater Philadelphia Clean City
4 Coalition held an industrial vehicle conference at 321
5 University. They educated about industrial vehicle
6 market, technology and the capacity of the grid to

7 accommodate this new market. There are -- six
8 different types of vehicles were exposed and
9 approximately 70 participants participated. PECO was
10 there to present air quality benefit of electric
11 vehicles, particularly when deployed with smart
12 metering and vehicle to grid technology, that means the
13 technology that allows the vehicle to charge the
14 electric at night and reach up back to the grid during
15 the period that they require electric data.

16 Diesel Emission Act: Due to the current City
17 financial, we had difficulty to proceed with the
18 construction of the CNG facility and purchase of the
19 CNG trash truck. As a result, we may have to return
20 the \$750,000 dollar grant back to EPA.

21 Thank you for your attention. I will now be happy
22 to answer any questions you might have.

23 CHAIRMAN BATTLE: Thank you.

24 MS. FEYLER: First, let me applaud you for having

0012

1 something as current as yesterday in today's report,
2 very up-to-the-minute.

3 My question -- actually, comments -- we haven't
4 had a chance to talk I don't think regarding the new
5 the rules in the federal register regarding rigorous
6 engine and fuel standards for marine vessels.

7 MR. HUYNH: Yes.

8 MS. FEYLER: Will that have an impact on
9 Philadelphia port and is that something that Air
10 Management will be responsible for monitoring?

11 MR. HUYNH: No, the marine port vessel that -- the
12 ocean-going vessel -- the most impact for them will cut
13 sulfur in their uses, but we're not really sure how
14 much it will be because they will anticipate that with
15 the widening of the Panama Canal, the deepening of the
16 Delaware River, the Port Authority will expand their
17 operation, especially with the south port that right
18 now is in the process of talking about expanding the
19 navy yard. We not really sure how much impact that
20 would be, but this is very gradual because remember in
21 2011, this is a new engine. If the vessel is an old
22 engine, they're not improvement and it depends on how
23 it would generate over time. You can see the quality
24 will be improved, but you don't see it that much as

0013

1 would be -- it depend how much coming into Philadelphia
2 area and also the grid of the new emission would be
3 changed after that or not changed right away.

4 MS. FEYLER: Thank you.

5 MR. MINOTT: I just want to follow that up. I
6 assume that tug boats are not considered ocean-going
7 vessels?

8 MR. HUYNH: No, it had to be 30 -- the cylinder
9 had to be 30 or bigger, so it really, really big
10 engine.

11 MR. MILLER: Another point on that: When these
12 ships are in port in Philadelphia, is there any
13 inspection or violations written for smoke or any of
14 the operating --

15 MR. HUYNH: Well, it could be if it become -- it's
16 really when they dock and they run and have black
17 smoke. We could go in and issue citations, but, you
18 know, right now we are -- we haven't done it. We've
19 done it in the past, but it still rarely happens.

20 MS. RILEY: I think one of the issues is security
21 at the ports require you to have the transit worker
22 identification card or be announced a day in advance.
23 So it's sort of difficult for us to gain access to the
24 port facilities, so that's one of the issues.

0014

1 MR. MILLER: Well, okay.

2 MR. HUYNH: We could do that, but in the past
3 long, long ago we've done that, but we haven't issued
4 citations for a long time.

5 MR. MILLER: You can issue the citation about
6 going onto the property.

7 MR. MINOTT: I have a couple. You've said that
8 there's -- there were three days or three exceedances
9 of the federal standard for ozone in Philadelphia;
10 right?

11 MR. HUYNH: Yes.

12 MR. MINOTT: How many in the region, do you know?

13 MR. HUYNH: I would have to say high. And the
14 reason I say high, I think the day we had exceedance,
15 Bristol also had exceedance. I think one day on the
16 21st they had exceedance in the state, but in
17 Allegheny, so not in Philadelphia. It could be four if

18 you can see the state, but Philadelphia there are only
19 three.

20 MR. MINOTT: And in terms of the Pier 53 South,
21 that's in South Philadelphia?

22 MR. HUYNH: It's South Washington and north of
23 Wal-Mart between -- no, south and Wal-Mart -- it's not
24 a Wal-Mart on the river.

0015

1 MR. MINOTT: It's an active pier?

2 MR. HUYNH: It's actually not an active pier right
3 now. I think they're talking about building a park
4 there or something; right?

5 MR. MINOTT: Why was that chosen? Just from my
6 point of view, if you could put it at Packer or Tioga
7 or at one of the active piers, you might get some
8 interesting results as opposed to a pier that's going
9 to be turned into a garden.

10 MR. HENRY KIM: I think there's an issue of
11 putting it at an active pier because it's not a place,
12 like, the average public person can actually go to.

13 MR. MINOTT: That's true enough. But you might,
14 if you put it off an active pier, if you put it in the
15 vicinity of Packer, you might get some interesting
16 readings for instance, just a suggestion, a friendly
17 suggestion.

18 Though I think I did at one point ask if we could
19 get someone from either EPA or the Philadelphia Port
20 Authority to come in and talk about the air quality
21 implications of dredging, even if we may not have any
22 regulatory responsibility. I think it would be
23 interesting to know what the impact would be on air
24 quality, so if I could sort of repeat that request,

0016

1 just a briefing.

2 MS. FEYLER: I'm sorry, but the impact on the air
3 quality, for example, because larger ships could come
4 through?

5 MR. MINOTT: No, the actual dredging itself.

6 MS. FEYLER: That affects the air?

7 MR. MINOTT: Yeah, major impact on the air.
8 They've actually had to get offsets.

9 MR. HUYNH: Yes, I understand.

10 MS. FEYLER: I didn't realize that.

11 MR. O'NEILL: It's related to their equipment
12 isn't it, the machines that are mostly diesel operating
13 and they needed NOx offsets?

14 MR. HUYNH: We're still working on it.

15 MR. MINOTT: What is your ETA for regulation draft
16 for Regulation 10, do you know?

17 Mr. Lawyer from the Department, do you know?

18 MR. O'NEILL: Well, I think the hope is for the
19 next Board meeting, but it's been more complex than we
20 had originally thought.

21 MR. MINOTT: Can you -- I guess in terms of the
22 Philadelphia Airport for the conformity, you said there
23 were 10 ERCs that are required?

24 MR. HUYNH: No, that would be an emission

0017

1 reduction credit required.

2 MR. O'NEILL: But just as a point of clarification
3 if I may, both ports and airports are subject to this
4 thing called general conformity, which is somewhat
5 similar to transportation conformity. The idea is that
6 the project emissions that are going to be related to
7 the projects, both the construction piece and then the
8 ongoing operations are supposed to be accounted for in
9 the state implementation plan.

10 And the airport -- what the airport is doing, two
11 things: They have -- I think it's actually been issued
12 a positive general conformity determination with a
13 condition or conditions. Part of it is -- which they
14 are already meeting in the design are AERCs, which are
15 design measures which reduce air emissions -- among
16 other things, the large project there is the airport is
17 truly greening itself. It's a positive story with the
18 sustainability office. They're electrifying the ground
19 service equipment. That's -- and we'll get to the
20 point where almost all of it will be, the hope will all
21 eventually. They're looking at clean diesel busses.
22 We had hoped for some CNG there. They have electrified
23 all the gates so that rather than -- just quickly --
24 rather than there used to be airplanes would sort of

0018

1 idle and now you have pumped in air conditioning and a
2 plug for electricity to have the lights on, all of
3 those things reduce emissions.

4 The two issues that they had basically were NOx
5 and VOCs. On NOx, they have achieved a de minimis
6 level through the design measures. They've received
7 upwards of eight million dollars in what's called veil
8 funding to do these green projects. On VOCs, they have
9 committed to purchasing eight air emission credits --
10 eight ERCs -- I'm sorry, emission reduction credits in
11 the marketplace. They're going to more than meet the
12 legal requirements to offset -- I believe there are 71
13 tons that are actually due to construction emissions.
14 There are two construction years where they would
15 exceed the de minimis level. They'll be purchasing
16 emission credits more along the lines that you would in
17 the NSR program that arguably run, you know, a number
18 of years as opposed to just buying them for, like, that
19 one year. There are also -- I'm going to -- although
20 we don't think we're legally bound by the NSR offset
21 requirement, which is -- frankly it's only 1.15 to
22 one -- they're going to go ahead and that was an EPA
23 recommendation that they comply with that, and they are
24 going to do that.

0019

1 MR. MINOTT: Right.

2 MR. O'NEILL: The short answer, there are credits
3 on-site and they are going to purchase VOC credits.

4 MR. MINOTT: The process of bringing energy to the
5 plane while it's sort of waiting is great. And in
6 fact, that capacity will also be provided I gather the
7 new construction of the ports. The coal ironing --

8 MR. O'NEILL: I don't know what they're doing at
9 the ports. The City owns the airport, so we can make
10 them be green. The ports are a tougher challenge, and
11 you have some interesting information I suspect if you
12 do have EPA present.

13 MR. HUYNH: The coal iron is a lot more extensive.

14 MR. MINOTT: It's a lot more extensive, yeah.

15 MS. RILEY: The space on the dock is also an
16 issue.

17 MR. MINOTT: Well, I'm saying not that it would
18 automatically happen, but when they rebuild they would
19 rebuild with that in mind.

20 MS. FEYLER: My colleague, Eric, wonders if you
21 could also work on getting them not to lose the

22 luggage.

23 MR. HUYNH: I've made a similar request.

24

0020

1 MR. MINOTT: I've got two quickies: One, is there
2 a little back story to the possible loss of the
3 \$750,000 grant because, wow.

4 MS. RILEY: Basically, we don't have a match to go
5 with it.

6 MR. THUMMA: So EPA couldn't match you?

7 MS. RILEY: We are defined by the State of
8 Pennsylvania for the grant request that we submitted
9 for some level of funds for that project. The EPA
10 requires basically you to get 75 percent versus the 25
11 percent that they're contributing and normally that
12 wouldn't be a problem. Right before I applied for the
13 grant, basically you're in a situation where we always
14 buy 15 trucks every single year. Once the budget
15 crisis got into full swing, the fleet budget was one of
16 the first things to go. They had zero dollars
17 allocated for new vehicles for less two fiscal years, I
18 believe.

19 MS. FEYLER: And probably in the next fiscal year
20 at least.

21 MS. RILEY: Yeah, and I don't see an end to that
22 in sight. And I can't justify to EPA to continue and
23 get an extension to the grant when I don't have a match
24 to contribute. Basically, that's the story.

0021

1 MS. FEYLER: It's one of many tragedies fiscally.
2 I don't mean to minimize the impact. Alison and Tom
3 worked extremely hard. In fact, longer than I would
4 have in trying to make this work. The economy -- I
5 mean, the City, you can't do it.

6 MS. RILEY: They understand that there's --

7 MS. FEYLER: Hopefully, we'll get it again.

8 MR. MINOTT: Can it be shifted to something else
9 or not?

10 MR. HUYNH: We tried that.

11 MR. THUMMA: So the grant money would have been
12 enough by itself to build the station?

13 MS. RILEY: It would have paid for the trucks. We
14 were counting on a private company to come in and build

15 the station for us.

16 MR. MINOTT: But they won't build the station
17 unless --

18 COURT REPORTER: One at a time.

19 MR. THUMMA: I think you were just saying that the
20 private entity that was going to build the station is
21 not going to do it because they don't have any business
22 with the trucks.

23 MS. RILEY: They were counting on even a small
24 number of trucks would have been sufficient, I think,
0022

1 for them to come in and make them go to the market.
2 Without even that small contribution, I think they just
3 can't justify the expenditure. It would be about a
4 \$1.5 million station.

5 MR. MINOTT: I'm glad you worked so hard for it,
6 and I'm sorry it didn't --

7 MS. RILEY: I am too. We were really hoping for
8 those NOx credits that were going on and hugely
9 successful. What can you do?

10 MR. MINOTT: I have one other thing. I don't know
11 if this is the right time, but I wanted to recognize
12 that an old activist, Gloria Inverso, has died. While
13 she could be somewhat persistent in her complaints, I
14 felt they always came from the heart and she was a true
15 activist. These meetings will be a lot less lively
16 without her. You know, she was religious in coming to
17 these meetings and contributing, and many a Air
18 Management Services Director has suffered through her
19 wrath, but she will be missed.

20 CHAIRMAN BATTLE: Thanks, Joe.

21 Any other questions on the program updates?

22 If not, then let's go to number four, old
23 business, dry cleaning regulations. Tom?

24 MR. HUYNH: We will have the presentation about
0023

1 the regulations.

2 MS. RILEY: As I said before, I'm Alison --

3 MR. MINOTT: Can I ask that why is it that we have
4 a stenographer?

5 MS. RILEY: We get a much thorough more set of
6 minutes.

7 My name is Alison Riley. As I said, I'm a

8 volunteer with Air Management Services, and I'm going
9 to be giving a very brief presentation on the dry
10 cleaning regulation.

11 Just some key dates, most people were involved in
12 this probably remember a lot of these, but on September
13 4, 2007 the Air Pollution Control Board directed Air
14 Management to draft the original regulation to control
15 PERC based on some indication that there may be some
16 issues, but that's all. March 5th, the draft
17 regulation is not passed by the Air Pollution Control
18 Board, at that point, sort of going back to the drawing
19 board and had another look at it. The Air Pollution
20 Control Board directs AMS in February of this year to
21 redirect the regulation based on the recommendations
22 from the Ad Hoc Committee, which has been analyzing
23 this issue from the beginning. June 16th, just
24 recently, the Ad Hoc Committee made its recommendations

0024

1 to the Air Pollution Control Board for the final draft.
2 That's what you're looking at today.

3 Just a review of kind of some of the major points
4 of the regulation: All dry cleaners must obtain
5 operational licenses to operate PERC equipment. There
6 is a prohibition on self-service PERC dry cleaning
7 machines. There will be no venting exhaust from the
8 dry cleaning machines into the facility. There are a
9 number of other operating practices, procedures and
10 requirements that are in the regulations, so I urge
11 anyone who might apply to have a thorough read of the
12 final draft. Just to continue, all dry cleaners again
13 must obtain permits to install and modify the
14 equipment. Anyone with existing equipment must apply
15 for permits within six months of the effective date of
16 this regulation. There also has been a certain buffer
17 in the regulation requirements. These are applicable
18 within 12 months of the effective date. This is
19 extended from the original six months.

20 Stand-alone cleaners must install their equipment
21 within two years of the effective date of the
22 regulation, and there are no air monitoring
23 requirements.

24 Co-residential and sensitive dry cleaners: PERC

0025

1 will be prohibited in those facilities that are
2 adjacent to residential or sensitive facilities. If
3 you have questions about what that means, you can ask
4 us about that after. Actually again, I just want to
5 emphasize that's December 31, 2013. So starting the
6 first day of 2014, that's when this -- the ban will go
7 into effect.

8 Just a change in one of the provisions for
9 co-commercial dry cleaners: They're eligible for an
10 exemption from the ban and must apply by July 1st of
11 2013 to six months before the ban goes into effect. If
12 you do apply for that exemption, you must monitor the
13 airborne concentration of PERC in adjacent commercial
14 facilities on a quarterly basis. The concentrations
15 must remain at or below 50 -- I'm sorry, 40 -- parts
16 per billion and self-monitoring will be required within
17 one year of the effective date.

18 Just -- we had some I guess research that
19 indicated that n-Propyl Bromide is potentially more a
20 higher risk solvent or more dangerous solvent. That
21 particular solvent will be banned as a dry cleaning
22 solvent.

23 The next steps will be the regulation will be
24 approved by law and filed with the Department of
0026

1 Records. If the regulation is passed, that will
2 happen. The regulation will go through a 30-day public
3 notice and comment procedure. There will be a public
4 hearing if requested. Comments will be addressed and
5 presented at the next meeting. If there are no
6 comments, the regulation will become effective 30 days
7 after they were filed with the Department of Records.

8 And that's all I have.

9 CHAIRMAN BATTLE: Okay, Alison, thank you.

10 Comments on the report? Questions? Okay, yes?

11 MS. NEALIS: Nora Nealis, Cleaners Association.

12 In the presentation you talked about it -- and I'm
13 sure it was just a language issue -- stand-alone
14 cleaners being required to purchase new fourth or fifth
15 generation equipment. I'm assuming --

16 MS. RILEY: Let me go back to the slide.

17 MS. NEALIS: Okay. "Must install new," I'm
18 assuming that that is true if they are operating first

19 or second generation equipment. If they're currently
20 operating properly designed fourth generation
21 equipment, they're not being forced to buy new; right,
22 it's just that the standard for use in stand-alones is
23 fourth or fifth generation equipment?

24 MR. HUYNH: Even that provision in Philadelphia
0027

1 gets old stand-alone for fourth generation, so I don't
2 think that's still really effective that much. All of
3 the facilities stand-alone that we are aware of,
4 they're all equipped with the equipment at this time.

5 MS. NEALIS: So they won't be buying new these
6 people, you're just setting the bar for the fifth
7 generation?

8 MS. FEYLER: Correct.

9 MS. NEALIS: Further to the paperwork requirement
10 -- and this is something we've gone back and forth on
11 -- record keeping. You are asking the cleaners to
12 record keep a 20-degree temperature differential across
13 the coil, and you're referencing the NESHAP as your
14 basis for that record keeping requirement. In the
15 NESHAP, that requirement is limited to the cold washer
16 in a first generation machine, which you have banned
17 and prohibited in this proposal. I think the reference
18 to the 20-degree temperature differential is only going
19 to confuse the industry, the inspectors that go in and
20 people who are chasing a 20-degree differential when it
21 doesn't apply to the level of equipment that you're
22 setting the bar at.

23 MR. HUYNH: It is true what you say when the
24 control only for the air condensed, which will apply to

0028

1 you. At the time the regulations were written for -- I
2 think we still have second generations. I mean, I'm
3 not sure really sure.

4 MS. NEALIS: That temperature differential doesn't
5 refer -- it only applies to transfer machines because
6 they were looking to control the emissions off a cold
7 washer, that was the standard for a cold washer.

8 MR. HUYNH: Well, you know, if you don't have a
9 absorber after the condenser, then we're required to do
10 that to verify the condenser.

11 MS. NEALIS: Verifying the condenser temperature

12 at 45 degrees is not an issue. That's a standard
13 NESHAP bar for third, fourth, fifth generation
14 equipment, but the temperature differential is a
15 misplaced standard applied to the level of technology
16 that you're mandating for Philadelphia.

17 MS. FEYLER: If I can make a comment --

18 MS. NEALIS: It's like talking about a lead gas
19 standard when lead gas isn't allowed anymore.

20 MS. FEYLER: If I could make a comment, because it
21 sounds like more complicated discussion. If this is
22 passed there is a 30-day comment period, and that's an
23 opportunity to share sort of those kinds of comments
24 for clarification and the language of the bill.

0029

1 MR. THUMMA: I have a follow-up question to your
2 lead pipe analogy that --

3 MS. NEALIS: Mmhm.

4 MR. THUMMA: So the question I have for you is,
5 while you may be saying the standard is not relevant,
6 is it something that is problematic? If it were
7 included, would it put fourth and fifth generation
8 cleaners out of compliance?

9 MS. NEALIS: Well, what you've -- fourth and fifth
10 generation machines are not equipped with thermometers
11 before and after the coil, so you're looking for a
12 differential that's not measurable.

13 MR. HUYNH: We don't require third or fourth or
14 fifth generations to do that as long as the chapter
15 (sic) absorbs after the condenser.

16 MS. NEALIS: That's not clear in the reg or in the
17 proposal.

18 MS. FEYLER: Again, I think it would be helpful to
19 have it in writing.

20 MR. MILLER: So just to be clear about this, I
21 understand your comments, but we're talking about maybe
22 a little bit of a language problem here. We're not
23 talking about any actual on the ground applied
24 regulation because it won't occur because of what you

0030

1 said about the newer machines not having this, but they
2 also have the other aspects or equipment on them that
3 makes this case kind of measurement irrelevant.

4 MS. NEALIS: I don't think we want to denigrate

5 putting that kind of language into a regulation because
6 were it to go in and were somebody given the current
7 language be inspected and not be recording the
8 temperature differential, they're open to a violation.
9 Now, it may be that we can go in at a hearing and
10 argue, you know, it's a misapplication of what the
11 intent was, but the fact of the matter is the language
12 is the language. It's -- every lawyer out there will
13 tell you when all else fails --

14 MR. O'NEILL: If it'll make it easier, we'll look
15 at it.

16 MS. FEYLER: I think we need something in writing
17 because it's --

18 MS. NEALIS: Not a problem. Thank you.

19 CHAIRMAN BATTLE: John?

20 MR. MYER: John Myer from PLI.

21 On the six months for the apply for a waiver, on
22 or before July 1, 2013 co-commercial dry cleaning
23 facilities may petition the Department to continue
24 using PERC beyond the phase-out date. I heard before
0031

1 it was six months prior, you have to do it six months
2 prior now?

3 MS. RILEY: By July 1, 2013 that's the cut-off for
4 the line 40 exemption.

5 MR. MYER: I'm sure you have -- maybe you have an
6 idea what would the petition be like? What is the
7 nature of the petition? Is there an -- is it just a
8 letter, is it just a --

9 MR. HUYNH: Well, the letter with the approved --
10 that you've been monitoring your color and that would
11 have been the C40, then that would be sufficient. Then
12 the Department is hired to review and verify before we
13 can allow it to be.

14 MR. MYER: It says a letter with proof. That's
15 fine, that doesn't say that in here.

16 MR. HUYNH: Well, the petition I get before.
17 After this part, we're going to have some -- a seminar
18 with the dry cleaner, and we're going to go into more
19 detail what they need to do. In general, the petition
20 -- but you have it that you're able to demonstrate for
21 the ppb and that amount and result that you have. Then
22 we're going to review and verify that if you meet that,

23 then we're going to grant it to you, but, you know, the
24 Department to go out and check and run tests and
0032

1 double-check. You know, they are all the procedures
2 that are more detailed than I think we can talk about
3 at the seminar.

4 MR. MYER: Applying for the petition does not
5 include additional fees borne by the dry cleaner; am I
6 correct?

7 MR. HUYNH: This is right now, we didn't ask for
8 the fee for that part.

9 MS. FEYLER: I was just going to comment to just
10 reiterate, I don't know if it was in the presentation,
11 and forgive me. There is a commitment by the
12 Department of Public Health and AMS to do -- how many
13 public forums? We have written procedures so there
14 will be some guidance, which I think is what I hear
15 you're asking for.

16 MR. MYER: Yes.

17 MS. FEYLER: And I think it's a good point. And
18 we're, you know, really trying to work with the
19 industry about those kinds of issues.

20 MR. JASON KIM: Jason Kim, the Korean Dry Cleaners
21 Association.

22 I just want to go over a little more clearly on
23 the co-commercial dry cleaners only because I think the
24 majority of our cleaners fall into the category of this
0033

1 particular co-commercial dry cleaner.

2 By July -- the deadline of July 1, 2013 -- prior
3 to that, like, does AMS have a field surveillance
4 program where you will visit each store and try to --
5 you've been monitoring each store, their conditions and
6 compliances. Now, will you be able to kind of like
7 tell each cleaner their conditions, what they have to
8 be changed, whether they're properly equipped to apply
9 for the permit, will there be some -- because I don't
10 think we're looking at a large number of stores. I
11 don't think the numbers are that many that you probably
12 have enough time for your field inspectors to go to
13 each store. When they do, you'll find the conditions
14 and how they maintain things.

15 MR. HUYNH: The regulation allows one year for the

16 facility to upgrade and reinstall their ventilation
17 system.

18 MR. JASON KIM: Right.

19 MR. HUYNH: And after that, they can demonstrate
20 that they'll be able to operate within the standard
21 below 40 ppb.

22 MS. FEYLER: Tom, if I may, if I hear you right,
23 what role -- AMS has the capacity to provide to only
24 those --

0034

1 COURT REPORTER: One at a time.

2 MR. JASON KIM: The reason why I'm asking you that
3 is because your regulation says the air ventilation, it
4 has to be professionally designed. We don't know what
5 a professionally designed air ventilation system is.
6 When you put out a title or something to be done, a lot
7 of the dry cleaners do not clearly understand what they
8 have to do. What I'm saying is when you have an
9 opportunity to visit the store, you'll probably look at
10 their ventilation system and you'll see whether they
11 are properly insulated and installed. If they're not,
12 you'll probably give them a direction what to do.
13 There's got to be some -- a combination of not only --
14 I mean, we're trying to comply with the rules and
15 regulations, but sometimes we may not have enough
16 knowledge to, you know, comply. You may have to kind
17 of, like, show them what has to be done in individual
18 cases. It's easy to just throw out these rules and
19 regulations and you have to comply, but, you know, it's
20 something, you know, in order to comply, we have to
21 know what we have to do. You know, that's what I'm
22 saying. You know, the last time when we were here, you
23 were pointing out a number of stores. 110 stores,
24 that's the total number of dry cleaners in the City of

0035

1 Philadelphia. Within six months, you can probably have
2 AMS personnel visit every store and check the
3 conditions of each store and exactly where they are.
4 You can probably monitor these and tell them if this is
5 not complied -- I mean in terms of, you know, whatever
6 the rule that you're trying to propose -- tell them
7 this has got to be fixed, otherwise, you're going to
8 have a problem. You know, something more in a personal

9 matter so that we can comply. We can't just, that's
10 the idea that I'm trying to, you know, convey here.

11 MR. HUYNH: We try to do that. Also, we try to
12 organize some books up and try to assist all the dry
13 cleaners to understand the regulation and comply with
14 the provisions. It's the intent in the agency to make
15 sure the dry cleaner operates in the same manner, not
16 that we go out and find and penalize that.

17 CHAIRMAN BATTLE: Nan, you were --

18 MS. FEYLER: I was just going to reiterate I think
19 really just what Tom said. I think it's a little hard
20 to promise right now visiting every single one only
21 because of our staffing shortages and all of the other
22 responsibilities. I just -- what Tom said is really
23 true, that our real intent is not to find, but to
24 prevent and to provide assistance where we can through

0036

1 forums, through education and through visits whenever
2 possible.

3 I did want to ask you -- and you may want to get
4 back in touch with us to help us -- if there's any kind
5 of translation services that we should be providing, we
6 see that as our obligation, so in workshops or when we
7 meet with dry cleaners -- I'm sorry we didn't have
8 anyone today, but I wanted to just be sure to say --
9 and Tom and I have talked about it -- that that is the
10 Department of Public Health's responsibility, and we
11 want to make sure people understand.

12 MR. MINOTT: I guess just to follow-up on what Mr.
13 Kim was saying, I do think that there is a
14 responsibility to the extent that the Department can
15 afford it. That's always the limitation that we'll not
16 only make the community aware of what the regulations
17 are, but specifically how to comply with them. That's
18 what I'm hearing from you, which is, you know, I'm a
19 dry cleaner. I'm not an engineer, you know, tell me
20 what I need to do. Again, I can't speak for the Health
21 Department, and I know that Tom's resources are really
22 limited, but to the extent that the Department can do
23 that, I would really encourage them to do that.

24 CHAIRMAN BATTLE: John?

0037

1 MR. MYER: I just have a quick comment aside from

2 that. Regarding n-Propyl Bromide, the Dry Cleaning
3 Laundry Institute, NCA and -- the National Cleaners
4 Association, I always mess it up -- we -- with regard
5 to PERC dry cleaning regulations, we had the benefit of
6 having representatives from the solvent producers'
7 industry, representatives and so forth. There aren't
8 -- and I have no concern with your report, Dr. Finkel,
9 or anything like that. I really don't have much of a
10 dog in this fight; however, the producers of n-Propyl
11 Bromide are the people that develop and work with that
12 solvent. The cleaners that use it really have not been
13 notified that their solvent is on the cut list. Yeah,
14 I know, but I want to make sure --

15 MS. FEYLER: I'm sorry.

16 MR. MYER: I understand. I want to make sure
17 because it came up and it's sort of quick and all of a
18 sudden, we're looking for a safer solvent. It gets on
19 a cut list, I just -- there's more than two people you
20 want to notify for the public hearing with regards to
21 n-Propyl Bromide. Again, I have no dog in this fight,
22 but an industry solvent not used very much -- but some
23 cleaners are looking to it in some other capacities,
24 and they may have their own argument in regards to this

0038

1 regulation.

2 MS. FEYLER: My only comment is we work very hard
3 to have notice and due process. I appreciate what
4 you're saying, and you can feel free to let your
5 colleagues know because there is the 30-day comment
6 period. We weren't at all trying to keep this from
7 anyone. We really try hard to have visibility and due
8 process. Thank you.

9 CHAIRMAN BATTLE: Any additional comments? Pat?

10 MR. O'NEILL: On that point, I just wanted to
11 reference that it was discussed in Dr. Finkel's first
12 report that was presented to the Board and was
13 presented at the Board meeting and was discussed with
14 industry and others, at least one Ad Hoc Subcommittee
15 meeting, which was a public meeting. It has been
16 discussed, and even I believe the expert that came in
17 on behalf of the dry cleaners discussed n-Propyl
18 Bromide. It is in the record. It has been discussed.
19 We take note of trying to make sure that we do complete

20 public notice.

21 MR. MYER: Yes, but it is a PERC dry cleaning
22 regulation, not an n-Propyl Bromide regulation. That's
23 significantly -- well, it is 99 percent of PERC dry
24 cleaning regulation and not n-Propyl Bromide, so
0039

1 essentially, you're talking about PERC.

2 MR. O'NEILL: It's a dry cleaning regulation.

3 MR. MYER: It is a PERC dry cleaning regulation.
4 It's not a dry cleaning regulation, otherwise you could
5 have talked about all the solvents that were there and
6 what you did underneath. And again, I really didn't
7 have a dog in --

8 MS. FEYLER: I'm seeing your dog.

9 MS. NEALIS: I think, if I could, I think John's
10 point is that on the final slide it talked about if
11 necessary, there would be a public hearing. I guess
12 what we're saying to you is given the fact that that's
13 in there, it's necessary. You know, I think that's
14 probably --

15 MR. HUYNH: We will schedule a public hearing. We
16 put up public notice with the scheduled public hearing,
17 but we don't want to hold public hearing and nobody
18 shows up. If we send in the notice and we hold the
19 hearing, the hearing will be run.

20 MR. MINOTT: Just for the record, there is a
21 process. The process is, you know, the regulations go
22 out for public comment. It's truthfully up to the
23 industry to be tracking this stuff. They have 30 days
24 to make the comment. If they make a comment, there
0040

1 will be a public hearing. I do not see that we should
2 automatically say, "We're going to have a public
3 hearing."

4 CHAIRMAN BATTLE: Okay, all right. Let's move
5 forward.

6 MS. FEYLER: Exactly.

7 CHAIRMAN BATTLE: Ad Hoc Committee, is there a
8 recommendation?

9 MR. EDWARDS: Yes.

10 MS. FEYLER: And your recommendation is?

11 MS. EDWARDS: We recommend to the Air Pollution
12 Control Board that this regulation be recommended to

13 Air Management Services.

14 CHAIRMAN BATTLE: Thank you. Do I hear a motion?

15 MR. THUMMA: I will make a motion.

16 CHAIRMAN BATTLE: I'm sorry, just a moment please.

17 MR. O'NEILL: If I could just clarify, what I

18 heard in the motion was that it be recommended to Air

19 Management Services, and what you're talking about is

20 the Ad Hoc Board, you know, recommending to the Board

21 that they either adopt regulations or not adopt

22 regulations. It's not an Air Management decision.

23 MR. EDWARDS: The Ad Hoc Committee will recommend

24 to the Board that this regulation be adopted.

0041

1 CHAIRMAN BATTLE: Thank you. Is there a motion?

2 MR. THUMMA: I make a motion that the Board adopt

3 this regulation.

4 CHAIRMAN BATTLE: Is there a second?

5 MS. FEYLER: I second.

6 CHAIRMAN BATTLE: It has been moved and seconded

7 to adopt the regulation. Okay, then we're ready to

8 vote then. Those in favor, say Aye.

9 (Whereupon, all those in favor say aye.)

10 CHAIRMAN BATTLE: Opposed? No opposed. Motion

11 approved.

12 We're on number -- I'm sorry, Joe?

13 MR. MINOTT: I want to make one comment. Mr. Kim,

14 I want to really thank you for all of the input that

15 you've had. I really appreciate it that you've been

16 here at every meeting, and I thought that the arguments

17 you made were by far the most compelling.

18 CHAIRMAN BATTLE: Thank you.

19 Number five, new business. Tom, do we have any

20 new business?

21 MR. HUYNH: I guess at this time we need -- the

22 Department is in the process of the plan. On July

23 14th, we will meet internally with all the staff

24 members to discuss and propose. After that process, we

0042

1 will try to set up with all the stakeholders outside.

2 It will be with the city planning commissions and

3 industry at Sunoco, PECO, and I guess all the members

4 of the Board will participate and provide us guidance

5 so we can get --

6 CHAIRMAN BATTLE: Just a moment. Have you all
7 signed?

8 MR. MYER: We have.

9 CHAIRMAN BATTLE: Thank you.

10 MS. FEYLER: Thank you for coming.

11 CHAIRMAN BATTLE: Thank you.

12 One additional piece under new business, tentative

13 future dates of the Air Pollution Control Board

14 meeting: Wednesday, September 29th of this year,

15 location is MSB -- Municipal Services Building -- Room

16 Y, 16th Floor, 1401 JFK at two p.m.; and again, if this

17 is approved, Thursday February 24, 2011; and Wednesday,

18 June 8, 2011.

19 Any additional?

20 MR. MILLER: Could you repeat that again, please?

21 CHAIRMAN BATTLE: Yes. Wednesday September 29,

22 2010, this building, Room Y at two p.m.; and also,

23 Thursday, February 24, 2011; and Wednesday June 8,

24 2011.

0043

1 MR. MINOTT: I have a question to the Department.

2 Given the amount of regulations that you are looking

3 at, will three meetings do it? Not that I'm ever in

4 favor of meetings.

5 MS. FEYLER: Overruled.

6 MR. MINOTT: I just want to make sure that we

7 don't hold up any regulations that we need to move.

8 MS. FEYLER: I think that's a question for you,

9 Tom.

10 MR. HUYNH: I think that we still have to work

11 with the staff and try to make sure that all the

12 regulations -- because after the Regulation 10, we

13 still need to adopt regulation -- amend Regulation 13

14 to adopt Chapter 135 so the City can collect fee. That

15 will probably be -- Regulation 10 will take the most

16 work.

17 MR. MINOTT: Okay.

18 MR. HUYNH: We'll see what happens because we also

19 need to be involved with the amendment.

20 MR. MINOTT: What amendment?

21 MR. HUYNH: The amendment of the Code, not depend

22 upon the State of Pennsylvania adopt the notice in the

23 field with the consult and the regulation -- two or

24 three regulation -- three change, yes.

0044

1 CHAIRMAN BATTLE: Okay. Thank you.

2 Any other comments on the new business?

3 Is there a motion to adjourn?

4 MR. MINOTT: So moved.

5 MS. FEYLER: I move to adjourn.

6 CHAIRMAN BATTLE: We are adjourned.

7 (Whereupon, the proceedings concluded at

8 approximately 3:05 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

0045

1 CERTIFICATE

2

3 I, MOLLY HALLINAN, Shorthand Reporter, certify

4 that the foregoing is a true and accurate transcript of

5 the proceedings which were held at the time, place, and

6 on the date herein before set forth.

7 I further certify that I am neither attorney nor

8 counsel for, not related to or employed by any of the

9 parties to the action in which these proceedings were

10 taken; further, that I am not a relative or employee of

11 any attorney or counsel employed in this case, nor am I

12 financially interested in this action.

13

14

15

16

MOLLY HALLINAN

17
18
19
20
21
22
23
24

RPR