

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH
AIR POLLUTION CONTROL BOARD

Public Hearing Held at 1401 JFK BLVD, Room XYZ
Philadelphia, Pennsylvania
Wednesday, November 5, 2008, 2:00 p.m.

MEMBERS OF THE BOARD:

EDDIE BATTLE, CHAIR
JOSEPH O. MINOTT
DR. ROBERT PATTERSON
NAN FEYLER
THOMAS EDWARDS
WILLIAM MILLER
DR. ARTHUR L. FRANK
ERIC THUMMA
ALSO PRESENT:
THOMAS HUYNH, DIRECTOR AMS
ROGER FEY, AMS
ALISTON TRACY, AMS
KATHY JOYCE

REPORTED BY: JUSTIN DAVIS

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

(Whereupon, the following portion of the testimony was transcribed from audiotape.)

CHAIRMAN BATTLE: Good afternoon, everyone. My name is Eddie Battle, and I am Chair of the Air Pollution Control Board. The time is 2:19, and this is the meeting of the November 5, 2008 Air Pollution Control Board.

And again, Kathy Joyce who brought you all in and made things just great for everyone, I would like to give her thanks from the Board. You are doing a great job, thank you so much.

Okay, let's begin. We will just follow the agenda that we have here. Action on the minutes.

BOARD MEMBER: Should we introduce ourselves?

CHAIRMAN BATTLE: Very good, thank you. Let's introduce ourselves.

BOARD MEMBER: Excuse me; is there an action on the minutes?

CHAIRMAN BATTLE: We are going to get to that in a second. But let's introduce ourselves since we have so many guests. Let's introduce ourselves. Tom, why don't you begin.

MR. HUYNH: My name is Tom Huynh and I'm the director of Air Management Services.

MR. THUMMA: Good afternoon. I'm Eric Thumma; I'm a member of the Air Pollution Control Board.

MR. EDWARDS: I'm Tom Edwards, member of the Air Pollution Control Board.

CHAIRMAN BATTLE: Again, Ed Battle, Air Pollution Control Board.

MS. FEYLER: Nan Feyler. I'm chief of staff of the Department of Public Health and a member of the Board.

MR. MILLER: Bill Miller, board member.

DR. FRANK: Arthur Frank, member of the Board.

DR. PATTERSON: Robert Patterson, board member.

MR. MINOTT: Joseph Minott, I'm a member of the Air Pollution Control Board.

CHAIRMAN BATTLE: And so you know, all of us are board members except Tom; Tom is not a board member. Action on the minutes.

DR. PATTERSON: It shows that I was at the meeting on August 5th, and I was not.

CHAIRMAN BATTLE: So that's a correction. Any other observations on the minutes? Any additions or corrections of the minutes?

BOARD MEMBER: I was at the meeting and it was not reflected.

CHAIRMAN BATTLE: Thank you.

MR. THUMMA: I was also at the meeting and it was not reflected.

CHAIRMAN BATTLE: Thank you. Any others? A few corrections --

MS. FEYLER: They should state their names.

DR. PATTERSON: Robert Patterson was not at the meeting.

MR. THUMMA: Eric Thumma was at the meeting.

DR. FRANK: Arthur Frank was there.

CHAIRMAN BATTLE: All right. Okay, just a few correctional points. On page 1 of the minutes, it says under attending, Ed Battle, acting Chair. I am the Chair. Page 2 where it says welcome Ed Battle, acting chair. It's incorrect, I am the Chair.

On page 3 under PM2.5 State Implementation Plan, in the middle of the paragraph it reads, "You will allow you to 9:00 p.m." I don't understand that, we need to look at that and make sure it's accurate. Page 7 of the minutes, number 7, adjourned at 3:56 p.m., it says "Line one wall and the," that needs to be corrected.

Are there any other additions or corrections to the minutes?

MS. FEYLER: Is it possible to correct that one sentence that is still open so we can have a final approval. Page 3 I think.

MR. HUYNH: It says -- (Whereupon, the tape was inaudible.)

CHAIRMAN BATTLE: Everyone got that? And the other one was on page 7 number 7 after p.m., it says line one wall and the, I'm not clear on that.

BOARD MEMBER: Just delete that.

CHAIRMAN BATTLE: Just delete that got it. Any other addition or correction to the minutes? Is there a motion to --

BOARD MEMBER: Second.

CHAIRMAN BATTLE: So moved. We are at the next point, election of board chair. Thank you so much. This is a simple procedure. What we'll do with your approval, we'll get nominations. If there are some words that need to be said, we'll give nominees an opportunity to speak.

When it comes to the actual voting, I am the Chair, so I will step away from the chair, and I will ask Joe Minott to conduct the proceedings. Once the vote has been taken, and we know who the Chair is, then the Chair will proceed.

So if there are no objections, we'll proceed that way, okay. Nominations for Chair of the Air Pollution Control Board? Are there any?

BOARD MEMBER: I nominate Ed Battle.

CHAIRMAN BATTLE: Any other nominations?

BOARD MEMBER: I nominate Bill Miller.

CHAIRMAN BATTLE: Any other nominations?

MS. FEYLER: If I could request for you to just state briefly why you are interested?

MR. MILLER: Thank you very much. I started with the Air Pollution Agency in 1968, that was an earlier version. I spent over 30 years there, so I have quite a bit of technical and regulatory and laboratory expertise. I basically worked in all aspects of the agency. And since 2001, I have been an assistant to an Associate Professor at Temple University in the Civil and Environmental Engineering program. My interest in being Chair has some constraints on it. One is, my main interest is to develop and implement, if they don't already exist, a set of bylaws and similar procedural outlines for the operation of the Board. And in that regard, I would be happy to manage that process, and I will also be happy to put a limit on that process, and to complete that process, and then we would review the process of implementing the organization of the Board, as the Board has agreed in the future on the bylaws. Thank you.

CHAIRMAN BATTLE: My reason for wanting to continue as Chair, we have some actions that are very critical, and we need to have that continuity. I've been on the Board for an extremely long time, and I enjoy doing this. I'm in business for myself, and I find that this responsibility is just right in line with all of those values that I

have been raised with, and it's a pleasure for me to do this. We do have a draft version of bylaws for the Board. Some of you know we actually began outlining and doing work on those bylaws, and I have a copy of the bylaws. But for various reasons, we could not continue with the outlining and drafting and approving those bylaws.

So one of the first orders of the new year I would say, would be to, again, pull those bylaws out, look at them afresh, anew, and get it done.

Secondly, we need to look at how this Board can impact on school age children in Philadelphia. What we do is critical, and I feel that that population, the school age population, can really benefit quite a lot from knowing more about what we do, how it impacts on their lives, and possible careers in air quality service.

So those are just some of the things that I want to continue to work on. I don't want to overwork you, because we all volunteer here, but there are some critical points, so that's why I want to continue.

BOARD MEMBER: Can I ask a follow-up question? I'm intrigued, Bill, by the mention of the bylaws, and I guess my question is: Why do you see that as so critical?

MR. MILLER: First of all, it's not well understood by me whether or not there are bylaws.

BOARD MEMBER: I don't know that there are any.

MR. MILLER: In any organization, the public advisory board in particular, I think there needs to be a process to give members opportunities to serve on the Board in a variety of ways to exercise their expertise and their leadership in management from their various backgrounds.

So to me, it's more of a process of having some kind of periodic adjustment to the Chair and the Board just as a performance issue. I think that's why it's important for an organization to have some periodic changes. Just as we have a residential election, that's the same.

MS. FEYLER: My other question is: If in fact, you are not Chair, would you still be willing to take on that?

MR. MILLER: Certainly. Whether there are term limits or whatever, there is some structure for periodically allowing the members to review the function of the Board.

BOARD MEMBER: And one more question, if I may. And this really goes to the lawyers of the city. Is it typical for committees like the Air Pollution Control Board to elect their own Chair? I know we all serve, essentially, at the pleasure of the mayor. Does the mayor not make the requirements of Chair, is it always the committee that does that?

UNIDENTIFIED SPEAKER: There are some much larger, more high profile boards and those, the mayor, I believe, does traditionally appoint those. But as far as I know, with the groups such as the Air Pollution Control Board, the mayor has not.

Although I can go back and check, and I can get back to you with more details. The Air Pollution Control Board, as far as I know, the mayor has never done that.

BOARD MEMBER: Dr. Levin, who was the Chair prior to Ed, I guess, served decades. He also filled the position. He was the Chair of the Mayor's Science and Technology Advisory Committee.

So perhaps because of that, it was not a board, it was just an advisory committee to the mayor. Perhaps for that reason, he was appointed the Chair of the Board, but that's way back in history. So that's the only connection I know.

BOARD MEMBER: The whole time he was Chair, I never remember him having any say in who was Chair.

CHAIRMAN BATTLE: In speaking of Dr. Levin, in a sense, he was our mentor as to how to proceed and what we should be about as far as protecting the public's health. He was a great man. Let's vote. So, Joe, you are in charge.

MR. MINOTT: What do I do? So I guess there are two nominees. Do we need a second, or do I just count? I guess it has to be open. I would just ask each person for their vote, would that work?

MS. FEYLER: I vote for Eddie.

BOARD MEMBER: Battle

BOARD MEMBER: Battle.

BOARD MEMBER: Battle.

BOARD MEMBER: Battle.

BOARD MEMBER: Battle.

BOARD MEMBER: And I nominated Bill.

MR. MINOTT: And I'll vote for Ed Battle.

Two to seven in favor of Mr. Battle.

CHAIRMAN BATTLE: There are only eight of us.

MR. MINOTT: I never said I could count.

BOARD MEMBER: The votes are in favor of Mr. Battle.

CHAIRMAN BATTLE: Thank you, let's move forward.

CHAIRMAN BATTLE: So I can proceed? Let's go to the next point, program update, Tom.

MR. HUYNH: Good afternoon, air Pollution Control Board and its members. My name is Thomas Huynh. I am the director of Air Management Services. I would like to report to the Board our progress since the last meeting.

Air quality. This summer, Philadelphia exceeded the new ozone standard 15 days. If the old standard were still in effect, we only exceeded five. Philadelphia is classified as a non-attainment area for the National Ambient Air Quality Standards for particulate matter with less than 2.5 micron for 24 hours.

However, the current data indicates that we may be able to meet the annual standard in 2008. In order to be classified as being in attainment, we need to accumulate air monitoring data in attainment for three consecutive calendar years. From 8:00 p.m. on October 23rd to 2:00 p.m. on October 24th, AMS monitoring stations detected high levels of fine particulate matter.

It is believed that these high levels were due to a combination of smoke from a forest fire in Wharton State Forest in New Jersey, approximately 30 miles southeast of Philadelphia, and an atmospheric inversion at night.

The State Implementation Plan. The EPA stated that the Philadelphia Ozone Attainment Plan will not be approved in a meeting with New Jersey, Pennsylvania, and Delaware on September 16, 2008. They are now in the process of evaluating the underlying components of the SIP like the budget and things like that. To date, Pennsylvania has not submitted its SIP to the EPA for the Regional Haze and the PM2.5. The due date for the regional haze SIP was December 2007, and April 2008 for PM2.5.

Pennsylvania is not the only state that fails to submit its SIP. 16 states out of 28 did not submit their regional Haze SIPs. 33 states out of 53 have not submitted their PM2.5 SIPs. At this time, the EPA has not decided whether to issue Failure to submit letters to the non-submitted states.

New Lead Standard Promulgated. On October 15, 2008, the EPA revised the Primary Lead Standard from 1.5 ug/m³, on a calendar quarterly average, to 0.15 ug/m³ on a three-month rolling average. The secondary standard would then be equal to the primary standard. The Philadelphia ambient for lead for the last seven years has been below 0.10; however, with the new standard, the EPA may require us to put additional lead monitors in Philadelphia.

PM2.5 New Source Review Rule. On May 18, 2008, the EPA published a final rule entitled Implementation of the New Source Review Program for PM2.5. The regulations require states to submit their SIPs, incorporating these requirements by May 16, 2011. Until the state of Pennsylvania revises its regulations, the federal NSR Program's provisions are being implemented. At this time, NSR does not include condensables until the EPA promulgates the test method, or by January 1, 2011, whichever is earlier. Idling Rule. On October 9, 2008, Governor Rendell signed the Diesel-Powered Motor Vehicles Idling Act into law. The law will be effective after 120 days. It restricts most diesel-powered motor vehicles over 10,000 pounds from idling more than five minutes in any continuous 60-minute period, with a number of exemptions.

These exemptions differ from Philadelphia law and regulations. The new law allows cities of the first or second class to enforce more stringent regulations if they were written before January 1, 2007. At this time, Air Management Service is in the process of training our staff to incorporate the Pennsylvania law in our Idling Enforcement Program.

Dry Cleaners & Emergency Generator. In a few minutes, Air Management Service staff will present the proposed draft regulation, Dry Cleaner and Emergency Generator, for the Board to consider.

Air Monitoring. We are working with the Water Department for the installation of an NCORE station at the Baxter Water Treatment Plant. Hopefully, the site can operate by the first quarter of 2009. The law department is working with the owners for the contract to locate an air monitoring station at the airport and marine port.

We may need additional time for the alternative sites at the marine port due to contract issues. The owner wants so much money for the site. He wants \$22,000, so we may have to look at another location.

Greenhouse Gas. AMS staff is working with the Philadelphia airport and the Delaware Valley Regional Planning Commission to set up a greenhouse gas emissions inventory for the airport and the region.

Regulatory Service Activities. From August 1, 2008 to October 31, 2008, we have reviewed 85 air permits and licenses, and 66 asbestos permits and licenses. We serviced 272 citizen complaints for air pollution, asbestos, and noise. We performed 332 air and noise inspections, and 355 asbestos inspections.

In addition, AMS performed four observations, and issued one citation for violations of the city's anti-idling rules. For this period, AMS issued 89 violations, resolved 87, and collected \$65,493 in fines and penalties.

AMS Laboratory Weighing Room. The PM2.5 weighing room has been completed and is running smoothly.

Philadelphia Sustainability. The Philadelphia Sustainability Working Group has begun meeting under sustainability director Mark Alan Hughes. The goal of this group is to create a comprehensive sustainability plan that will meet Mayor Nutter's goal of making Philadelphia the greenest city in America by 2015.

The plan is expected to be unveiled in time for Earth Day in 2009. AMS is currently preparing for this year's round of air quality improvement fund projects, and expects a request for application to be available soon.

Voluntary programs. AMS has received its second \$400,000 installment of Sunoco funding, which will be used to purchase retrofits for city vehicles. The total value of the settlement is 1.2 million. Philadelphia has retrofitted 88 fire trucks using EPA grants and Sunoco settlement funds.

Fleet Management is preparing for the construction of a dedicated biodiesel tank using state funds through the Alternative Fuels Incentive

Grant. The Fleet is also now running 110 refuse haulers on biodiesel through this program. The city is working on the site for a compressed natural gas filling station to accommodate future CNG refuse trucks.

AMS and Office Fleet Management were recently awarded \$750,000 to fund the purchase of CNG refuse trucks. We also applied to the state for \$150,000 to cover the incremental cost of these vehicles. We will know the decision by the middle of November 2008.

Ports/Airport. The Federal Aviation Administration has released the Draft Environmental Impact Statement for the Philadelphia International Airport Capacity Enhancement Program. Air Management Services is currently reviewing it for comments on the public health impact from Aircraft.

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

CHAIRMAN BATTLE: Yes, go right ahead.

BOARD MEMBER: I just have a couple of questions. One is in terms of the forest fire. It seems to me that lasted -- you could smell it in Center City Philadelphia for a couple of days. Would that impact our containment demonstration at all, or will that get washed out?

MR. HUYNH: It only occurs in the morning. If we look at the data, the 24-hour-a-day data is not being received for like two or three days. So right now, we haven't received the 24 hour standards. Its right next to the ocean, the air inversion early in the morning is the time when people can smell it.

BOARD MEMBER: Were you getting calls?

MR. HUYNH: Yes, we were getting a lot of calls.

BOARD MEMBER: In terms of the state implementation plan and the decision of the EPA's failure to submit letters, does that trigger a fee or not?

BOARD MEMBER: No, because they have not made a decision one way or the other.

(Whereupon, the proceedings continued with stenographer present.)

MR. MINOTT: So do you know anything about this lawsuit?

MR. O'NEILL: No, this is the first I've heard of it

MR. MINOTT: I mean, the name of this organization seems kind of lame, Enviros,

MR. O'NEILL: It's, like, a law school.

MR. MINOTT: Do you know, or maybe Alison might know this, in terms of the new state law on anti-idling.

MS. TRACY: Yes.

MR. MINOTT: Who enforces that, the state police?

MS. TRACY: The last I checked with them, they were still trying to determine that. I would assume that DEP would have some enforcement mechanisms, but I believe they were evaluating -- I think they can, but I can double check that.

MR. MINOTT: It would be interesting. That was always the flaw in the anti-idling Law, in that they sound great, but unless someone enforces it, it becomes fairly meaningless.

MS. TRACY: Even if the police are able to enforce it my experience in dealing with other cities is that oftentimes, they are unwilling to, oftentimes, it's not a priority.

MR. MINOTT: Right

MS. TRACY: It may be difficult to enforce at a state level. My guess is that it will be self-enforcing at some of these truck stops that they will do what they can because they are responsible.

MR. MINOTT: When the cost of diesel fuel was so high, it really was self enforcing, but as that comes down, I do worry about --

CHAIRMAN BATTLE: William.

MR. MILLER: On the state of implementation plans, does AMS interface with the state of Pennsylvania?

MR. HUYNH: We work with the state to provide the state the inventory with respect to Philadelphia, but it's mostly for the whole region. And the state is the one that is responsible for it, but we provide them with whatever is related to Philadelphia.

MR. MILLER: So AMS has complied with --

MR. HUYNH: We provide the state information that they need to submit. The reason they did not submit this year is because of CARE has been vacated by the Supreme Court. A portion of the emissions reduction would count on that CARE program and CARE isn't validated, so that is the reason why they are not able to submit theirs.

MR. MILLER: So at least the city is doing its part in terms of --

MR. HUYNH: Right, we did our part.

MR. MILLER: On the lead monitors, for decades now they have been talking about cutting back for the reduction of lead in gasoline. Do you know where we are currently monitoring lead?

MR. HUYNH: We are currently monitoring lead at the water treatment plant and at the lab. And I think that's the only two sides, because we are so below the 1.5 standards that we are not really paying that much attention to the monitoring. But now, we may have to look now, especially, at the airports. Fuel aviation lead is not monitored.

MR. O'NEILL: I just wanted to ask a question. I'm on the Pennsylvania DEP Air Quality Technical Advisory Committee, and DEP had told us that there is no lead in jet fuel, but it's in general. So for the most part, you are not talking about lead that would be at the International Airport you are talking about the potential for it at the Northeast Airport, smaller planes.

MR. MINOTT: So non-jet planes still use leaded fuel, but jets do not?

MR. O'NEILL: Well, jet planes, I assume, use jet fuel. I'm not an expert on airplanes, but any aircraft using jet fuel. Jet fuel doesn't have lead in it, it's the so-called general aviation fuel that does, which, I assume, are non-jet engines, but whether there is some overlap, one way or the other, I don't know that. It would be worth looking into.

MR. MILLER: Thank you. On the air monitoring stations, we may have covered this already you're working on a side of the airport, and also at Pier 70. What is Pier 70 about?

MR. HUYNH: That, we looked for the --what happened is we tried to identify the location, how the owner doesn't want to pay the city property tax of the \$22,000. We are willing to compensate depending on the square footage which would be 10 foot -- 10 by 5, in that ballpark. But he wants \$22,000, so we may have to look at some other location.

MR. MILLER: What's going to be monitored?

MR. HUYNH: It would be PM 2.5 and air toxins.

MR. MILLER: One other thing. You mentioned the FAA, the airport capacity draft environmental, you are going to review it for public health impact you say, but you are talking only about air pollution?

MR. HUYNH: Yes.

MR. MILLER: Not noise, because noise --

MR. HUYNH: Most noise impact in Delaware County --

MR. MILLER: But the noise code prevents you from reviewing it in the first place.

MR. HUYNH: Right.

MR. MINOTT: I'm sorry, can you explain that to me. The noise code prevents Air Management Services from reviewing --

MR. MILLER: No, I'm saying the draft impact statement covers a number of things including air pollution, and also noise, but the city has no jurisdiction to comment on the noise of the aircraft, because the noise regulation excludes this airport from noise regulation.

MR. MINOTT: I didn't know that.

MR. MILLER: Just a couple of details. On the complaint map you have carbon monoxide. Was that basically a response to emergency situations?

MR. HUYNH: Yes.

MR. MILLER: And also dust. Is that general complaints about fugitive dust, is that what you mean by that?

MR. HUYNH: I believe so, yes.

MR. MILLER: Okay, thank you.

CHAIRMAN BATTLE: Are there any other comments, questions, from the Board. For our guests, if you need to use the restroom, you go past the elevators here and the lady's room is on the left side, and the men's room is on the right side, but go past the elevators.

I think, Tom, for our next meeting, we definitely need to change the configuration of the seating so the board members can see one another easily for our next meeting, if that's possible.

MR. EDWARDS: All right, I'll do that.

CHAIRMAN BATTLE: Let's move to the next point, old business. Tom.

MR. HUYNH: We have the map that the last time the board member had asked; this is the map that has been put up. And we will respond to any questions that you may have.

MR. FEY: I think there was a request at the last meeting for us to place the complaints onto a map for 2007, and it's coded, as you can see. There is an index here for the type of complaints and where they occurred through the city.

MS. JOYCE: They are having difficulty hearing you in the back.

MR. FEY: It's a map of the complaints and the types of complaints are coded. There was a handout, I apologize to those in the back that it may be difficult to see and hear. There are some additional handouts here of the map, if you would like to see it. And I would entertain any questions. This was just a request; I'm not sure which member of the board requested the map.

MR. MINOTT: There seem to be a real cluster of odor complaints, is that Center City?

MR. FEY: Yes.

MR. MINOTT: Would they be from restaurants?

MR. FEY: Yes, precisely.

MR. MINOTT: In the rest of the city, I mean, obviously, it's more scattered though for some reason. Are most of the complaints you get for odor associated with restaurants?

MR. FEY: Well, in Center City, yes, but throughout the city it can be anything from odors from a point source, the sewage treatment plant, for instance. So some of the complaints in the lower northeast, there are some issues with. Also, there is general area odors that will come in from outside the city.

MR. MINOTT: Right.

MR. FEY: And auto body shops as well.

MR. MINOTT: I guess the reason I asked, and I don't know if there is any way of seeking out, is that some odors can be a real nuisance to me. And what you can get from a restaurant is probably a nuisance, but an odor from an auto body shop or dry cleaner has the potential of being attached to a health threat, possibly, you know.

I have to think that maybe we should add another color or something, just so we can sort of see whether the bulk of it are really just nuisances, as I define nuisance, or whether they are potentially more serious.

MR. FEY: So we could classify the odor complaints and color code them according to the type of odor. Is that --

MR. MINOTT: Yes, that might be helpful. Tom, is that all right with you?

MR. HUYNH: Sure.

MR. MINOTT: Yes, I think that might be helpful.

MR. FEY: Are there any other questions?

CHAIRMAN BATTLE: Thank you very much.

MR. MILLER: I just have a general question about the report. You report complaints; is there any report coming in terms of things like legal activities and more of the court side of enforcement activities, violation, prosecution, that sort of thing? In the past, we have done that, I was just wondering. I don't know, Pat, you may recall that.

MR. O'NEILL: You know, I don't think we've really done that in the years that I have been here, that would be about 20, but it's not a bad idea. And certainly, if the Board or Air Management would like us to make some short presentation on the number of cases that are in some level of enforcement, either court filings, or in negotiations.

I mean, I can tell you, we have a couple of large cases that just settled, and we are just sort of waiting on signatures. And frankly, there is always some numbers of what I will call the bread and butter cases, like the auto body shops, and other odor sources. There is occasionally a restaurant or two, some dry cleaners. Roger, what else is on that list? Haulers, which are trash haulers, which are noise violations. And there is always some small scatterings. Those tend to come in waves, and there is some small host of other ones. Noise violations is the -- Center City has sort of bloomed in terms of condos and housing.

Suddenly, rooftop HVAC systems that nobody noticed or thought to care about for years, suddenly, there is a million dollar condo a block or two away and we'll get complaints about that, so that has risen.

CHAIRMAN BATTLE: Any other comments before we move on? Let's go to emergency generator regulation.

MR. HUYNH: I will ask Roger to do my presentation on the regulation.

MR. MINOTT: Before we start, I notice that the stenographer is -- are we in the official public hearing part of this, or does it matter or not matter?

MR. HUYNH: It will not matter.

MR. FEY: Thank you, Tom. Good afternoon. My name is Roger Fey, I'm chief of compliance enforcement section Air Management Services. Thank you, Chairman and members of the board, and thank you all for coming today. This presentation is about the proposed emergency generator and fire pump regulation.

I'd like to start off by giving some background information that led to the development of this regulation. As Mr. Huynh indicated, Philadelphia is not meeting the National Ambient Air Quality Standards for Ozone.

MS. JOYCE: Roger, we can't hear you over here, I'm sorry.

MR. FEY: EPA may be unable to approve the Philadelphia State Implementation Plan for Ozone. NO_x emissions, that's Nitrogen Oxide, are 75 percent higher on Ozone exceedance days than non-Ozone days. On April 23rd of this year, Air Management Services issued an order to restrict emergency generator testing when the air quality index is greater than 100.

And on August 5th, the Air Pollution Control Board, that was the last Air Pollution Control board meeting, directed Air Management Services to draft a regulation to govern the use of generators on Air Quality Action Days. Now, let's review the content of the order that was issued this spring. First, Air Management Services issued an order to all permitted sources. There were approximately 205 operators, on April 23, 2008. This order limited the testing of emergency generators during the Ozone season. The Ozone season is from May 1st through September 30th.

This slide shows the details of that order that was issued. Testing and/or tuning of emergency generators or fire pumps shall only be performed between the hours of 5:00 p.m. and 11:00 p.m. during the Ozone season. No testing or tuning is permitted on the days that the air quality index's forecast is to be higher than 100 for either ozone or less than PM_{2.5}.

And the air quality forecast may be checked after 5:00 p.m. prior to the day of the test or the actual day of testing. Additional information regarding the order led to the Air Pollution Control Board directing Air Management to develop a regulation.

Air Management estimates an emissions reduction of 0.3 tons of NO_x per day on air quality action days. The estimated cost of implementation has been found to be minimal. We received 14 appeals in response to the order that was issued. They were primarily for the testing for the hours that were restricted in the order because it was associated with the scheduling of those other testing times.

However, during the past three years, no period of high ozone or PM has caused more than three consecutive air quality action days. So in conclusion, this is a summary of what is being proposed in the regulation. No testing or tuning during forecasted or actual air quality action days is permitted.

Testing or tuning is permitted during the ozone season between the hours of 5:00 p.m. and 11:00 p.m., if not on an air quality action day described above. And the permitted time may be extended to 7:30 a.m., if compliance with Philadelphia noise code can be demonstrated. So there were handouts here with the draft regulation for a reference and I will entertain any questions anyone might have. Yes.

MR. HALL: Now, you have between 5:00 and 11:00, that's the rush hour time, so when you start your generators and test your generators during rush hour, won't that create more of a problem?

MR. FEY: Well, the concept here with ozone formation is it's a reaction that takes place in the presence of sunlight. So the restrictions were set up to reduce the emissions of NO_x during the peak times of the peak sunlight hours during the day. And the sun is no longer at its peak and that's why that time was chosen in the evening.

MR. HALL: Most of the companies that I deal with in Center City, a lot of companies -- at 4:30, those people go home. And there is no way to test them outside of paying the overtime. It looks like it's pretty strict that those are the areas that you want to test it at, and there are no exceptions. I could be wrong.

MR. FEY: It's only during the ozone season which is March 1st through September 30th. Also, that is something that you would have to work into your scheduling of the testing. Those restrictions for emergency generators, typically, they are restricted to a test only once per month.

So it's only a onetime event per month, and we didn't feel that would be a significant impact on the regulated community. We took this as a first approach to controlling Nitrogen Oxide rather than looking at the additional expense of adding on controls which would be a significant cost to the regulated community. So this is the first attempt to --

MR. HALL: Your fire code is once a week for a half hour. What did the fire code have to say? The reason I'm saying that is I don't know, because I hear it all the time, how about this, how about that. It don't make a

difference about what I think it's about the code or the license inspection, you got the EPA, and the fire marshal, and each one may have a different way of doing things.

You are trying to standardize something, I realize that, but I think 5 o'clock on, putting it in that window, is going to restrict a lot of these smaller companies where they don't want to pay overtime or schedule more people. I don't know if that will help you or not.

MR. MINOTT: Let me just ask a clarification question. As I understand it though, the provision is only when there is a high ozone day; is that right, or is the provision across the board?

MR. FEY: It's across the board during the ozone season. Now, you can't test at all during an ozone action day.

MR. HALL: If there is a failure, I have a sticker that I put on the transfer panel for the generators. If you have a big storm coming up, at least three hours before that you need to test the generator. According to this, you can't do that. And the purposes of that is if it don't start, how do you know until the storm comes and automatically you start it?

So there should be special testing to prevent the problem. This is emergency equipment; this is not something at somebody's house where you are worried about a refrigerator or freezer. This is hospitals and everything else.

When a large storm comes up now, due to the weather it may take awhile, and half of them don't show up. But lately we have been having some storms in this area.

MR. MILLER: Can I ask you a question about that?

MR. HALL: Sure.

MR. MILLER: So you are saying when a storm is forecasted, you go and test the generator?

MR. HALL: Every day you have a storm. If you know that you are going to have three feet of snow, you should test the generator to see if it's running.

MR. MILLER: So it's an emergency generator, but do you have to test it three hours ahead of time to see if it's going to work? What happens if it doesn't work when you test it three hours before the storm?

MR. HALL: It could be batteries; it could be a lot of things. The problem is if it doesn't start, then you are going to be in trouble. If you need fuel or you got a dead battery at 5 o'clock at night, it's going to be pretty hard to find somebody who is going to come out and fix that when probably 75 percent or 90 percent of the time, the storm may not come.

MR. MILLER: The storm is okay, but I'm talking about the reliability of the generator. Reliability meaning what is the probability of walking up to it and turning it on.

So are you saying that there is a lower than necessary or desirability of these machines?

MR. HALL: No, these happen. I can change the battery one day, and the next day it goes bad. It's the preventative maintenance making sure you don't have a problem if something happens. You wanted to make sure. And again, you don't have that option if there --

CHAIRMAN BATTLE: What is your name, please?

MR. HALL: Bob Hall.

CHAIRMAN BATTLE: And your business or you're from?

MR. HALL: I service generators.

CHAIRMAN BATTLE: Thank you. In the back.

MS. LEAS: Laura Leas. I want to respond to a couple of things. One is when this emergency generator order was prepared, the facility that it was issued to responded back. None that I know of, and Air Management can let me know, said that they had to test every week.

Obviously, that would be something that would have to be considered when these regulations are proposed, and hopefully accepted by the Board. We are not saying that you can't test, what we are saying is during the days when the air quality is poor; we don't want more pollutants put into the air for purposes of testing.

We are not saying you can't -- God forbid, if the hospital's generator went down. The bottom line is testing. Testing should not be done during poor air quality days. You need not pollute the air further on those days. So when the air is not poor, is it okay to do this testing, absolutely. But we are looking at our health and trying to balance the business with our health. Am I correct?

MR. MINOTT: No, that isn't correct, actually. That is what I thought it was too, but here it specifically says during high ozone days you can't test at all, but at any time during the ozone season, you can only test between the hours of 5:00 p.m. and 11:00 p.m.

CHAIRMAN BATTLE: You are on page 2 of the draft.

MR. MINOTT: Right.

CHAIRMAN BATTLE: Yes, give your name, please.

MR. HEFFRIN: My name is Mike Heffrin from PECO. I would like to petition the Board to give exemption to our facility not to follow it. The reason being, we have to test our emergency generators and simulate a blackout condition that takes weeks of planning ahead of time. And obviously, if our power goes down and everyone else turns on the generator, you will have more pollution than you have ever had before.

We would like to petition that we would be able to continue to do our testing. Like I said, we basically simulate blackout conditions. It takes weeks ahead of time to simulate the blackout condition in our control room. We have to switch out circuits if there is a power outage to transfer power. So it's very impractical for us to try to stop and change our schedule.

CHAIRMAN BATTLE: Thank you. Any other comments or questions? To the Board, you've had an opportunity to look at the draft. Are you ready for the question?

MR. O'NEILL: The issue of the fire department, I would have to say, we haven't seen the fire department regulation, I'm not aware of that. You are saying there is a fire code regulation that requires emergency generators to be tested every week.

MR. HALL: Once a week for a half hour per fire code.

MR. O'NEILL: Roger, I thought these have to be permitted and Air Management only allows them to be tested once a month; isn't that right?

MR. HUYNH: There are certain situations where we allow them to test once a week, but we did not get any comment back when the order was issued last April for the people who had difficulty complying with the order. At the time we issued the order, we had 14 percent that had issues, and we worked that through.

Most of them had an issue with complying from 5:00 to 11:00 p.m., and we were able to work that through and accommodate them with the regulation. With the exception of PECO, we were not able to justify the exception.

MR. HALL: Use PECO as a good example. You set up all these people for one day and nobody can predict the weather. Well, the fire pumps have to do a flow test once a year. Normally, they do it on a Saturday, because there is water all over the place.

You can set up a sprinkler contract and that could cost you a couple thousand dollars and wake up that morning and find out they can't test it. It's part of the fire code also that once a year they have to test --

MR. HUYNH: So once a year test. The regulation on that is only from May 1st to September, so you can schedule once a year outside of that range. I don't see the reason why you can't schedule once a year outside May 1st to September 30. The regulation is from May 1st to September 30.

MR. HALL: But the window you are putting it in is the summertime. But that's neither here nor there.

MR. BATTLE: I'm sorry; give your name again for the record.

MR. HALL: Bob Hall.

MR. BATTLE: There are a lot of questions. PECO has made a request in writing as well. Are we ready for this vote, Board?

MR. MINOTT: I guess the only question I have is obviously, I would be uncomfortable voting to pass a regulation that might be in conflict with another regulation. We have two members of the Law Department here. If they can tell us that they are pretty sure that it's not a conflict, I would be ready to vote.

If it is a potential conflict, we are not in ozone season, we just finished ozone season. We really could put this off until this next board meeting and get that resolved.

CHAIRMAN BATTLE: Pat and Carla, do you know, are we in conflict?

MR. O'NEILL: I don't have a copy of the fire code with me, and I don't have any staff back in the office to look it up. There are a couple of different ways you can go about this. You could put it off until the next meeting. I suppose you could pass it with a revisor.

Remember, because once you pass it, it goes out for a 30-day public trial period and the official review of the Law Department to say that it's not in conflict with anything else. So there is that time during which we would review to see if there is any conflict.

MR. MILLER: We probably would want to get that straightened out. Anything we can do to straighten it out ahead of time, you would want to do that.

CHAIRMAN BATTLE: Then why don't we table this until such time that the Law Department can advise us further. Your thoughts?

MR. MILLER: I would like to make a motion that the drafted regulation 15, Control of Admissions from Emergency Generators and Fire Pumps be tabled until the next meeting. And in the meantime, Air Management Services, in cooperation with the Law Department and others, would verify the lack of conflict with other city regulations.

MR. MINOTT: I second that.

CHAIRMAN BATTLE: So moved. Let's move on to the next point, which is dry cleaning regulations.

MR. HUYNH: We have received certain comments from the dry cleaning associations from Pennsylvania and Delaware. We tried to compromise on that part, and as a result, we came up with the revised draft regulation that is proposed to the Board today. And my staff will go over some of the regulations that they proposed.

MR. FEY: Thank you. Hello again, this is Roger Fey. We'll move on the dry cleaners proposed regulations. First, I will go over the course of events that lead us to today's proposal. On September 4, 2007, Air Pollution Control Board directed Air Management Services to draft a regulation to control dry cleaning facilities using perchloroethylene, perc, as a cleaning solvent.

On August 5, 2008, the draft regulation was proposed to the Air Pollution Control Board. On September 10, 2008, the Air Pollution Control Board met with the Pennsylvania and Delaware Dry Cleaners Association. On September 16, 2008, Air Management Services met with the Korean Dry cleaners Association.

On October 6, 2008, the Dry Cleaners Association e-mailed its draft version to Air Management Services. And on October 24, 2008, Air Management Services revised the draft regulation for the Air Pollution control Board's consideration.

MR. Kim: I got a question, I'm sorry. You had mentioned about a meeting with the Korean Dry Cleaning Association on a date after September 4th, and I don't recall any meeting. I don't know when any meeting took place.

MR. FEY: I think the Korean Dry Cleaning Association had a meeting, and we had a member from Air Management Services at that meeting.

MR. KIM: On September 23, which was on your agenda, but that was not a presentation or any type of meeting. We had asked a city personnel to come to our meeting to tell our members how serious this issue is for our members. And Shinto thought it wasn't her place, so she had asked Henry Kim.

It had nothing to do with the presentation of any regulation; he just came to tell our members what the city is trying to do in terms of environmentally, and how it's affecting dry cleaners. So before the meeting, I just had a very simple introduction. And he came and spoke and left, and then our meeting began.

So it wasn't any formal meeting or presentation. The reason why I'm bringing this up is because I have other industry people that are all part of this whole regulation that we are presenting, and I don't want to show that we are meeting exclusively with the AMS, and the other people are shocked by this.

CHAIRMAN BATTLE: Give your name, please, and your association.

MR. KIM: Nakyoul Kim, I'm the president of the Dry Cleaners Association.

CHAIRMAN BATTLE: Okay, thank you. Let's finish with the presentation, and then we will have an opportunity for others to speak or ask questions.

MR. FEY: Okay. Moving into the summary, the post regulation permits, the licenses are required for installing and operating the dry cleaning machines using perc as a cleaning solvent. Dry cleaning machines using perc shall not be installed nor operating facilities adjacent to residential or sensitive population locations after two years of the effective date.

All perc cleaning machines older than 15 years shall be replaced with non perc machines. No co-located perc dry cleaning facility will be permitted after 2016. Within two years of the effective date, the dry cleaning machines must be at a minimum a fourth generation machine.

The time frame for the co-located perc facilities to implement the vapor barrier or exhaust system and a buffer zone has been lengthened from six months to one year after the effective date. The requirements for both a vapor barrier and a general exhaust system has been amended to give the option of a barrier or a professionally designed ventilation system.

The trained operator must inspect the machines weekly for leaks. So that is the summary of what is being proposed now. I think there was a request for the map with the locations and the type of cleaners throughout the city, that's on the screen displayed now, and I believe there is a handout, yes, that has that on it. So I don't know if you want to pause for questions about the map or continue on?

CHAIRMAN BATTLE: Continue on, please.

MR. FEY: This is a summary of the grab samples that were taken prior to the last meeting. AMS collected 15 one-minute grab samples in businesses next to the 15 different dry cleaning facilities designated as co-commercial in Philadelphia. And Air Management Services found that perc concentrations in these locations varied from non-affected to 5792 mg/m³.

Since the last Air Pollution Control Board Meeting, we took 24-hour sampling under advisement of the Board. And Air Management Services analyzed 26, 24-hour samples in businesses next to eight different dry cleaning facilities designated as co-commercial facilities in Philadelphia. Air Management found that perc concentrations in these locations varied from 3 to 5860 mg/m³.

On Tuesday, November 4th, two additional businesses were sampled for perc. And as a point of reference with the concentrations, New York State Department of Health derived a health-based guideline for perc in residential air and recommends that the average level not exceed 100mg/m3.

Next is a chart that summarizes or actually lists the concentrations that were measured at locations A through H. And as you can see, we took at least three samples from each location. And we certainly can entertain questions from this chart at the end of this presentation. Also, we listed some other standards in some other jurisdictions as a point of reference.

The South Coast Air Quality Management District in California adopted -- the last amendment regulation they had in December of 2002 listed the following requirements. New facilities shall not use perc machines, and existing facilities shall not install additional perc machines after January 2003. Facilities shall not operate any converted machines after July 2004.

Facilities shall not operate a system without a secondary control after November 2007. And full transition of non-perc machines is required by the end of 2020 staying in California.

The California Air Resource Board adopted in December 2007 the following requirements. The use of perc will be completely banned by the start of 2023. No new perc using machines will be installed in California beginning January 2008. No existing perc using machines in co-residential facilities will be allowed to operate by July 2010. And perc machines that have been converted to use a primary emission control device, or are 15 years or older, must also be removed from service by July 2010.

The adopted standards for perc in New York. Only new certified fourth generation machines may be installed when replacing old or adding new equipment beginning June 2003. And perc containment, vapor barriers, room enclosures and ventilation required for dry cleaning facilities as a requirement.

And then in New Jersey, they have a proposed standard, all existing co-residential perc plans to eliminate the use of perc by July 27, 2009. Starting in 2010, replace third generation machines with fourth generation machines, or install a vapor barrier. Applies to co-located, commercial, and stand-alone facilities.

And starting 2009, perc dry cleaning facilities must use a spill-proof vapor balance connection to add perc to the machines. Fully eliminate perc usage from dry cleaners beginning 2021. That completes the presentation

CHAIRMAN BATTLE: Great. Questions on the presentation? Yes, please, and state your name and association.

MS. MEMBERG: My name is Carol Memberg. I'm the executive director of the Pennsylvania Delaware Cleaners Association. First, I would like to remind people of the note that I sent to you that had the changes filled out. They had several names attached to it, not only mine, but Jason Kim, Dale Kaplan, of our association, Steve Risotto from the Halogenated Solvent Association, Jon Meijer from the Dry Cleaning and Laundry Institute, and Laurel Leas.

This was a cooperative effort. When we were first given this project to work on, our assumption was, you gave us a draft the way that you drew it up, we took it back, and we spent quite a bit of time all speaking among each other, the whole nine yards of activities, to come to something that, although not everyone was happy with it, everyone accepted it.

Hoping that this would be something you would be able to use to modify what we were doing, our assumption was that you would take what we sent, and you would either approve it, disapprove it, make some changes, add some compromises to it, and this would be presented back to us so we can look at it.

We didn't actually hear anything back. My e-mail is turned on all the time when I'm at work. Last night I came home, and just before I started to make dinner, I started wondering if my son has sent me Halloween pictures of my grandchildren yet. So I turned on my computer and there was a message, and it was timed at 4:45 yesterday afternoon, and that was the first time I seen this proposal.

And I was really upset and stunned a little bit that we had no opportunity to talk among ourselves, or with any members of the board. Because there were some things that we found were not really we thought the best way to go. For instance, the matter of two years. There is not a single instance in any city, in any state, or in any country in the world that says you have two years to get rid of your equipment as a flat out statement. This will be the only time when this comes into being. A person who might have bought a relatively good machine, state of the art machine, last year will not have enough time if he was in a co-located facility, no matter what kind of excellent control person.

If he puts in everything possible to prevent things from leaking, and he has got the top of the line machine, his money is gone because he will not have any usable life in that; and he may still be paying for it. And in today's world, there is no way that he would be able to get a loan.

None of these people are going to be able to get loans probably for the next year because there is no money available, as I'm sure everyone is aware of. This is a very serious concern of ours. We are also concerned about

some of the other technical factors in here as to what will be permitted and what not. The technical things I think I would rather leave to someone else who is more technically adept than I am.

But basically what is going to happen to all of the people here is they are not going to be able to replace the equipment, there will be no way and their only possibility will be simply to go out of business, and that is certainly not what you want. Everybody wants a safe environment. These guys are working in this environment, they want a safe environment.

Everyone is willing to follow all the rules to make sure that there are no fumes escaping, that there is nothing coming out of those machines.

Now, you talk about the smells coming out of the dry cleaning machines, and for many years, we have said if you smell fumes when you walk in, get out of this. That guy shouldn't be in business, and we still feel that way.

And what we are asking is a reasonable time frame. We would really like to have a little bit more time to look this over than trying to go through it this morning.

CHAIRMAN BATTLE: Thank you. State your name, please, for the record, and association.

MR. KIM: Jason Kim, Korean Dry Cleaners Association. I just want to give you a little cleaner picture of what Carol just mentioned. I've seen this map that the AMS has prepared and I really appreciate it, and I looked at this today. Now, I, as a president of Local Dry Cleaners Association, I'm ashamed to say I don't know what every member of my dry cleaners have, what type of equipment, where they are; I'm really embarrassed to say that.

But according to AMS's study, there are 13 third generation machines. And there are over 70 fourth generation machines. And then there are over 20 fifth generation machines. Now, you are probably already educated now what the third, fourth, fifth generation machines do. The majority of fourth generation machines are purchased probably within that five years.

And these machines, the life expectancy is about 15 years. Some live longer, some live less, but the average life span is 15 years. And I don't know how many exactly these fourth generation be affected, but those people who invested within that five years are going to be penalized.

And these people who changed these fourth generation machines within the last five years, knowing that there is a federal guideline and rules and regulations they have to comply with and that's why they switched to the fourth generation machines. In the year 2020, which is a complete ban by national guidelines in residential areas for perc.

Therefore, these people purchased these fourth generation machines just to give proper timing, but all of a sudden, the city comes up with two years and these people -- it just doesn't line up. And I just want to give a clear picture of how many people are going to be affected if this regulation passes to follow-up with Carol's statement. Thank you.

CHAIRMAN BATTLE: Thank you. Yes, please give your name and association.

MR. KIM: My name is Ki Kyeng Kim, I'm Korean Dry Cleaners Association. I started this business 17 years ago this, because at this time, this air wasn't so bad. Why, because at that time, we used 6 or 700 gallons a year. Now, everybody using maybe 80 or 100 gallons, we worked that hard. You can't find the problems 20 years ago.

At that time they used the machine, they used to test it outside. I start my business at that time this regulation come up. We used to work hard. Also, now, we have to understand how is it we have to spend money. It's not small money, we spent maybe 40,000 to \$60,000. Think about it, around 400 dry cleaners. For the new machines, they charge \$80,000, \$100,000. This kind of situation, we can't afford there kind of machines.

Also, we have to understand this is the machine that produces nuclear energy, it's the same thing. We used it very carefully. Why, because we change the gaskets, we work hard, that is our concern. Also, we have to keep investing in businesses money and time. Every business has a plan. We have to save some money, we have to buy another machine.

Also, the technology. Right now, nobody has that machine in production now. Every machine come from Germany, Italy, China or Korea. In America, there is no machine shop. If we change it, we have to expect everybody is spending \$80,000 at 400 stores, the cost is \$32 million. This is a lot of money. We need to save for that kind of money. We understand that we have to take time. We are going to work hard the last 15 years, we save it --

CHAIRMAN BATTLE: For reasons of time, you have to bring your comments to a conclusion. Please finish up.

MR. KIM: I want a reasonable time period, we need that, we have to prepare. Also, I'm working for 17 years. I kept my house, my savings, I worked 12 hour days, because I want a better life. Also, we love our customers, we love the America. This is a better quality. We compromised

that everybody work together. Just you, me, and everybody we can join together.

CHAIRMAN BATTLE: Thank you. Because we have so many people, I'll exercise the prerogative of the chair to limit comments to three minutes.

MS. FEYLER: As a member of the Board, what I would find useful, and I think we all would. I understand there is issues around the process and the matter of notice involved, and it has been noted. The other thing though is in my review of what you are suggesting that the board is evaluating, is some commonality and perhaps some differences. If you could focus on specific terms that concern you, that would really be helpful in terms of moving things along, okay.

CHAIRMAN BATTLE: Thank you.

MR. THUMMA: The first two speakers mentioned a concern with the two-year phase out of fourth generation equipment. It also mentioned that people had invested in the fourth generation equipment, so it suggests to me that those folks are in compliance with that element of the rule.

MS. FEYLER: There is a --

MR. THUMMA: My understanding is --

MS. MEMBERG: Well, what about --

CHAIRMAN BATTLE: Go ahead.

MR. THUMMA: My understanding is that there are two elements in this rule. For a non-major source, you have to have a fourth generation piece of equipment, so that's one element. So you would be in compliance with that element. To the extent to which you are co-located, then depending on whether you are co-residential or co-commercial, you have a different time frame in which you have to be a standalone facility.

MS. FEYLER: It's communicated.

MR. THUMMA: So the question that you would be concerned about is more the fact that you would have to move to a standalone facility rather than the fact that you already invested in the equipment because the equipment would already be in compliance with the rule to the extent that you are a non-major source, right?

MS. MEMBERG: There is one difference in there and that is the co-located which we have divided into sensitive receptors and ordinary businesses. If someone is next to a sensitive receptor, I would not say it's a unanimous agreement, but when somebody is next to a business where people are coming and going, that's where we run into the biggest question about why does this have to be out in such a short time period? Why is it being like this?

CHAIRMAN BATTLE: Give your name and association, please. And again, three minutes.

MR. LIN: My name is John Lin. I will read very fast. In my case, I purchased an 80-pound perc machine the three years ago. At the time, there is no regulation or anything about the notice, no policy of those kind of rules. So I expected when I purchased my machine -- usually, cleaners, they invest a lot of money, they expect 15 years, 20 years, at least more than 10 years.

So I purchased a lot of money for the machine. And my point is this, I understand why we have this issue now, but, however, I believe it is not fair that you are trying to make these big changes with this short notice. As we can see with my case, two years old, it's too short, not enough time to even pay off my machine.

Since use and regulations of city and state is for good over its people, I hope city and state will consider good over current dry cleaning business owners, too. I believe the new rule should be beneficial for everyone, no one should be excluded. We definitely need more time to implement new rules regarding the perc machine.

We also need some compensation plan regarding the cost that each owner or operator will incur due to sudden changes. Without it, many business owners who are still paying back the loan again have to borrow money for a new machine. And whatever machine they have now will just become an expensive useless junk. I hope this Committee will understand my concern regarding this matter. Thank you.

MR. HUYNH: If you want to, you can submit your statement.

CHAIRMAN BATTLE: Thank you. Just a second, please. State your name, association, and again, three minutes. Thank you.

MR. MEIJER: My name is Jon Meijer. I'm here on behalf of the Dry Cleaning and Laundry Institute. We are a national and international association representing about 8,000 members worldwide. The last board meeting that we had, there were two different sides and different opinions for this whole regulation.

We took board member Mr. Minott's, if I'm pronouncing it correctly, comments seriously when we said we would go back, negotiate something different. And even amongst ourselves come up with something we felt was very tough, but very fair. It was my understanding from get-go that when we met with Air Management staff that there would be more exchange, but really what we were told to do is submit something and then never heard anything back. We know there is a timing issue here and I wrote my notes on the card on the way up here from

Washington, D.C. So I have not even had that much time to digest the information that I received this morning. So that is what is an issue.

I really thought when we submitted something that it would be passed to the Board and more discussion on your end, but that apparently is not the way it works. A couple of things. The two year question that has come into place, it's not really an A, B scenario. Most of us, if not all of us, are non-major sources. We are talking about co-located facilities, ones that are located with residents or sensitive receptors and other co-located facilities.

A two year for the residents for sensitive receptors, I never heard of such a time frame. I honestly worked hard in New York, New Jersey, Florida, Massachusetts, California, and two years is almost impossible, especially if you have already tried to comply with an existing federal standard.

So the two year is a problem, but the other one for co-located with the business and so forth, we don't see that, we just don't. We put in what we think is a very tough standard, and that is with maintenance that I have not seen anywhere else and a ventilation requirement for the vapor enclosure.

That ventilation requirement -- just a nutshell, in New York City when they used a vapor enclosure in their units, what they found out, truth be known, if you do the maintenance, and we have it in the rule for two years, gaskets and everything, and you have the ventilation, everything works fine. The rest of it would be overkill anyway.

And we put in a professional ventilation operation for those other co-located facilities. The 15 years, in terms of equipment -- some people say 15, some people say 20. That actually came from the manufacturers. That came out in California. We commented on it then and we continue to comment on it. It's sort of like your car; the better you take care of it, the longer it's going to last.

The 2016, again, that goes with the co-located businesses that are with other businesses; we just don't think it applies. The ventilation and proper maintenance, which is in the rule that we put in there, will work very, very well. And I think -- and I apologize. The one last thing, and I'm trying to be as quickly as I can.

And our biggest concern, too, is we also partnered with the Korean community, PDCA, the Neighborhood National Korean Association. And I know the Korean community themselves have not even had a second to digest what has been brought to us here today. Thank you, I appreciate the opportunity to comment.

CHAIRMAN BATTLE: Thank you. Please give your name.

MR. RISOTTO: Steve Risotto. I'm with HSIA representing the perc manufacturers.

CHAIRMAN BATTLE: And you have three minutes.

MR. RISOTTO: First, just to amend some updates to the slides. The state of New Jersey is amending their regulation and removing the phase out of perc and I will be happy to give you a contact at the state that you can talk to.

Secondly, South Coast in Los Angeles, the California area, the state of New York, and New Jersey as part of their proposal have all provided financial assistance to the dry cleaning industry to convert to non-perc technology. So I don't hear any of that discussion. I know that that's not your issue, but parcels of the move in technology provided money to these kind of businesses, and that's something you really will have to take into consideration.

Thirdly, the New York State guideline of 100mg/m³, I think we already discussed this last time. Since the implementation of their approval of the states part 232 with the requirement for ventilation, annual inspections, etcetera, it's not a problem anymore. You can talk to the city Department of Health to see how many complaints they've had; they haven't had any.

I'm not saying that they are all meeting 100, but it's not an issue for the city anymore. Again, consistent with what we have been recommending on ventilation, et cetera, and inspections, which I think has been lacking in the city, is another way to go to solve the problem.

I just want to highlight some problems, and I only had this morning, I didn't write when I was driving down here I waited until I got here and then started to write. First of all, page 6 talks about dry cleaners located adjacent to. What is that? What is adjacent to? Is it co-located? Is it within 50 feet? Is it within 100 feet? Adjacent to is not defined.

CHAIRMAN BATTLE: Was that page 6.

MR. RISOTTO: Page 6, 2B. Adjacent to, I never heard that terminology before, what does it mean? You have a requirement -- and that's for co-located versus the residential one and sensitive receptor. Those who are just co-located to commercial businesses.

In this regulation, as I understand it, you have a requirement to install ventilation within one year of this reg, a requirement to upgrade the equipment within two years, and then they have to remove it within five years. How much sense does that make? 8 to \$10,000 on ventilation, 40 to \$50,000 on a new piece of equipment and then another \$80,000 to replace that piece of equipment, that's absurd.

And it's probably just poor drafting, but are you looking to just destroy these people or try to encourage them to move technology? It's ridiculous how this is laid out. The other thing, you've got 2D says that all perc equipment 15 years or older must be immediately replaced. That's what this reg says. But then you say, but if you are a co-commercial or standalone, you have two years to replace it with fourth generation equipment. Who drafted this? Can we sit down with the AMS staff and the board members to try to come up with a regulation that makes sense that isn't going to put the industry out of business, and protects public health, or do we live with this, a poorly drafted regulation?

CHAIRMAN BATTLE: Thank you. Are there others who wish to comment? Yes, please give your name, association, and you have three minutes.

MR. HAN: My name is Han, I'm a local dry cleaner in Philadelphia. As you know, we are living in the worst economy crisis in the world. All countries think business is slow, especially the dry cleaning business in Philadelphia. In this worse economy crisis, it is very difficult to install new dry cleaning machines to pay 60, \$70,000.

If Philadelphia, decide to make us get new machines in two years, lots of small dry cleaners might be closed as a result. All dry cleaners should clean up every customer's clothes with their best efforts. Maybe ten days ago, I joined the Atlantic City dry cleaning show with my neighbor.

Most of the machine dealers say their machine is the best among them. Lots of the dry cleaning machine owners think no other machine is better than their machine for cleaning. Furthermore, other machines are too much expense. I hope good and trouble free machines will come out in 7 to 10 years. Please refer to other state's regulation. Again, no other states do like this to its citizens. Thank you.

CHAIRMAN BATTLE: Thank you. Just a moment, please. It's 4 o'clock. Are there other comments?
(Brief pause.)

MS. FEYLER: I'm sorry, I didn't get a chance to speak with all of my fellow board members, but I think there is some agreement that we are concerned with the lack of time you've had to correctly review this. And I know you know how hard we work, and I know how hard you work, so I hope you don't feel like it's bad faith.

I'm worried that you may think we were trying to, by not giving you notice, saying something, and that's really not our intent. Our intent is really -- and I know I speak for my colleagues. We want to be open. We may disagree ultimately, but we really do want to be open and very professional and fair.

So I think what I'm going to recommend, and I think many of our fellow Board that we don't vote tonight, so you have more time, and we can look at the drafting and whatever. My suggestion, however, is that perhaps one idea is that a smaller group of you meet with a smaller group to really look at, not just the process, but look at the point of concern, because we understand the impact financially, and how hard you work.

And really, the economy is worrisome for all of us. But it may be more productive if we don't vote tonight, but if we have a small group that comes together to really look at where we disagreed and agreed particularly, someplace of the time line. So that's my proposal to the group, to the Board.

MR. MINOTT: I know that the majority feel that way, I would go on record and say I'm opposed to it. I was really impressed with the willingness of this Board to listen to what the dry cleaners had to say to compromise. I think we have shown an incredible amount of good faith in terms of where we are now.

I think there is a fallacy out there that this is somehow a compromise or a negotiation; it is not. Our obligation is to listen to your concerns, which I think we have done. I think we have incorporated a lot of comments that you have made into our proposal. I'm a little bit concerned by extending this that we are essentially saying to a group of people that we are here to negotiate, which I think is not the role or responsibility of the Air Pollution Control Board.

CHAIRMAN BATTLE: Thank you. Tom, there is, I think, an important --

MR. HUYNH: I would like to let you know all about the process. If the Board votes today, the regulation would be referred to the law department, and then sent to the records department. After that, it would be published in the paper for three days, and then you have 30 days for comments on the regulation. And if you request for a hearing or comment, the hearing will be held, and at that point, any comments will be received and responded. So this is the first step.

And after that process, the Board is going to go back and look at your comments again, and the Board may review and revise the regulation at that point. So there is a long process. This is the first time that the Board conceded the draft. After the last time they looked at the draft, they can amend it. And if they want to act, the regulation could further be revised and reviewed, but right now, it's not final, even if the Board passed the regulation today.

CHAIRMAN BATTLE: Thank you.

MR. MILLER: Can I make a comment regarding that? The main issue I'm concerned about is the process of how this negotiation, whether the word is acceptable or not, the fact that it occurred, whether people discussed issues and tried to come to some common agreement. In this case, I'm particularly concerned about the lack of notice and the appearance as was stated by Nan.

That's my main concern. And on that basis, I think it's not time to go through the process. Certainly, there is the standard process of regulation in the past that we reviewed and commented, that Mr. Huynh has instructed you, but my preference is to get it as right as possible in the first place, so that it doesn't go on forever. That's it.

CHAIRMAN BATTLE: Thank you. When is the next --

MR. THUMMA: I'm sorry, I agree with that.

CHAIRMAN BATTLE: When is the next board meeting?

MR. HUYNH: March 5th, I think.

CHAIRMAN BATTLE: Are there any other comments from the Board? We need to mandate a motion to table this regulation to the next meeting.

CHAIRMAN BATTLE: Did everyone hear that? There is a motion to table the action.

MR. THUMMA: I will second the motion.

CHAIRMAN BATTLE: Those in favor, say I.

ALL: I.

CHAIRMAN BATTLE: Opposed?

MR. MINOTT: Right here.

CHAIRMAN BATTLE: In Nan's proposal, a small group should --

MS. FEYLER: We have to resolve it by next time.

CHAIRMAN BATTLE: Yes, we can't continue. As you know, our next meeting is in March, so I would think a small group would get together with a small group from Air Management, and get at some of these technical points of disagreements. So that's where we stand. Are there any other comments before we move?

MS. FEYLER: I would just like to comment. I don't want to be misunderstood. I am not proposing two groups get together to come to a consensus. The process is not until everyone in the room agrees. The process is, from my view personally, that there is an adequate opportunity to be heard.

And then at that point, it's our legal and ethical, in my opinion, responsibility as members of the Air Pollution Control Board to vote on what we believe are public issues from a health perspective. So I didn't want you to get the impression that we are all going to get together and agree necessarily, but I do think if you can think of a method of a smaller group, it will be more constructive.

CHAIRMAN BATTLE: Thank you. Where are we on the agenda?

MR. HUYNH: You have mine.

MR. MCALLISTER: Can I ask one question?

CHAIRMAN BATTLE: Yes, please.

MR. MCALLISTER: When they did the test sites --

MS. FEYLER: Identify yourself, please.

MR. MCALLISTER: My name is Tom McAllister, I work with Kreussler Chemical. The test sites that they actually did the air sampling from, do they have the information as far as the type of machinery that was in the dry cleaners? Were they third generation machines, fourth generation, fifth generation?

MR. HUYNH: Yes, we do.

MS. MASON: These aren't for the grab samples, these are for the 24-hour volume samples that we set up.

MR. MCALLISTER: We have two sets of numbers that you gave out, one for -- one for eight hours and one for the 24 hours.

MS. MASON: These are for the 24-hour samples.

CHAIRMAN BATTLE: Were there other questions and, it should be brief, please.

MR. RISOTTO: Just a quick question.

CHAIRMAN BATTLE: Your name and --

MR. RISOTTO: Steve Risotto, HSIA. How should we initiate the process with someone, is there a point person?

CHAIRMAN BATTLE: Tom.

MR. HUYNH: You can contact me and we can set up the meeting.

CHAIRMAN BATTLE: It's late, let's move to new business. Do we have any new business? Is there a motion to adjourn?

MR. THUMMA: So moved.

CHAIRMAN BATTLE: Second. We are adjourned at 4:09. Thank you all.

(Whereupon, the hearing
concluded at 4:09 p.m.)

CERTIFICATE

I, JUSTIN DAVIS, certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date herein before set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Justin Davis