

CITY OF PHILADELPHIA
DEPARTMENT OF PUBLIC HEALTH
AIR POLLUTION CONTROL BOARD

The meeting of the Air Pollution Control Board was held Thursday, June 12, 2014,
at the Municipal Services Building, 1401 John F. Kennedy Boulevard, 16th Floor, Room Y.

Eddie R. Battle, Chairman, presided:

ATTENDING: Eddie Battle, Chair of the APCB
Terry Soule, Member, APCB
Joseph O. Minott, Member, APCB
William Miller, Member, APCB
Dr. Arthur L Frank, Member, APCB

STAFF: Thomas Huynh, Director, Air Management Services (AMS)
Edward Braun, Program Manager, AMS
Henry Kim, Chief, Program Services, AMS
Ramesh Mahadevan, Engineering Supervisor, AMS
Edward Wiener, Chief, Source Registration, AMS
Jiazheng Li, Environmental Engineer II, AMS
Alison Riley, Voluntary Programs Coordinator, AMS
Laura Nikkel-Dumyahn, Environmental Engineer, AMS

GUESTS: Patrick O'Neill, Council for the City of Philadelphia
Janice Bolden, EPA
Reginald Harris, Senior Toxicologist/Regional EJ Coordinator

1. WELCOME

(Whereupon the proceedings commenced at approximately 2:05pm)
Chairman Battle convened the meeting and introduced the Board Members

2. INTRODUCTION OF NEW APCB MEMBER, TERRY SOULE

Chairman Battle introduced Terry Soule to the board members and guests. Terry Soule thanked the Board for the opportunity to serve as a member.

3. ACTION ON MINUTES

There was no action taken on the minutes from October 10, 2013 and February 5, 2014 meetings since only three board members were present. Minute action was taken later during the meeting.

4. PROGRAM UPDATE

Tom Huynh gave his update (see attached).

Questions

Mr. Battle: On average what type of complaints does the department receive?

Mr. Huynh: About 50% are noise complaints, most are in the central distribution area. Others are in south/southwest Philadelphia.

Mr. Miller: At the ITO site was that a particular monitor?

Mr. Huynh: Yes.

Mr. Miller: In establishing a site at I-76 you say it's near the fleet management shop, is anything going on in that shop that might interfere with operation of the monitoring site?

Mr. Huynh: That monitor will be a Near-Road Monitor for monitoring PM 2.5, CO, and NO_x. Mostly to identify emissions with I -76 near the roadway.

Mr. Miller: Please explain complaints on asbestos. What is that?

Mr. Huynh: If people do asbestos remediation they need to notify the agency; they need to hire a licensed contractor. If people do it illegally, we send an inspector out to follow up.

Mr. Miller: Are these illegal removals or just people who are concerned?

Mr. Huynh: Both (people concerned and illegal removals)

Dr. Frank: Of the 24 complaints how many turned out to be a type of removal that was contaminating the area where people could be exposed?

Mr. Huynh: About 30%

Dr. Frank: Are these referred to Law department?

Mr. Huynh: Yes, we collect money for fines and violations.

Dr Frank: I'm just wondering how aggressive we are with the violators?

Mr Huynh: We pursue these aggressively depending upon the level of significance. In Philadelphia, we refer violators to a Federal task force. This year we had one case end in jail time.

Mr. Miller: You mentioned alternative wind, solar building blocks. You also said Nuclear? Is that a possibility?

Mr Huynh: Yes

Mr. Minott: In Asbestos, are there any chronic violators?

Mr Huynh: Yes, we suspend their licenses.

Mr.Minott: A note to congratulate Tom, AMS, and Law for sticking with the sulfur in fuel standard. We stuck with it and it really paid off.

Mr. Minott: On the state's Title V fee of \$85 per ton, does the City follow that?

Mr Huynh: Yes, although Philadelphia does not have sufficient emission sources to pay for this.

Mr Minott: Do you know how that compares to other jurisdictions?

Mr. Huynh: In the middle.

Mr Minott: I think the fenceline monitoring requirement is great. In the Dust control guidelines presented by AMS, does that cover repointing for high rises?

Mr Huynh: Yes

Mr Minott: I'm glad to see construction is continuing in Philadelphia and you're not receiving a fuss anymore about the Clean Diesel Requirement. Some council members were thinking the requirement would be an end to construction in Phila.

Mr. Battle: At this point we have quorum, is there a motion to approve the minutes from both October 10, 2013 and February 5, 2014.

Dr Frank: I make a motion to adopt the last two sets of minutes (February 5, 2014 and October 10, 2013)

Mr Miller: I second the motion.

Mr. Battle: All in favor, say “aye” ...opposed...so moved. Both sets are approved.

5. Dust Control Plan

Mr. Huynh: We have been working with the union workers to get this set up so hopefully we will develop regulations and put these on our website.

Mr. Minott: Paragraph 3 of the handout mentions wetting as a method. When you “wet” a lot of water goes into sewer system so does the Water Department have a problem with that?

Mr Huynh: They have to apply for a Water Dept. permit anyway to get the water.

Mr Minott: The lead paint removal recommendations could involve separate buildings needing to be notified?

Mr. Huynh: Yes, there is a draft notification on page 7 for the public and neighbors to be notified.

6. Air Management Code 3-207 Low Sulfur in Fuel

Jason Li gave a presentation (see attached).

Mr. Li: The proposed amendments echo actions taken by State and neighboring jurisdictions. The amendment specifically would lower sulfur content of #2 and #4 fuel oils and would take effect on July 1, 2015. Basically, we are proposing amendments that are in line with our neighbors. AMS is expecting to see reductions of 369 tons to up to 831 tons of sulfur dioxide per year as well as reductions of other pollutants. Since sulfur dioxide is a harmful gas it is a precursor to fine particles in the air. These pollutants can cause various health issues. The health benefits would be a lower rate of premature deaths, reduced hospital visits and reduced missed work/school days. There would also be economic benefits to homeowners who would save on equipment maintenance and services.

Mr Soule: Would this require any retrofits for the homeowner or for the industries that produce the fuel oil?

Mr. Li: I don't think it will require any for homeowners who use fuel burning equipment, and in terms of industries the refineries have good capacity for producing low-sulfur fuel.

Mr. Huynh: Sulfur 15ppm is already being used for diesel in transportation so as of 2010, the Department of Energy no longer requires low sulfur in diesel per the code. The proposal is just for heating oil.

Dr Frank: Is it correct that NY State is the only place that had a separate deadline for selling and then using?

Mr.Huynh: Correct.

Mr. Minott: Is it your sense that since PES already refines it to 15ppm that most homeowners are already getting the benefit.

Mr. Huynh: No, because for fuel oil can be blended with high sulfur distillate to produce heating oil. You pay transportation tax for fuel oil.

Mr. Miller: Is the lower concentration more expensive than the higher concentration?

Mr Huynh: Based on the 2008 NORA study, we found the cost of reducing the sulfur content of fuel oil from 2500 ppm-500 ppm is 6-7 cents/gallon, and would cost an additional 2 cents/gallon to switch to 15 ppm, resulting in 8-9 cents per gallon of additional costs. There is an overall savings on maintenance & fuel efficiency of 12.25 cents per gallon from using 15 ppm ULSD . Assuming refineries passed the entire cost increase to consumers, the consumers would still save approximately 3.35 cpg.

Mr. Miller: But if you look at the overall cost of fuel oil that's still a relatively small amount. So that incremental increase due to this regulation is not going to drive them to natural gas necessarily.

Mr. Huynh: There are other reasons to convert such as incentives. The National Fuel Oil wants to promote 15ppm so they can compete with gas.

Mr Miller : Did you know in neighborhoods around the city PGW put unilateral installations of gas pipes about 5 years ago?

Mr Huynh: Yes, but in Philadelphia we still have 44,000 houses with home heating oil.

Mr Minott: Is heating your home with fuel oil a more rural thing than urban?

Mr Huynh: Well, the one reason is the gas pipe line and the second is if you already have a heater in your home which burns fuel you're not going to change it if it's not breaking down.

7. ENVIRONMENTAL JUSTICE

Mr. Huynh introduced speaker Reginald Harris, Senior Toxicologist/Regional Environmental Justice Coordinator from EPA Region III.

Mr Harris gave a PowerPoint presentation. He gave the agency definition of Environmental Justice and began with the history of Environmental Justice: EPA Defines "Environmental Justice" as:

The fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development of environmental laws, regulations, and policies. "Fair treatment" means that no group of people, including a racial, ethnic, or socioeconomic group, should bear a disproportionate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies.

Mr. Harris states that a landmark historical event occurred on February 11, 1994, when President Clinton issued Executive Order 12898 "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations". This order provides for a way of working so that everyone is treated appropriately. He states that it is not treating someone differently. The Office of Environmental Justice is part of Office of Enforcement Compliance Assurance. Mr. Harris states that the initial role of the Office was to take a look at all the regulations and draft a report determining instances where the Agency had the ability to shift or change, but the decision was made to have employees in every regional office start paying attention to environmental justice, and become educated about the topic. He covered topics such as Plan EJ 2014 Cross-Agency focus areas, Tool Development and Program Initiatives. Mr. Harris also spoke about The National Environmental Justice Advisory Council whose goal is to provide information and direction to the administrative regulations. It was established to ensure that a certain level of public participation occurs, and to open the door to the various members of regulated communities, tribal members, academicians or grass roots organizers. Another topic mentioned was The Environmental Equity Workgroup which was established by the EPA Administrator in 1989 to address environmental justice issues. Its task was to evaluate evidence that communities of low-income people and people of color bear a higher burden of environmental risk. A two-volume report, Environmental Equity: Reducing Risk in All Communities was produced and published by the work group. Lastly, he mentioned The Environmental Justice Executive Steering Committee which provides leadership and direction on strategic planning, cross-media policy development, and ensures that coordination is implemented at all levels to ensure that environmental justice is incorporated into Agency operations. They make recommendations to OEJ and the Regions regarding policies and initiatives, and conducts assessment of program activities. He states that this new structure has established a clear commitment from EPA's senior management to all personnel that Environmental Justice is a priority.

Dr. Frank: We've had problems at the state level with the EJ board trying to define an EJ community. How do the federal folks approach the definition of what is an EJ community?

Mr. Harris: The EPA does not have a standard definition of what an EJ community is, however, we do have a new tool that we are beginning to use that will give us some information to help us to make a decision, but essentially the guiding principal would be to take into consideration the demographics of the community.

Dr Frank: The real problem that we ran into was not so much of the issue as poor communities but the problematic one has been the minority issue, with some federal regulations/mandates not using race as a defining characteristic. Very often, minority communities are often communities of color. But, there are many poor communities that are not in many states and many rural areas.

Mr. Harris: Exactly, a community such as “The Amish” in upstate PA would benefit from a tool/activity (setting up a dialog with the elders) that would allow the community to participate in the decision making of a transportation project that is not outside of their cultural norms. We have to make sure that we think about the concept from the standpoint of what it means to the different components of a community

Dr Frank: I’m glad to hear that they are included in that thinking but they are such an outlier to other settings. Part of the problem is that in a city like Phila. there are EJ pockets but not the whole city would be an EJ community.

Mr. Harris: EJ is local, so when you’re looking at concerns you will look at the community where the facility is of a concern. So, you will look at the where the environmental impacts are taking place and see who lives there. The other important thing is “use your demographic” so you know who you’re talking to/who you’re dealing with.

Dr. Frank: As you may/may not know some of this is a real issue for me. I serve on the states EJ board chairing for a number of years now & we don’t have a clear definition of what is an EJ community. What we’ve been told is you can’t use just race. It is not always looked upon favorably that you can use a community being a minority to make the judgment.

Mr Minott: When you look at some of the unappealing sources/industries that have been cited, race is a stronger correlation than poverty so how do you readdress that?

Mr. Harris: Again, know who you’re audience is, know who you’re talking to. We want to make sure as we go forward everybody has a chance to be appropriately heard, appropriately understood, and to appropriately participate. The participation part is hearing from the community to give you ideas of what the potential impacts may be.

Dr Frank: That’s why we have the regulation about community participation /community hearings but it’s the second part (the understanding part) that I bought up the issue of educational attainment because in some communities there may not be the scientific sophistication to understand the issue. Another thing I did when I served at the DEP was to ask that the universities make themselves available to translate science into an understandable language since there was a consortium of universities that had environmental programs. It was not a great

success/didn't get very far. So, I would like to see more than a community meeting built into the regulation.

Mr Minott: I agree, some years ago the issue was brought up to look at disparate impacts, the same communities are always asked to host the same industries.

Dr Frank: Nobody looks at the cumulative impacts. With the state it's one permit at a time not how many were issued in that area.

Mr Harris: I do understand these are some of the real issues, so with Plan EJ 2014 we will be looking at some of these things. We will cover Cross-Agency Focus Areas, Tools Development, and Program Initiatives. Cross-Agency Focus Areas: For new regulations, before any rulemaking will be established we will be looking to make sure there are no environmental impacts. In Considering Environmental Justice in Permitting: Do a demographic & maintain an open dialogue with the community, local/state government and experts to enhance public participation. The concept in Advancing Environmental Justice through Compliance and Enforcement is: To go out into the community to do proactive things to help businesses and people become good neighbors to one another. Through Supporting Community-Based Action Programs we will work with communities to come up with ways to make things better on the ground. Since residential land use is a big EJ issue, we are looking at developing a compendium of ideas about how you can best use the land. These are things that both stakeholders should have access to so that they can sit down and ask the appropriate questions.

Dr. Frank: If you're open for ideas what may be useful for people in communities is to create a checklist of questions to ask to get people started and then a list of resources/government websites where people can get help and additional information.

Mr Harris: I definitely will mention that because a standardized form prompting people to ask certain questions at these meetings makes a lot of sense.

Mr Minott: Ultimately, it is what the community is willing to accept and what their vision is.

Mr Harris: Absolutely, if a community sees themselves as an EJ community and has certain concerns than we cannot come in to say they are not. Self-identification is an important aspect of a community maturing and becoming a meaningful partner. In order to make sure what you're doing is not having a disproportionate impact you can mitigate/ take a number of paths to making sure you protect communities. The solution is a two-way street not just regulatory industries' dictating what is good for a community.

Mr Miller: We need to keep the same level of appreciation and understanding of what happened previously so the system doesn't go away (there is not a following).

Mr Harris: That's why it's valuable to have good responsible leadership on both ends; the community and the regulatory agency.

Mr Battle: I think what you said about the community being empowered and taking the lead is the key.

Mr Soule: I think if you get away from the broad definition of EJ and focus on every area as an EJ community you will achieve what you're trying to accomplish. Expand on outreach regardless of the area.

Chairman Battle: Any other comments?

8. ADJOURN

Motion to end the meeting, so moved at 3:45 PM.