

Stakeholder Communication
Bulk Solid Materials Rulemaking

- a) Date and time of Communication: February 5, 2014, 1:00 - 2:00 p.m.
- b) Place of Communication: City Hall, 121 S. LaSalle St.
- c) City officials and staff present:
 - Michael Negron, Chief of Policy, Mayor's Office
 - Eric Phillips, Deputy Policy Director, Mayor's Office
 - Rob Johnson, Assistant to the Mayor
 - Mort Ames, Senior Counsel, DOL
 - George Theophilos, Senior Counsel, DOL
 - Dave Graham, Assistant Commissioner, CDPH
 - Jennifer Hesse, Staff Attorney, CDPH
- d) Stakeholders present:
 - Mike Estadt, KCBX
 - Dave Seiler, Koch Minerals
 - Dave Severson, KCBX
 - Tom Safley, Koch Co. Public Sector
 - Jeff Schoepke, Koch Co. Public Sector
- e) Summary of Stakeholder Communications:

Representatives of Koch and KCBX thanked the City for the meeting and stated that they wished to follow up from the prior Stakeholder Meeting and go over some items that there wasn't time to discuss last time. They reiterated their desire to continue operating in Chicago and their willingness to enclose their materials. However, they also stated that they would not be able to keep operating in Chicago under the Proposed Rules as written and that they are still contemplating a legal challenge. Their two primary concerns are 1) needing a realistic timeframe for the design, permitting, and construction of an enclosure; and 2) needing interim relief from some of the requirements in the Proposed Rules during the construction period.

KCBX asked if the City had reviewed the sampling data from soil sampling that KCBX had conducted. The City stated that they did not receive the data, only a summary. KCBX stated that they will provide the data.

Koch Attorney Tom Safley proceeded to summarize specific concerns with the Proposed Rules, making reference to a document captioned *KCBX Terminals Company, Proposed*

Revisions, Jan. 10, 2014, which set forth KCBX's proposed changes to the Proposed Rules. He noted that one of the biggest concerns relates to the opacity standard set forth in the prohibition on fugitive dust, noting that, as written, the standard would be unattainable.

Regarding the definitions in the Proposed Rules, Mr. Safley recommended adding definitions for "Blend or Mix" and "Moist Material" for clarity and recommended modifying the definition of "Process" for consistency with other provisions in the Rules.

In the Fugitive Dust Plan section, KCBX recommended removing the requirement for a contingency plan when dust monitors detect fugitive dust, because PM10 is always in the air and, therefore, the monitors would always detect dust.

In the Protection of Waterways section, KCBX recommended inserting a setback distance of 50-feet, because they felt the term "sufficient" is too vague.

In the section requiring a Dust Suppression System, KCBX recommended changing the term to "Water Spray System," as this is a defined term in the Proposed Rules. They also proposed changing the term "operating" to "operable," noting that it wouldn't make sense to operate a water spray system in the rain or when the materials are already wet.

Regarding barge loading and unloading, KCBX noted that no equipment exists to unload a barge through an enclosed chute. KCBX site manager Mike Estadt explained that barges are unloaded with machinery that uses a clamshell attached to a crane, which then transports material to a conveyor. He noted that dust is controlled at these transfer points, but that there is no technology for a chute in this operation.

Regarding the paving requirements in the Proposed Rules, KCBX stated that it would cost multi-millions of dollars to pave all sixty acres of one of their sites. They asked about the intention of the paving requirement and suggested the requirement be revised to clarify that only roads and high-traffic areas be paved, but not areas that are used to stage product.

Regarding the street sweeper, KCBX noted that water spray cannot be used in freezing temperatures. They also noted that truck wheel washes could not be used in freezing conditions.

In the section regarding accumulations, KCBX asked that a 24-hour timeframe be added for cleanup of spilled material, as in the California regulations. They stated that a clear compliance test is needed and that it is not always possible to clean up immediately. They also stated that areas regularly used for storage of material should not be subject to the accumulation restriction.

Regarding transport, KCBX stated that barges with solid sliding covers are the type used in Chicago; therefore, they would add barges to the section regarding coverage for truck trailers and railcars. Additionally, regarding coverage of barges, they noted that they do not have the ability to deal with covers at their facility. Typically, barges are covered and uncovered at fleeting or cover handling facilities, which are about one mile from their facility. They stated that covering barges at their facility would significantly slow down their process.

Regarding tarping of trucks, they stated that it is not currently possible to cover a truck with a tarp that does not touch the material inside, as there is no market for that kind of equipment here in Chicago.

Regarding the timeframe for implementation, KCBX suggested a three-year period for enclosure, but stated that three years is optimistic. They suggested allowing 1 ½ to 2 years from receipt of a construction permit to construct the enclosure.

KCBX noted that the USEPA-required monitoring equipment would become operable in two weeks, and would provide real-time data by mid- to late March.

Michael Negron from the Mayor's Office asked about KCBX's contact with the community. KCBX stated they have had meetings with various groups including the Southeast Environmental Task Force, several Labor Unions, and others. They have also sent letters to all residents in the 10th Ward. They stated they have received mixed feedback, but mostly positive.

Regarding construction of the enclosure, KCBX estimated it would take approximately 300,000 construction hours. They would be constructing two or more large, steel structure buildings with concrete walls that would be several hundred feet long and wide and 75 feet tall. They stated they would probably not be able to use their existing sprinkler infrastructure inside the buildings, but could use them in the interim period. They stated that there is approximately 60 acres inside the rail loop, and they anticipated constructing approximately 10-20 acres of storage, although that amount was preliminary.

Mr. Negron asked if KCBX envisioned any expansion of their operations. They stated that they do not at this time, as they project their business to remain flat or decline. They said the mix of materials may change from coal to coke. However, they are open to considering any opportunities that may come along. Their plan continues to be to transfer operations from the North site to the South site, but they will use the North site as they build on the South site. They are not sure yet what they will do with the North site later. They stated that it would take some time to reconfigure their business to work with total enclosure.