

Stakeholder Communication
Bulk Solid Materials Rulemaking

- a) Date and time of Communication: February 7, 2014, 10:30 - 11:45 a.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
 - George Theophilos, Senior Counsel, DOL
 - Dave Graham, Assistant Commissioner, CDPH
 - Jennifer Hesse, Staff Attorney, CDPH
- d) Stakeholders present:
- Dr. Lora Chamberlain, Protect Chicago's Water
 - Stephanie Bilenko, Near West Citizens for Peace Justice & Environment
 - Sr. Dorothy Pagosa, 8th Day Center for Justice
 - Jim Kinney, Concerned Citizen
 - Larry Unruh, Friends of the Forest Preserves
 - Tom Shepherd, S.E. Environmental Task Force
 - Peggy Salazar, SETF
 - Keith Harley, Chicago Legal Clinic Inc., for SETF
 - Beverley Walter, Citizens Act to Protect our Water
 - Tiffany Ingram, Natural Resources Defense Council
- e) Summary of Stakeholder Communications:

Michael Negron opened the meeting and explained that the City will be posting notes from the meeting as we have been doing with other stakeholder meetings. He stated that the City has received lots of comments on the proposed regulations so far and that we will be revising the regulations based on comments. He also noted that the City is undertaking some testing to determine if petcoke and coal should be treated differently from other materials.

Mr. Negron pointed out that, since the State's proposed emergency rules were rejected, the City's actions are even more important right now. He stated that the Mayor does not want Chicago to become a dumping ground for these types of materials. Therefore, the City is pursuing a few different measures, including tough regulations. He noted that KCBX has said that they cannot keep operating under the regulations as they are written. He stated that the City is looking at zoning authority to prevent the city from becoming a

permanent dumping ground for materials like coal, petcoke, and metcoke. And the City is also participating in the lawsuit with the Attorney General that resulted in Beemsterboer removing all the petcoke from that site. He also stated that the City wants to hear from the community.

Peggy Salazar asked what an ordinance prohibition on new petcoke facilities would accomplish if the facilities are already here. Mr. Negron stated that the ordinance would prohibit expansion, thus capping facilities at their current capacity.

Regarding treating petcoke differently, Ms. Salazar said that the community is complaining about all materials. She said that their homes have been covered in rust [sic]. So, they want the regulations to cover all sources of fugitive dust.

Mr. Negron responded that the regulations would continue to cover everything, but with potentially different levels of strictness.

Tiffany Ingram asked about the timing of the zoning ordinance. Mr. Negron stated that the ordinance could be announced the following week and that the next City Council meeting was scheduled to take place on March 5.

Community members asked about the monitoring requirement in the proposed regulations. They noted that there is already a monitor stationed at Washington High School, which shows the area is in non-attainment of federal air quality standards, and they wondered why the dust picked up by this monitor couldn't be analyzed in a lab to determine where it is coming from. They further stated that the facility monitors should be required to detect both PM2.5 and PM10. Dr. Chamberlain said that the companies should be required to hire a third party to verify and report the monitoring data. And others asked what will happen when the monitors detect dust.

Jennifer Hesse answered that the regulations will require the companies to prepare and submit a Fugitive Dust Plan, which must include a contingency plan detailing how they will respond when the monitors detect dust coming from their facilities.

Ms. Salazar asked what will happen if they don't fix the problem. Mr. Negron responded that the City would pursue multiple tools to enforce the regulations, including legal action if companies receive multiple violations and fail to remedy them.

Keith Harley noted that there are some difficulties in analyzing ("CSI'ing") dust detected by an area monitor. He said that the companies would be ready with data showing that such dust does not include petcoke. He said this is why fence line monitors are better than ambient air monitors.

Ms. Ingram asked about the timing of the regulations. Mr. Negron stated that the regulations are not tied with the ordinance, and that the regulations would likely be issued before the ordinance is passed.

Community members asked if the regulations would require water testing. Ms. Hesse stated the regulations require protection of waters and management of stormwater, but do not require testing of water.

Regarding the dust monitors, the community members said that the regulations should specify the placement of the monitors, requiring that they be placed in the path of prevailing wind.

Community members said there should be toxicology testing of the petcoke. Ms. Salazar said there is snow covered in black dust that could be tested. Dr. Chamberlain also suggested that there should be radiation monitoring, because there is a radioactive element in tar sands oil. The community members were concerned about the health effects of breathing petcoke dust. They asked if the Health Department could provide information on treatment. They also said the companies should be required to provide masks to protect residents from breathing the dust.

Mr. Harley stated that, in light of the legal complaints filed by the agencies, there should be a moratorium on petcoke now.

The residents expressed concern about water impacts on the Calumet River and Lake Michigan. They said it is difficult for the Water Department to extract particulates. Therefore, the water should be monitored at specific points.

The residents asked if, during the two-year period for construction of an enclosure, the same business would be conducted if the monitors showed dust? Ms. Hesse said that there is nothing to prevent the City from issuing a cease and desist order if the companies fail to correct any violations. Mr. Harley stated that the situation with Carmeuse some years ago showed that during a six-year period, the City's only response to citizen complaints was to issue administrative citations with relatively small fines.

The residents asked about the effects of ingestion of petcoke. They said there are people on respirators who live across the street from the petcoke facility. They said that CDPH should do a study, or push the CDC to do a study. Dr. Chamberlain said the petcoke leaves a sheen on water, which indicated petroleum which is a carcinogen. The residents further stated that they do not trust the EPA study, which was inconclusive. They said there should be a toxicology test to let people know what is in the material. Dave Graham noted that the term "hazardous" has different meanings in the waste disposal context. Mr. Harley said the generator of the material should be required to test the

material, because we don't know the constituents in each load of material. He pointed to IEPA's recommended protocol for such testing.

Mr. Harley asked if the proposed ordinance would be similar to the landfill moratorium, which prohibits new landfills and regulates existing ones. George Theophilos responded in the affirmative.

The residents asked about the City's response to complaints. Ms. Salazar said a next-day response does not help when it comes to particular wind events. Mr. Negron noted that this shows the importance of dust monitors. The residents asked again about the placement and height of the monitors and noted the importance of third-party verification, and also said the monitoring data should be publicly available. Mr. Graham said that CDPH would have to review and approve the monitoring plan before they are placed.

Tom Shepherd noted that if you look at an aerial photo of the area, you will see how big the sites are and what a monumental task it would be to cover all 90 acres. He also noted that the residents have observed that the water cannons have not worked. He said that if you go out on a windy day, when the wind is more than 25 miles per hour, you will observe it, feel it, and taste it.

Ms. Ingram mentioned the Detroit lawsuit and asked if the City was coordinating with Detroit. Mr. Theophilos stated the City had spoken with lawyers in Detroit a while ago.

Beverly Walter noted that Senator Harmon was exploring using brownfields for solar energy. The residents noted that petcoke is being burned in China, but that pollution from China was blowing into the United States.

Residents asked how they could comment on the proposed zoning ordinance. Mr. Negron said there would be an opportunity at the committee hearing which would probably be the first Monday in March. He said that the City would likely announce the proposed ordinance and provide an update on the bulk solid materials regulation the following week.