

**Public Hearing Minutes
of the
Louisville Metro Air Pollution Control Board
September 16, 2009**

A public hearing of the Louisville Metro Air Pollution Control Board was called to order on September 16, 2009, at 9:59 a.m. in the Board Room of the Louisville Metro Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky, by the Vice-Chairman, Dr. Nadir Al-Shami.

General Statement, Rules and Purpose

The Vice-Chairman read the opening announcements, rules and purpose of the Public Hearing which was to review draft proposed amendments to Regulation 2.08 *Fees*, and Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*. Also being reviewed was an Agreed Board Order with Ralph Avenue Recycling Center LLC.

1. Draft proposed amendment to Regulation 2.08 *Fees*, Version 23, Draft 1, External - August 6, 2009

Ms. Anderson said the District was proposing several changes to Regulation 2.08 *Fees*. First, the amendment changes the amount of the fees in accordance with the change in the Consumer Price Index (CPI) published by EPA. Second, the amendment establishes a new fee for permits containing a Plantwide Applicability Limit (PAL). A PAL permit is valid for ten years and will allow companies flexibility to make certain changes without having to apply for a construction permit. The proposed amendment establishes an initial PAL fee (which would also apply during PAL renewal) and an annual fee. The proposed annual fee reflects the fact that the District will have continued oversight during a PAL permit's ten-year term. Finally, the proposed amendment to Regulation 2.08 changes the STAR Program fees for Title V sources from a proportionate share fee to a flat "per ton" rate, a change that should encourage companies to reduce their emissions to pay lower fees. Other administrative changes to the regulation included removing redundant language and outdated provisions.

Comments

Ms. Ruffin asked how many tons are allowed to be emitted before the fee is lowered. Ms. Anderson stated there will be a flat "per ton" fee based on the emissions.

Mr. Jacobs asked if the fee is based on the CPI. Ms. Anderson stated the fee is based on a change in the CPI that EPA publishes annually.

Barbara Hall, representing the Ford-Kentucky Truck Plant, addressed the Board with a public comment on behalf of Heidi McKenzie with Ford's Global Regulatory Policy. Ms. Hall stated that Ford is concerned with the proposed annual PAL permit fee of \$8,027. She said that over a ten-year period, the proposed PAL permit would fees cost \$72,000 more than permit fees Ford has paid over the last ten years. She said Ford supports the initial PAL permit fee of \$8,027 but that other states do not require an annual PAL fee. Ms. Hall said that the proposed PAL fees are excessive and may prohibit Ford from pursuing a PAL permit. Ms. Hall presented a written copy of Ford's comments to Joe Schweinhart, Board Secretary-Treasurer.

2. Draft proposed amendment to Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*, Version 4, Draft 1, External – August 5, 2009

Ms. Anderson said the proposed amendment to Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants* is to extend by one year the compliance and submittal deadlines for environmental acceptability (EA) demonstrations for Category 2 toxic air contaminants (TACs) for Group 2 sources. These companies have already submitted EA demonstrations for Category 1 TACs.

Comments

Bruce Gaylord, Republic Conduit, addressed the Board and asked that the date not be changed. Mr. Gaylord said Republic Conduit has spent many thousands of dollars testing and modeling in order to come into compliance with the STAR program. He said the company has allocated the additional funding to come into compliance and that extending the deadline jeopardizes several projects the company has planned. He asked the District to review Republic Conduit's submittal so the company can move forward with their planned projects.

Ms. Anderson stated that extending the deadline in Regulation 5.21 would not interfere with a company coming into compliance early. She said the District will review information when it is received and it will be approved if it meets EA standards.

Ms. Ruffin asked if companies can be grandfathered and how it will affect companies already in compliance. Ms. Anderson said the District will communicate with all of the companies affected by the extension and the new deadline.

Ms. Smith asked if the District will be able to review and approve Republic Conduit's submittals if they are received prior to the proposed extension deadline. Ms. Anderson said the District will continue to prioritize all EA demonstrations.

Mr. Thomas asked if additional requirements will be included in Regulation 5.21 that may hinder a submittal from being approved. Ms. Anderson said the District does not expect to add requirements to the regulation.

3. Agreed Board Order with Ralph Avenue Recycling Center LLC

Ms. Phelps presented a proposed Agreed Board Order (ABO) with Ralph Avenue Recycling Center LLC. The ABO directs the company to pay an administrative penalty and to implement a corrective action plan. The company has agreed to the terms of the order.

Ms. Phelps said Ralph Avenue Recycling Center LLC operates a construction and demolition landfill pursuant to an agreement with the Kentucky Energy and Environment Cabinet. The District alleges that beginning in March 2008, residents of the neighborhood adjacent to the landfill began to complain of excess dust and odor emanating from the facility. District investigators observed the same dusty conditions and strong objectionable odors, and also discovered that Ralph Avenue Recycling was accepting municipal waste, for which it was not authorized. Ms. Phelps said that Louisville Metro Solid Waste Management issued a citation for improper disposal and required the company to remove the unauthorized waste from the landfill.

She said that during the next eight months, the District continued to receive and investigate complaints about objectionable off-property odors from the landfill. Ms. Phelps said the company took steps to alleviate the problem and since December 2008, the District has not received any complaints or discovered any problems during regular surveillance in the area.

Ms. Phelps said the company has agreed to sample and analyze emissions from the landfill if there are off-property odors during the next two years. The company has also installed a dust depression system. Ms. Phelps said the company agreed to pay an administrative penalty of \$8,625.

Ms. Phelps said the District recommended that the Board adopt the order as proposed.

Comments

Pat Stallard, an attorney with Stites & Harbison who represents Ralph Avenue Recycling, informed the Board that Ves Bennett, owner of Ralph Avenue Recycling Center, was present at the public hearing and would answer any questions from the Board. There were no questions.

Adjournment

The public hearing adjourned at 10:23 a.m.

Dr. Nadir Al-Shami
Vice-Chairman

Joseph E. Schweinhart
Secretary-Treasurer