

**Minutes
Regular Meeting
of the
Louisville Metro Air Pollution Control Board
July 20, 2011**

The regular meeting of the Louisville Metro Air Pollution Control Board was called to order on July 20, 2011, at 9:44 a.m. in the Board Room of the Louisville Metro Air Pollution Control District, 850 Barret Avenue, Louisville, Kentucky, by the Chairman, Dr. Robert Powell. Other Board members present were Dr. Nadir Al-Shami, Ms. Barbara Sexton Smith, Mr. Ronald Thomas, Ms. Bonnie Biemer, Mr. Steve Thomas and Mr. Bill Jacob. A quorum was present.

The following Louisville Metro Air Pollution Control District staff members were present: Lauren Anderson, Rachael Hamilton, Terry Phelps, Matt Stull, Paul Aud, Cynthia Lee, Eva Addison, Matt King, Karen Thorne, Steven Gravatte, Steve Taylor, Shannon Hosey, Emily Tyler, Stewart McCollam, Craig Butler, Billy DeWitt, Colette McConville, Starlet Raj, Hannah Byland and Monica Little. Also present were Assistant County Attorney Stacy Fritze Dott and County Attorney staff member Tammy Brown.

The following guests were present: Paul Bowe, Marcus Paint; Jim Bruggers, The Courier-Journal; Dennis Conniff, GLI Air Quality Task Force; Tim Corrigan, GLI; Mike DeBusschere, KEC; Brad Dillon, GD&M; Edward Dusch, Louisville Medical Center, Inc.; Carolyn Embry, American Lung Association; Bob Ehrler, LG&E; Jennifer Edwards, Arkema; Barbara Hall, Ford KTP; Tom Herman, Zeon Chemicals; Paul Howard, Terracon; Betsy Janes, American Lung Association; Sarah Scheetz, LG&E; and Paige Mosser Theriac, Theriac Environmental Consultants, Inc.

Introductions

Ms. Anderson introduced William DeWitt as the new Supervisor of Air Monitoring. Mr. DeWitt previously worked in the Environmental Programs section as an Environmental Coordinator

Public Recognition

Ms. Anderson announced that Matt Stull resigned from his District position as the Public Information Supervisor effective August 3, 2011 to take a position with Sts. Mary and Elizabeth Hospital..

Approval of Minutes

Dr. Powell stated that a change needed to be made in the regular June 2011 Board meeting minutes on Page 3, first sentence in section E. Regulation 5.00, to delete "... no comments were made..." to state that "... *Jon Trout did offer comments...*"

The minutes of the Public Hearing, Policy Committee and regular Board meeting held on June 15, 2011 were approved with the correction noted above in the regular Board meeting minutes.

Public Comments

Ms. Carolyn Embry, representing the American Lung Association, commented on the Board's continued consideration of the STAR revisions. She said she was not sure when the Response to Comment document was posted on the District's website, but felt that not enough time was allowed for

the public to consider the District's responses to the comments that were presented at the June 2011 Public Hearing. She said due to the complexity of the issues and the short time to review the comments, it was appropriate for the Board to defer action on the regulations. Ms. Embry said she wanted to give due consideration to the comments that were presented and to understand the rationale for the responses.

Unfinished Business

- A. Regulation 5.20 Methodology for Determining Benchmark Ambient Concentration of a Toxic Air Contaminant, Version 3 – Proposed May 20, 2011**
- B. Regulation 5.21 Environmental Acceptability for Toxic Air Contaminants, Version 6 – Proposed, May 20, 2011**
- C. Regulation 5.22 Procedures for Determining the Maximum Ambient Concentration of a Toxic Air Contaminant, Version 3 – Proposed, November 17, 2010**

Dr. Powell said Ms. Anderson would discuss amended District regulations 5.20, 5.21 and 5.22 together and that she had prepared a PowerPoint presentation to provide facts on the proposed changes to the STAR regulations.

Ms. Anderson gave an overview of the STAR program and reviewed the three amended regulations, which were tabled by the Board at its prior meeting due to questions raised at the Public Hearing held on June 15, 2011.

As part of the presentation, Ms. Anderson reviewed briefly reviewed the STAR Program for the Board. The STAR Program regulates toxic air contaminants (TACs) and applies to processes or process equipment at Group 1 or 2 stationary sources. Ms. Anderson also reviewed the comments that the District had received on the three amended regulations. The majority of the comments received were about the proposed amendments to Regulation 5.20, which includes the standards for carcinogens. Ms. Anderson discussed how a TAC is determined to be a carcinogen for purposes of determining the benchmark ambient concentration and how unit risk estimates are determined. She stressed that the District had reviewed the comments from the public hearing and recommended that some additional language be added to the proposed regulation to ensure that the process for de-listing a TAC as a carcinogen was transparent. In Regulation 5.21, Ms. Anderson said the standards remained the same but the language was simplified for clarity. In Regulation 5.22, Ms. Anderson said changes were made regarding intermittent emissions and the District's preference for AERMOD in Tier 4 modeling. She said the maximum ambient concentration of a TAC is used to determine compliance for environmental acceptability goals, and that Tier 4 modeling using an EPA approved dispersion model would typically be required. Ms. Anderson said that Categories 3 and 4 hazardous air pollutants are listed in Regulation 5.23.

Ms. Anderson said the District recommends that the Board adopt Regulations 5.20, 5.21 and 5.22 as proposed.

Comments

Ms. Anderson reported that Tom FitzGerald, Director of the Kentucky Resources Council, was not able to attend the Board meeting. Therefore, she read a letter he sent electronically to the Board that stated concerns he expressed at the June 2011 Board meeting related to amendments in Regulations 5.01,

5.20, 5.21 and 5.22 were resolved in the District's Response to Comments. Also, he stated he would speak to District staff about clarification on environmental acceptability demonstrations, but he saw no reason to defer approval of the regulation based on his question.

Discussion

Ms. Biemer asked when the Response to Comments document was posted on the District website. Ms. Anderson said the document was posted the morning of July 19, 2011. Also, she stated the responses in the document were related to questions made at the June 2011 public hearing. Ms. Anderson said that, for the most part, the changes to the STAR regulations that the public had the most concern about were addressed during the July 2011 Board meeting.

Dr. Al-Shami asked why the language for a carcinogen was changed. Ms. Anderson responded that it was revised to provide a way for the Board to rely on determinations by the Environmental Protection Agency (EPA), National Toxicology Program (NTP), and International Agency for Research on Cancer (IARC), but the determinations by these agencies would not necessarily have to be in agreement to delist a TAC as a carcinogen.

Mr. Steve Thomas asked if comments were received on the proposed changes. Ms. Anderson said the proposed amendments to the STAR regulations went through the informal comment period and the public comment period. She said comments were received on the proposed amendments.

Mr. Jacob stated he believed the amendments simplified the STAR program language and process. Also, he said that if a variance was brought to the attention of the Board, they would have a clear process to follow.

A. Regulation 5.20 Methodology for Determining Benchmark Ambient Concentration of a Toxic Air Contaminant, Version 3 – Proposed May 20, 2011

Ms. Anderson recommended that the Board adopt the amendments to Regulation 5.20 as proposed on May 20, 2011, and also recommended adoption of the changes that were discussed with the Board on July 20, 2011, with the change in language that "the Board shall rely on the decisions of EPA, NTP and IARC to delist a carcinogen."

Motion: Dr. Al-Shami moved to defer action on Regulation 5.20 until the August 2011 Board meeting so the Board could bring in an expert to seek clarification on TACs, and to allow time for additional public comments.

The motion did not carry.

Motion: Ms. Biemer moved to adopt Regulation 5.20 *Methodology for Determining Benchmark Ambient Concentration of a Toxic Air Contaminant, Version 3*, as proposed.

Dr. Al-Shami voted no. The motion passed.

Discussion

Ms. Smith stated that in her experience with the Board, there had always been an openness and willingness to make sure everyone's opinion and views were heard and taken into consideration. Although she was comfortable moving forward, she noted that at least one view had been expressed that more time was needed.

B. Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*, Version 6 – Proposed, May 20, 2011

Ms. Anderson said the District recommended that the Board adopt Regulation 5.21, Version 6, as proposed.

Motion: Mr. Ron Thomas moved to adopt Regulation 5.21 *Environmental Acceptability for Toxic Air Contaminants*, Version 6, as proposed.

Dr. Al-Shami abstained. The motion passed.

C. Regulation 5.22 *Procedures for Determining the Maximum Ambient Concentration of a Toxic Air Contaminant*, Version 3 – Proposed, November 17, 2010

Ms. Anderson said the District recommended that the Board adopt Regulation 5.22, Version 3, as proposed.

Motion: Mr. Jacob moved to adopt Regulation 5.22 *Procedures for Determining the Maximum Ambient Concentration of a Toxic Air Contaminant*, Version 3, as proposed.

Dr. Al-Shami abstained. The motion passed.

New Business

A. Proposed Agreed Board Order with Candela Systems Corporation

Ms. Terri Phelps, Enforcement Manager, said the District recommended that the Board adopt the Agreed Board Order with Candela Systems Corporation. She said the District and Candela agreed to a penalty of \$15,000 to resolve the case.

Discussion

Mr. Jacob asked what amount the other two companies were fined who were also involved in the asbestos violation at the University of Louisville. Ms. Phelps said the two companies were each fined a \$15,000 penalty.

Motion: Mr. Jacob moved to adopt the Agreed Board Order with Candela Systems Corporation, as proposed.

The motion passed unanimously.

B. Proposed Agreed Board Order with Louisville Medical Center, Inc.

Ms. Phelps said a fine was not involved in the Agreed Board Order with Louisville Medical Center, Inc. and the company agreed not to use the oldest boiler until the conversion to gas was completed. Ms. Phelps said the District recommended that the Board adopt the Agreed Board Order with Louisville Medical Center, Inc., as proposed.

Motion: Mr. Ron Thomas moved to adopt the Agreed Board Order with Louisville Medical Center, Inc., as proposed.

The motion passed unanimously.

C. Draft amendment to 2.03 Permit Requirements: *Non-Title V Construction and Operating Permits and Demolition/Renovation Notices and Permit Requirements, Version 7-Proposed June 15, 2011*

Ms. Hamilton said the District recommended that the Board adopt the amendments to Regulation 2.03, as proposed.

Motion: Mr. Steve Thomas moved to adopt Regulation 2.03 *Permit Requirements : Non-Title V Construction and Operating Permits and Demolition/Renovation Notices and Permit Requirements, Version 7*, as proposed.

The motion passed unanimously.

Committee Report

A. Policy Committee

Mr. Ron Thomas, Chair of the Policy Committee, said the committee met on June 15, 2011 and recommended the beginning of 30 day public comment period for Regulation 2.03 *Permit Requirements: Non-Title V Construction and Operating Permits and Demolition/Renovation Notices and Permit Requirements, Version 7- Proposed June 15, 2011*.

Staff Reports

A. Director

Ms. Anderson announced that a reception would immediately follow the Board meeting to recognize Ms. Barbara Sexton Smith, who was resigning from the District Board because of her new position as acting director of the Fund for the Arts. The District presented a gift to Ms. Sexton Smith, who thanked Board and staff for a very rewarding experience during her time on District Board.

B. Air Quality Data

Dr. Powell reported the community experienced several exceedances due to extreme weather conditions.

The air quality monitoring report was submitted for filing. A copy is attached to the original minutes.

C. Enforcement Status Report

The enforcement report was submitted for filing. A copy is attached to the original minutes.

D. Excess Emission Report

The June 2011 Excess Emission Report was submitted for filing. A copy is attached to the original minutes.

E. Permitting Backlog Report

The permitting backlog report was submitted for filing. A copy is attached to the original minutes.

F. Lawn Care for Cleaner Air Awards

The Lawn Care for Cleaner Air Awards quarterly report was submitted for filing. A copy is attached to the original minutes.

Next Meeting

The next regular Board meeting is scheduled Wednesday, August 17, 2011, at 10:00 a.m.

Adjourn

The meeting was adjourned at 11:07 a.m.

Robert W. Powell, M.D.
Chairman

Rachael Hamilton
Secretary-Treasurer