

## **Stakeholder Communication**

### **Bulk Solid Materials Rulemaking**

- a) Date and time of Communication: January 10, 2014, 12:20-2:00
- b) Place of Communication: US Bank, 1000 E. 111<sup>th</sup> St., 11<sup>th</sup> Floor
- c) City officials and staff present:
  - Michael Negron, Director of Policy, Mayor's Office
  - Rob Johnson, Assistant to the Mayor
  - George Theophilos, Senior Counsel, DOL
  - Jared Policicchio, Assistant Corporation Counsel, DOL
  - Dave Graham, Assistant Commissioner, CDPH
  - Jennifer Hesse, Staff Attorney, CDPH
- d) Stakeholders present:
  - John A. Pope, 10<sup>th</sup> Ward Alderman
  - Mark Lieberman, Kinder-Morgan
  - Emily Gallagher, Kinder-Morgan
  - Simon Beemsterboer, Beemsterboer Slag
  - John Marta, Horsehead Corp.
  - David Moore, Carmeuse Lime & Stone
  - Steve Candle, Kinder Morgan
  - Jim Langbehn, SH Bell Co.
  - Kim Pesenko, AMEC
  - Ed Van Poncke, Ozinga Materials, CPRR
  - Rex Jameson, Ozinga Bros. Inc.
  - Andy Hixson, Holcim (US) Inc.
  - Ian Hirt, North American Stevedoring Co.
  - Bill Graham, Civil & Environmental Consultants
  - David Rieser, Much Shelist
  - James Hill, Kinder Morgan
  - David Holmberg, CAIC
  - Ted Stalnos, CAIC
  - Patty Bryan, Roux Associates
- e) Summary of Stakeholder Communications:

DOL Attorney George Theophilos notified the parties about the Guidelines for Stakeholder Communications. Alderman Pope discussed the timeframe for the comment period and the upcoming public community hearing.

Industry representatives questioned the need for such comprehensive regulations when the problem reported in the news has been petcoke.

They further stated that the regulations do not lay out an intent for the businesses to evaluate. The problem is not quantified as in II. EPA rules. Since there is no specific goal, no threshold to meet, then it would be difficult for businesses to meet the requirements.

Consultant Bill Graham stated that coke and coal present a flammable hazard if they are in a building, and he asked if CFD had been consulted. He stated that tarping is a common practice that would not present a safety hazard as enclosure in a building would.

KinderMorgan and SH Bell noted that ferro alloys are stored inside anyway, because they cannot become wet; this poses a safety concern. However, pig iron is stored outside. It is not valuable enough for customers to be willing to pay the additional cost of indoor storage. Some pig iron is in chips, but it is generally in big chunks the size of a shot put. Since it is a heavy material, a single piece on the ground would violate the accumulation regulation (which is three ounces). However, since it is a valuable commodity, spillage would be minimal anyway.

Another problem with regulating pig iron the same as other material is that the heavier material cannot be discharged into an enclosed chute. In addition, because of the greater density and weight of pig iron, the quantity limits for outdoor storage are too limiting.

Other objections the businesses raised included: the wind speed limitation (they said that 15 MPH is the average wind speed in Chicago); the use of so much water (they said there are already drainage issues in Calumet and adding thousands of additional gallons of water might be a problem for MWRD); the requirement to enclose railcar unloading (they said that a crane could not be placed indoors); the timeline for enclosure (they said that getting a construction permit takes so long that it would take 3 years to build a building); and the wind barrier requirement (they said that it will just be catching wind and it would have to be designed to withstand a tornado).

Several companies expressed concerns about the setbacks, stating that the setbacks will make their properties useless. They also said that the regulations will price people out of this business. They viewed the trigger limits for enclosure as limits to their growth potential.

Andy Hixson of Holcim stated that the paving requirement will cost a million dollars and will take 6-8 months to get a permit. He said that the City will require a basin. (He also incorrectly stated that paving is an immediate requirement in the regulations.) He further stated that constructing the wind walls and paving will cost him three million dollars.

KinderMorgan noted that they installed dust collectors, but that they accumulated data proving that they don't need an air permit. Therefore, IEPA moved them into the ROSS program. KinderMorgan further stated that because of the cost of installing and maintaining barriers, they would have to fold shop.

The businesses were not satisfied with the provision in the regulations that would allow businesses to seek a variance from some of the requirements. They stated that this shifts the burden to them and that the bias will be in favor of the existing regulations. Plus, they would be left waiting for a decision on any waiver request.

The businesses asked for more clarity regarding the types of materials covered under the regulations. Simon Beemsterboer noted that the definitions split out metcoke and petcoke. Bill Graham stated that the phrase "ingredient in a manufacturing process" is broad and would include pig iron, sand, and salt. Beemsterboer said that if salt is included, many of the regulations do not make sense. Ozinga stated that materials at ready-mix plants are not considered construction and demolition material. Rather, they are ingredients in a manufacturing process.

Regarding fugitive dust monitoring, the businesses were concerned about the costs of installing and maintaining monitors. They said that there would be no meaningful way to use the data. They said that if dust can leave their site, then dust can come onto their site (such as from nearby construction projects).

Attorney David Rieser stated there should be a cost/benefit analysis as federal agencies do. He also noted that harming the businesses along the river is contrary to the City's goal in the Asian Carp matter.

The businesses stated that the scope of the regulations are broader than what was reported in the news. Therefore, in fairness to the businesses, they should be given more time to respond. They would like a decision on an extension soon.