



Minutes

Regular Meeting of the Clark County Air Pollution Control Hearing Board

June 14, 2018

**Clark County Building Services
Presentation Room
4701 West Russell Road
Las Vegas, NV**

I. CALL TO ORDER

Chair Daniel Sanders called the meeting of the Air Pollution Control Hearing Board to order at the hour of 1:30 p.m. A quorum was present and Affidavits of Posting of the agenda were provided as required by the Nevada Open Meeting Law. The Affidavits will be incorporated into the official record.

PRESENT: Daniel Sanders, Chair
Evan S. Wishengrad, Esq., Vice-Chair
Tom Foster, P.E. (arrived at 1:50 p.m.)
William Kremer
Lauren Rosenblatt, Esq.
Craig Schweisinger (left at 1:39 p.m.)

ABSENT: Ryan L. Dennett, Esq.

LEGAL COUNSEL: Catherine Jorgenson, Deputy District Attorney

DAQ STAFF: Shibi Paul, Compliance and Enforcement Manager
Anna Sutowska, Air Quality Supervisor
Sherrie Rogge, Administrative Secretary

II. PUBLIC COMMENT

There were no public comments.

III. CERTIFICATE OF APPRECIATION

Compliance and Enforcement Manager Shibi Paul presented Board Member Schweisinger with a Certificate of Appreciation for his six years of dedicated service to the APC Hearing Board.

Board Member Schweisinger thanked everyone for their hard work and commended the Board for achieving so many goals over the past six years.

IV. APPROVAL OF MINUTES OF FEBRUARY 8, 2018 MEETING

Chair Sanders called for comments, changes, or corrections to the February 8, 2018 minutes. Vice-Chair Wishengrad requested the Board's action be added to page 7 (after the 6th paragraph) and on page 14 (first line of the 3rd paragraph) that "Ns. Nielsen" be changed to "Ms. Nielsen." He also commended staff on the preparation of these minutes.

Board Action:

MOTION: Chair Sanders called for comments, changes, or corrections to the February 8, 2018 minutes.
BY: Board Member Schweisinger as corrected.
SECOND: Board Member Kremer.
FINAL ACTION: Unanimous; the motion carried.

Board Member Schweisinger left the meeting at 1:39 p.m.

**V. DISCUSSION ON PUBLIC NOTICE PROCEDURES FOR PERMITTING ACTIONS
(Requested by Vice Chair Wishengrad)**

Compliance and Enforcement Manager Shibi Paul introduced this as an item that had been requested by Vice Chair Wishengrad and that his presentation would cover Item V as well as Item VI from today's agenda.

Deputy District Attorney Catherine Jorgenson recommended to the Chair that Item VI be read into the record at this time since the two items will be heard at the same time.

Chair Sanders read Item VI into the record:

**VI. INFORMATIONAL SESSION FROM AIR QUALITY WITH REGARDS TO INFORMING
AND EDUCATING THE PUBLIC ON AIR QUALITY REGULATORY MATTERS AND
THEIR OPTIONS FOR PARTICIPATION (Requested by Board Member Rosenblatt)**

Mr. Paul began the PowerPoint presentation on Department of Air Quality's (Air Quality) public notice procedures for permitting actions. The public participation requirements are detailed in Air

Quality Regulation (AQR) Section 12, approved by the Board of County Commissions (BCC) on March 18, 2014.

For Minor Sources, the public participation requirements are detailed in Air Quality Regulation (AQR) Section 12.1, approved by the Board of County Commissions (BCC) on March 18, 2014. Public notices are required per AQR 12.1.3(a)(1) for the following: 1) a new source with potential emissions that exceed a certain amount (e.g., 50 tons/year of CO or 15 tons/year of PM₁₀); 2) a new source that is located within 1,000 ft. of a school, hospital or residential area; or, 3) if there is a significant permit revision with a significant increase in potential emissions.

For Major Sources, the public participation requirements are detailed in AQR Sections 12.2, 12.3, 12.4 and 12.5, approved by the BCC on March 18, 2014.

Vice-chair Wishengrad questioned whether based on the criteria for a minor source if public notice was required for the Wells Cargo application that the Board ruled on in February since it was not a new source and there was not a significant increase in emissions. Board Member Rosenblatt recalled that it was a significant increase. Mr. Paul confirmed that the permit revision was a significant increase for at least one pollutant.

Board Member Kremer asked Mr. Paul what is causing all of the Carbon Monoxide (CO) emissions. When you burn methane, the result is Carbon Dioxide. Carbon Monoxide would result from incomplete combustion which would be considered inefficient. If they are burning natural gas, the emissions should be CO₂. Mr. Paul replied that in Wells Cargo's case, the CO emissions were from the asphalt drums. CO₂ is not a criteria pollutant and is not listed in the potential emissions. Mr. Kremer stated that CO is not considered a combustion product of methane and is generally ignored. Mr. Paul replied that Air Quality calculates emissions based on emission factors for each type of combustion such as diesel and natural gas. Mr. Kremer replied that CO is ignored in federal law because it shouldn't be an emission product. Mr. Paul disagreed and referred Mr. Kremer speak with Michael Sword, Air Quality Planning Manager.

Board Member Rosenblatt asked to follow up on Vice-chair Wishengrad's earlier question with regards to Wells Cargo's minor source permit and keeping it within the minor source limitations. She asked Mr. Paul what criteria is applied to determine whether the revision is significant to stay within the minor source limits and whether it has to do with the emissions. Mr. Paul stated that it all has to do with emissions increases. Every pollutant has certain limits. If it is increased more than the limit, it is a significant revision. There are other significant revisions, but the public notice requirement is only for a significant permit revision with a significant emissions increase. The emissions increase is defined by a number. In Wells Cargo's case, they stayed under the major source limit by taking an operational limit. Vice-chair Wishengrad asked to clarify whether the third factor is a two-part test. It is a significant permit revision with a significant increase. But, there could be a significant permit revision without a significant increase in emissions. Mr. Paul replied that there could be a significant permit revision without a significant increase in emissions.

Mr. Paul continued with the presentation. The public participation requirements for major stationary sources are detailed in AQR 12.2, 12.3, 12.4 and 12.5 (approved by the BCC on March 18, 2014). For major source operating permits, the control officer shall provide for public notice, comment, and

an opportunity for a hearing on the initial permit issuance, when there are significant revisions to a Part 70 or Title V permit, re-openings for cause, and permit renewals. In addition, public notices are also required for all Major Source Authority to Construct (ATC) Permits.

Board Member Foster arrived at 1:50 p.m.

Public Notices are required to be published in a newspaper of general circulation and on the department's website for 30 days. In addition, the Control Officer shall also send the Notice to the applicant and to officials/agencies having jurisdiction of the source location. These notices are required to contain the following information: application details, location of the relevant documents, type and quantity of emissions, contact information to obtain information, Control Officer's determination of approval, and an opportunity for public comment and hearing. There is a 30-day time frame for written comments to be submitted. Any person may petition the Control Officer for a hearing during the comment period and the Control Officer may hold a hearing between 30-70 days after the notice is published.

In October 2016, the EPA revised the public notice provisions for the Clean Air Act Permitting Programs [81 FR 71613]. The final rule removed the mandatory requirement to publish public notices in newspapers for permitting actions and now allows for e-notices (on the web) as an option with e-access to the permit during the comment period. In addition, the new provisions have allowed for state and local air agencies to revise their rules to reflect the change. DAQ is currently in the process of revising the minor source rule (AQR 12.1) to be consistent with the changes in EPA's final rule.

Staff is proposing to enhance public participation with the development and implementation of a 'List Serve' feature on Air Quality's website that will allow interested persons to sign-up for various categories of notifications and alerts. Separate lists will be maintained for each category. Once signed up, individuals will receive email notifications on public notices for permitting actions, Air Quality advisories and alerts, construction notices, reminders on regulatory deadlines, and workshop and training opportunities. Implementation of this new program is scheduled for January 2019.

Vice-Chair Wishengrad stated that publishing notices in a newspaper of general circulation or even on the department's webpage is not sufficient when social media has a much broader spectrum.

Board Member Rosenblatt stated that the question she had raised in February was making the public who are interested in engaging understand where their concerns fall in the procedure. The school that brought the complaint against Wells Cargo was not within the procedure of the air permit revisions in question. There must have been a better way for them to raise the issues.

Vice-Chair Wishengrad stated that in the case of Wells Cargo and CCSD, they weren't notified of the public hearing. Had they been notified, they would have been more involved in the beginning. He stated that List Serve is a good start; however, he would like permittees to be required to place some type of signage on the property (similar to that for land use or zone changes) that will provide the public with application and contact information for the proposed permit.

Board Member Kremer stated he liked Vice-Chair Wishengrad's idea because trying to get people's attention with any one type of media is almost impossible. Whereas, with a sign, people could see what is taking place in their neighborhoods.

Chair Sanders suggested that permittees be required to send out some kind of mailing within a specified radius, similar to what is required for zone changes or notifications of blasting activities. By having this type of requirement, not only would residents be notified but so would property owners and surrounding businesses. He stated that his concern with the signage is it will draw more special interest groups rather than concerned residents and businesses.

Vice-Chair Wishengrad stated his concern with mailings, is there will be people coming before the Board stating they never received a public notice in the mail.

Board Member Rosenblatt commented that Air Quality needs to consider a better way of noticing public hearings such as with signage. Air Quality should consider whether the benefits of requiring a sign outweigh the costs of amending the regulations. The other factor is clarifying where the public's concerns are properly placed in the public notice process. A suggestion would be to specify if the concerns are "xyz," the meeting would be the appropriate venue. However, if the concerns are "abc," to call Air Quality for guidance as to how and where those concerns would be addressed.

Mr. Paul responded to Board Member Rosenblatt that the Small Business Portal on the Air Quality website has Frequently Asked Questions which is currently being revised and that Air Quality will work to include answers to questions regarding public notice as well.

Chair Sanders stated that Air Quality's webpage is very informative and if a person takes the time they can find the answers to most of their questions.

Vice-Chair Wishengrad reiterated the request for staff to look into the possibility of implementing mailings or signage for the public to be made aware of any permit applications requiring public notice.

Board Member Rosenblatt inquired whether a change like the one proposed would require a regulatory revision and if so what the process entails.

Mr. Paul stated that any changes to the public notice requirements would require a change to the regulations. Part of the process of revising the regulations includes holding public workshops, taking the item to the BCC for approval and then submitting the proposed regulation change to the EPA for their approval. It is a lengthy process and takes several months to complete.

Mr. Paul stated Air Quality would review all of the recommendations made by the Board and provide an update at the next meeting.

Board Member Foster recommended that staff look into using social media as a way of notifying the general public.

Mr. Paul informed the Board that Air Quality has an outreach program whereby staff attends public events to provide information to the public about air quality. In addition, the department uses email

blasts, social media and has recently hired a Public Information Officer to disseminate information to the public. Steps are being taken to keep the public informed.

VII. IDENTIFY EMERGING ISSUES TO BE DISCUSSED BY THE BOARD AT FUTURE MEETINGS

Chair Sanders asked if there were any issues to be discussed at a future meeting.

There were no items identified by the Board.

VIII. REPORT BY DEPARTMENT OF AIR QUALITY STAFF

Planning Manager Michael Sword and Compliance and Enforcement Manager Shibi Paul provided the Board the following overview of DAQ's accomplishments since the beginning of year and showed a short video prepared by the Small Business Assistance Program (SBAP) to assist Minor Stationary Source permittees on how to file their annual emissions inventory report.

- Planning
 - Criteria Pollutants
 - Carbon Monoxide (CO) - attainment/maintenance
 - Ozone (O₃)
 - 1997 Ozone NAAQS is maintenance
 - EPA had vacated this NAAQS based on the lower 2008 standard. However, the courts reversed the EPA action for areas still in maintenance.
 - This resulted in a complete and immediate stoppage of federal funds to new RTP/TIP updates in areas with road projects that exceeded the motor vehicle emissions (MVE) budgets for conformity. Las Vegas and the RTC is one of these areas.
 - We are currently remodeling the MVE budgets and assuming we can get a useful result will be completing a SIP process for the MVE budget in October 2018.
 - EPA has petitioned the courts to reconsider the conformity element to allow a grace period.
 - EPA is also working on a guidance related to the court decision
 - 2008 NAAQS is attainment
 - 2015 NAAQS is non-attainment only for Las Vegas Valley based on 2015, 2016, & 2017 data
 - PM₁₀ - attainment/maintenance
 - PM_{2.5} — attainment
 - Nitrogen dioxide (NO₂) — attainment
 - Sulfur dioxide (SO₂)—attainment
 - Lead (Pb) — attainment

- Monitoring
 - Implemented 2018 Annual Monitoring Network Plan
 - Stations located in neighborhoods to assess exposure levels to the general population.
 - Three new sites are scheduled to open by the end of the year. The new sites will be located in the SW, SE, and NE portions of the valley.
 - Network also characterizes pollution transported into Clark County and background levels natural to Clark County.

- Stationary Source Permits
 - 235 permits issued (Jan – June)
 - 224 permits issued on time (95%)
 - 1066 active operating permits
 - 93% completed action items from LEAN Sigma Six (2016) – 6 remaining out of 91
 - New processes include (highlights):
 - Online permitting application and emissions tool for mineral processing operations and engines
 - New application worksheets – PDF fillable, more complete information, and instructions (about 75% complete)
 - New permit formats – more user friendly format focusing on customer needs
 - New policy to meet face-to-face with new permit holders before issuance
 - New policy to work more closely with Compliance to catch permit issues
 - New process to screen applications before accepting – save time and improve efficiency for staff and customers

- Dust Permits and Vacant Land
 - Issued 1,179 dust permits from January 2018 through May 2018; averaged 7.2 days to issue a dust permit
 - Conducted 1,997 inspections from January 2018 through May 2018

- Compliance and Enforcement
 - Conducted 181 stationary source inspections from January 2018 through May
 - Responded to 411 complaints from January 2018 through May 2018
 - Issued 16 construction Notices of Violation (NOVs)
 - Issued 2 vacant land NOVs
 - Issued 19 stationary source NOVs (including 3 for nuisance odors)
 - Issued 7 asbestos NOVs
 - Assessed \$1,166,400 in penalties from January 2018 through 6/8/2018
 - \$931,700 has not yet been adjudicated

- Small Business Assistance Program
 - Responded to 892 requests for assistance; 628 for permitting assistance and 265 for compliance assistance for the past six months; on track with request for 2017.
 - Revised and updated the program Frequently Asked Questions page on the Small Business Assistance Website.
 - Continuing to proactively contact stationary source permittees nearing the time for renewing their permits to offer assistance with their permit renewal.

Mr. Paul introduced Air Quality's new Deputy District Attorney, Catherine Jorgenson to the Board.

IX. PUBLIC COMMENT

Board Member Rosenblatt commented that Vice-chair Wishengrad handled the February board meeting well as he was gracious and kind.

VIII. ADJOURNMENT

Being no further business, Chair Sanders adjourned the meeting at 2:42 p.m.

Approved:



Evan Wishengrad, Vice-Chair

October 11, 2018

Date