

Stakeholder Communication
Bulk Solid Materials Rulemaking

- a) Date and time of Communication: January 10, 2014, 2:30 - 3:30 p.m.
- b) Place of Communication: Offices of the 10th Ward Alderman, 3522 E. 106th St.
- 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, 10th Ward Alderman
 - TJ Sadzak, Staff Assistant to 10th Ward Alderman
 - Mike Estadt, KCBX
 - Dave Seiler, Koch Minerals
 - Dave Severson, KCBX
 - Tom Safley, Koch
 - Jeff Schoepke, Koch
 - Tim Dart, Nicolay & Dart LLC
- 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.

Koch Attorney Tom Safley referred to a document captioned *KCBX Terminals Company, Proposed Revisions, Jan. 10, 2014*, which set forth KCBX's proposed changes to the Proposed Rules and Regulations for Bulk Materials Storage Piles. He stated that he would go over the proposed changes in the company's priority order. He also informed the City that the company is considering its legal options.

Koch President Dave Severson stated that KCBX understands the City's concerns and wants to stay in Chicago. They are willing to consider covered petcoke storage at the South Site. However, under the regulations as written, they would not be able to operate.

Therefore, they are suggesting Interim Rules so that they would be able to keep operating while a building is being constructed.

Attorney Tom Safley explained that under the Interim operation idea, a company should be required to submit to the City a Notice of Intent to Enclose with a schedule and end date. And during the interim period they would not be required to build barriers and paving.

KCBX noted that the trigger numbers for full enclosure in the current proposed regulations are just 5% of KCBX's business. They also noted that the North Site and the South Site are considered one facility for permitting purposes. Dave Severson mentioned their plan was always to move everything to the South Site eventually.

KCBX stated that two years is not doable for constructing a building because of the time needed for design and permitting, etc. They suggest allowing companies 6 months to declare whether or not they will enclose, and then allowing 36 months after the notice of their intent to enclose.

Tom Safley noted that the facility's storage capacity is 1 ½ million tons. He stated that, with the throughput limits in the regulations, they could not build both a barrier (in the interim) and a building. He also noted that the enclosed loading and unloading locations and conveyors, etc., would be designed in conjunction with the building and, therefore, should be subject to the same timeframe.

With regard to the time limit on storage piles in section 3.06(g) of the proposed regulations, KCBX said that their storage piles are not maintained on a "first in-first out" basis. The piles are active; they move up and down. The facility is really not a "storage" facility, but a "transfer" facility. They are paid for the transfer. They typically do not zero-out the piles each year. The City mentioned a concern about waste piles, and KCBX said they would suggest language to address that concern.

Regarding setbacks, KCBX stated that a 660-foot setback from residential buildings would take out their piles during the interim period while a building is being built. They said that 300 feet would be better.

KCBX noted that several controls would remain in place during the interim period, including the pile height limit, PM10 monitoring—including real-time data available for the public to see, the sprinkler system, and the opacity limit.

KCBX also stated that they hired a consultant to take soil samples over the last 1-2 months and the study found no impact from their operations. So, the public should feel reassured.

Regarding the prohibition on fugitive dust, KCBX noted that the proposed regulations follow the California standard which is impossible for any bulk facility to meet. Instead, KCBX proposed language from Illinois law which is the most stringent standard.

Regarding the requirement that enclosed structures be equipped with air pollution control equipment to control fugitive dust, KCBX stated that it is hard to maintain negative air pressure in a large building. They said that this is not required in California. Instead, they use water spray in the building to eliminate dust in the building. This also protects against dust explosions. (The City mentioned there was a concern about using water indoors, and KCBX asked the City to share any information we have on that issue.)

Regarding the setback from the property line to the public way, KCBX said this does not make sense. They would change the place of measurement from the property line to the pile itself. They also said that a 100-foot setback would not work for the River because of barge unloading. Also, the farther from the river you move the material, the more chance for dust. They recommend a 50-foot setback from the river, which is the standard staging distance.

Regarding height limit, KCBX said their current pile height is 60 feet because of the height of their water cannons. They recommend allowing a higher height limit when there is adequate watering, with a cap at 45 feet.

Regarding wind speed, they said that the wind is 15 mph 40% of the time in Chicago, so they recommend using the same language as in the construction ordinance which allows work to continue if measures are implemented to effectively control dust during wind events.