

Minutes

Environmental Justice (EJ) Stakeholders Meeting

Thursday, October 3, 2002
9:30 a.m. to 12:30 p.m.

First Floor Training Rooms, East & West
California Environmental Protection Agency Headquarters Building
1001 I Street
Sacramento, California 95814

Attended by:

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| 1. Anderson, Theresa (ARB) | 19. Murchison, Linda (ARB) |
| 2. Bacchi, Charles (CoC) | 20. Pascual, Romel (Cal/EPA) |
| 3. Bean, Jack (BAAQMD) | 21. Prasad, Shankar (ARB) |
| 4. Blaisdell, Bob (OEHHA) | 22. Quetin, Doug (MBUAPCD) |
| 5. Coleman, Curt (CMA) | 23. Raymond, Johnnie (ARB) |
| 6. Fazeli, Bahram (CBE)* | 24. Schaufelberger, Christine (BAAQMD) |
| 7. Fletcher, Bob (ARB) | 25. Shimp, Dale (ARB) |
| 8. Forbis, Paula (EHC)* | 26. Smith, Richard (SDCAPCD) |
| 9. Ghuman, Preeti (LACo) | 27. Suer, Carolyn (SSD) |
| 10. Krinsk, Leslie (ARB) | 28. Takemoto, Brent (ARB) |
| 11. Kyle, Amy (UCB) | 29. Terry, Lynn (ARB) |
| 12. Lee, Barbara (NSCAPCD) | 30. Tschogl, Kathleen (ARB) |
| 13. Lloyd, Alan (ARB) | 31. Tuck, Cindy (CCEEB) |
| 14. Lyou, Joe (CLCV EF) | 32. Wallerstein, Barry (SCAQMD) |
| 15. Manzanilla, Enrique (USEPA) | 33. Walsh, Kathleen (ARB) |
| 16. Martin, Jerry (ARB) | 34. Waugh, Mike (ARB) |
| 17. McKinnon, Matt (ARB) | 35. Wyman, Sue (ARB) |
| 18. Muller, Jodie (WSPA) | |

(*) Participated by phone conference

The meeting convened at 9:45 a.m. Mr. McKinnon opened the meeting with a summary of the efforts made with respect to the Complaint Resolution Protocol (CRP). ARB staff were recognized for their efforts on the latest revision, which addressed most of the comments suggested. At the recommendation of the Translation Services Subgroup, ARB will sign-up for the AT&T Language Line Service, which will be made available to small districts for verbal complaint-related translations. Translations of written documents would not be conducted for a number of logistical and budgetary reasons. Mr. McKinnon thanked Romel Pascual for his role in securing the AT&T Language Line Service and to all the other subcommittee members. In addition, it was noted that the local air districts had been surveyed and were supportive of the approach being taken. Other Cal/EPA BDOs have also offered to help locate services, as needed.

After Mr. McKinnon's opening remarks, Mike Waugh gave an overview of the changes made to the CRP, including:

- Changes that apply to the five largest air districts;
- Clarifications concerning response time to a complainant;
- The addition to the ARB's section on community capacity building;
- The availability of products;
- Proposed commitment-statement regarding translation services; and
- How ARB and air district disagreements would be resolved.

A stakeholder asked for a clarification of what “community monitoring” meant. Did it mean air monitoring conducted by ARB in a community or data collected by members of the community? In this regard, “community monitoring” serves to empower communities by enabling them to gather data to support their complaints (e.g., tedlar bags or deposition plates provided by the SCAQMD). Another stakeholder noted that in their view, the intent of “community monitoring” was to have ARB or the air district do monitoring in the community, given that prescribed procedures must be followed to assure data quality. The discussion then turned briefly to whether this issue should be covered in the CRP or in the Public Participation Guidebook (PPG), or in both documents.

In returning to the issue of “community monitoring,” it was noted that small air districts don't have the resources to provide communities with monitoring devices, and don't want to raise local expectations that the potential for this kind of monitoring exists. Other stakeholders pointed out that it would be premature to develop a specific protocol for “community monitoring” as responses vary on a case-by-case basis, and flexibility is needed to respond appropriately. While some stakeholders supported community monitoring by local or state agencies, concerns exist with respect to monitoring done by community members due to the lack of discussion and/or consensus on what protocols would need to be followed. The CBE Bucket Brigade was brought up as an example of “community monitoring” that has worked, but there was general agreement on the need for the air districts to be involved in developing the protocols and in having flexibility on how to respond to a complaint. In citing the difficulties experienced in trying to collect data at Red Star Yeast in Richmond, some stakeholders asked that language be included in the CRP to help communities get technical support for collecting data to document off-hour problems.

To close this discussion, Mr. McKinnon asked if “community monitoring” was covered under item II-3-c (i.e., Investigate – ongoing complaints by Air Districts), where efforts of this kind could be used as a screening tool to identify areas for follow-up. Some stakeholders felt that it would be a mistake to narrow the scope of what “community monitoring” would entail, as odor logs and videos have been of use in some cases, and improvements could be made by developing guidelines on how they should be performed. Mr. McKinnon suggested that the phrase “and/or community” be added to section II-3-c in the CRP, and that the issue would be revisited in the PPG.

A number of other comments and suggestions were raised by stakeholders concerning the CRP, including:

- Several stakeholders acknowledged that the current version was well written (in plain English) and complete. Editorial changes were suggested for the “Purpose of Protocol” (i.e., replace “followed” with “utilized”) and that in III-B-2-d, “APCO” be spelled out (i.e., Air Pollution Control Officer).
- Item II-A-4 (Outcomes/Remedies for Air Districts) – it was suggested that the phrase “and statutory criteria” be added to the bullet regarding penalties, as a point of clarification. In this regard, the public may be interested in knowing if there is a statutory basis for assessing fines, in which case the pertinent section of the Health and Safety code should be listed. A more complete discussion of the penalty structure for air quality violations could be included in the PPG. Another suggestion was made to include a new bullet to indicate the potential for initiating administrative proceedings to obtain compliance.
- Item II-B-3-a (Investigation/internal assignments for ARB) – it was suggested that the language referring to ARB as an emergency response agency be deleted. In response, staff noted that ARB is part of the Office of Emergency Service’s response team, so the language needs to stay in the CRP to avoid confusion. In “emergency situations,” air districts are not a “first responder,” and it may be useful to provide information on who should be called first (e.g., 9-1-1). A more complete discussion could be included in the PPG.
- Item II-B-4 (Outcomes/Remedies for ARB) – could the phrase “within the scope of ARB’s enforcement authority” be added to better define what ARB might be able to do? In this regard, if a list of potential outcomes is developed, should it include options that are rarely exercised (e.g., revocation of permit by a hearing board)? Some stakeholders argued that “rare” outcomes should be identified, while others felt that they shouldn’t, because it might raise community expectations unnecessarily. For example, it was suggested that “permit revision” rather than permit revocation be listed, as they have occurred in some cases.
- Posting NOV’s on Air District Web Pages – which air districts need to do this (e.g., the five largest, all federally funded districts), if any, and in what time frame? It was noted that NOV’s would be posted on the SCAQMD web site as of January 1, 2003, and attention would be paid to resources used to operate and maintain the effort. It was then asked, if the SCAQMD is capable of providing this level of information access, why couldn’t other large air districts follow suit? Stakeholders noted that although the posting of NOV’s may not seem difficult, the costs are not trivial, especially in terms of maintenance. For example, it was estimated that it would take about 12-months to set-up a NOV posting for major sources in the Bay Area, where the BAAQMD had recently hired a web master to coordinate their internet-related

activities. On the other hand, many small air districts don't maintain web sites (nor have people requesting that they do), but would be able to publish NOV information in their annual reports. In some cases, it may be more efficient to directly request information on a specific facility from an air district, in which case some district-specific guidance may need to be developed.

- Public access to information – differences in outreach to communities in rural vs. urban air districts, and charging the public for air district records or documents. In both rural and urban air districts, some stakeholders noted that many CBOs still want to be mailed information, so effort must first be made to find out how local CBOs want to be contacted. In some cases, where access to the Internet is limited, environmental groups have provided assistance to community members by letting them use their computers and by training them on how to search for information. In comparison, many felt that air districts charging for documents posed a greater problem than access to the Internet. In large air districts, people may need to travel long distances simply to get to the air district, and should not have to be burdened with the cost of copying materials that are public information. It was decided that the discussion of posting NOVs on the Internet should be revisited during the discussion of the PPG.
- Whether to include information in the CRP, PPG, or both – a number of items (e.g., basis for fines, how to improve public access to information) were discussed. Selected items will be noted in both documents at different levels of detail.

After noting that new material, as appropriate, could be added to the CRP in the future, a 20-minute break was taken.

After the break, Mr. McKinnon asked for suggestions for the next meeting date. To avoid a conflict with the NEJAC meeting, Wednesday, December 11th was chosen. The meeting would be held in Sacramento and begin at 10:00 a.m. For the next meeting, stakeholders asked if the group could get an update on the status of the modeling work group and CHAPIS. Both items would be put on the agenda for the meeting along with revisions to the PPG.

To begin the discussion about the PPG, Dale Shimp mentioned that a 1st draft was passed out at the last meeting, and staff asked for comments on its overall content – were there any major gaps? So far, several stakeholders have sent comments, and a handout was provided listing what comments had been incorporated into the 2nd draft. To facilitate the editing process, review drafts of the PPG would only contain text, but the final version would be reformatted and include figures, photos, etc. In the ensuing discussion, a wide range of comments and suggestions were made, including:

- Add more information on community monitoring, and clarify what an “emergency response” is.
- Let people know that not everything needs to be formally requested under the California Public Records Act – in some cases, the requested materials may be readily available for distribution. If a formal request is made, process requirements can delay the release of the material.
- Reorganize the PPG so that readers can quickly identify those sections that pertain to ARB vs. the air districts, so that they can go directly to that part of the document.
- In the section on decision-making at the local-level, provide information that would help/encourage readers to get involved in local air quality issues.
- The Office of the Ombudsman was listed as the primary phone contact at ARB – efforts are underway to update ARB’s yellow pages so callers can be directed to the right person with few transfers. Each Air District will also need to decide who their initial point of contact will be.
- From the public’s perspective, people want to know what affects them where they live. As such, knowing what permits are being issued in their community is of primary concern, suggesting that “single-source” issues be put at the front in the PPG rather than rulemaking. Information on how to investigate a local issue is of greater use to communities than how to get involved in the rulemaking process.
- Guidance on “how-to-use” the PPG: create sections to denote issues of “immediate concern” vs. general information; putting in a quick-find guide at the front of the document.
- The PPG should contain information about resources that currently are available and resources in development (e.g., CHAPIS).

The discussion returned to the topic of “access to information,” raising questions about what information people should have, how they can obtain the information they want, and what could ARB and the air districts do to make information more available to the public. To some degree, the PPG needs to identify what information is “essential” in terms of knowing how or if a community should get involved in local air quality issues, what pollution sources impact their immediate surroundings, and whether the pollutant exposures in their area are “bad.” In this regard, there needs to be commitment by government agencies to show people where to get the information they want, to educate them on what to ask for, and to help them get it. In this regard, a stakeholder shared his experience in reviewing several boxes of information retained by an air district

about a specific facility – some useful information was uncovered in a variety of memos and unpublished reports that were not in the public domain.

Recognizing that there may be an “element of distrust” to overcome, it will take time to gain people’s trust so that they will feel confident that agencies are directing them to what they want/need. A stakeholder suggested that helping people get the right information should be a focus for the group, and initial efforts could be directed toward developing an “information needs” request form and developing a catalog of readily available information and where to get other essential information. Logistical problems may arise in terms of information management as well as what will be essential for large vs. small air districts. It was suggested that efforts to catalog information could begin with addressing the most asked questions first, which is likely to vary from district-to-district. Previously, it was noted that the largest number of information requests come from consultants wanting to know which sources will be subject to upcoming rules, followed by inquiries about which violation notices are being settled. Before concluding this discussion, several other items were raised, including:

- Public agencies are not required to create special documents in response to California Public Records Act requests – it applies to information that is available for distribution, as is.
- As to whether NOV’s are releasable to the public, the general consensus was that it varies, depending on what materials are requested. While the Attorney General’s Office has guidance on what kinds of information is releasable, agencies can exercise their own discretion.
- With respect to “proprietary information,” it is important for the group to be clear on what can’t be released. Legal staff from ARB agreed to look into this matter and coordinate with CAPCOA’s attorneys.

To allow for discussion of the revisions to the PPG at the next meeting, Mr. McKinnon asked that comments be sent to Dale Shimp, and copied to Brent Takemoto, by October 31st. This would allow staff to incorporate the suggestions and send out a new version to the stakeholders by December 1st. Suggestions with regard to essential data needs should be sent to Linda Murchison.

The meeting adjourned at 12:30 p.m.