

**CITY OF PHILADELPHIA  
DEPARTMENT OF PUBLIC HEALTH  
AIR MANAGEMENT SERVICES (AMS)**

**AMENDMENTS TO AIR MANAGEMENT REGULATION I  
AND AIR MANAGEMENT REGULATION II SECTION IX.**

**AMS response document to written comments received  
and public hearing on October 10, 2018 at  
321 University Ave, 1<sup>st</sup> Floor  
Philadelphia, PA 19104**

**Prepared by:**

**AMS  
321 University Ave, 2<sup>nd</sup> Floor  
Philadelphia, PA 19104**

**Date of Document: 1/16/19**

## **PREAMBLE**

The Philadelphia Department of Public Health, Air Management Services (AMS) proposed amendments to Air Management Regulation (AMR) I and Air Management Regulation II Section IX.

The amendments provide for new and modified dust control notification, permitting, and work practice requirements as applicable to certain demolition, construction, and excavation activities including earthworks. These requirements are in addition to the requirements set forth for such activities in the Philadelphia Building Code

The amendments were voted on and passed by the City of Philadelphia, Department of Public Health, Air Pollution Control Board on July 26, 2018.

On August 31, 2018, a legal notice was placed in the Philadelphia Daily News and Legal Intelligencer announcing that AMS is accepting written comments on amendments to AMR I and AMR II Section IX. A public hearing was requested and was held at 321 University Ave, 1st floor Conference Room from 6:00 to 8:00 PM on October 10, 2018. During the public hearing, AMS received oral testimony and written comments from three (3) commentators:

- Marianne Scott on behalf of the Building Industry Association of Philadelphia (BIA)
- Rachel Kaminski (RK)
- Justin Pines (JP)

Transcripts from the public hearing as well as the written comments are included in the Appendix of this document.

## **SUMMARIES OF COMMENTS AND AMS RESPONSE TO COMMENTS MADE DURING THE OCTOBER 10, 2018, PUBLIC HEARING AND COMMENTS RECEIVED DURING THE 30-DAY COMMENT PERIOD**

**Comment 1 (BIA):** On small sites, storage piles of building material may need to be moved several times during the construction process. The BIA recommends that a plan for how dust will be controlled should be agreed upon with Air Management Services (AMS), but allow for flexibility in stockpile placement within the site as site logistics change throughout the construction sequence.

- **Response:** The amendments to AMR II Sec. XI. do not impose restrictions on stockpile placement within a worksite. However, when placing such stockpiles contractors must account for the fact that the generation of visible fugitive dust that travels beyond the property boundary of the worksite will constitute a violation. See AMR II. Sec. IX.C.1. as amended. Any soil, sand aggregate, or other similar construction materials that are stored on a worksite open to outside air must be adequately wetted and covered when possible to prevent dust emissions. See AMR II Sec. IX.C.8. as amended. Contractors seeking to deviate from these and other specified dust control work practices in AMR II must obtain approval from AMS for such alternative work practices or methods. See AMR II Sec. IX.E.

**Comment 2 (BIA):** Once the required 10-day notification is distributed, the procedure for how inquiries and comments from adjacent and nearby neighbors are managed and their effect on the starting and stopping of work should be clarified.

- **Response:** The public can direct complaints or questions about worksites to the AMS hotline (Phone: 215-685-7580, 8:00 AM to 4:30 PM, Mon-Fri; 215-686-4516 all other times) or to 311 (8:00 AM to 8:00 PM, Mon-Fri). AMS may conduct inspections of worksites to investigate complaints or inquiries that it receives. If violations of the dust control requirements provided for by AMR II as amended are found to exist, AMS will issue Notices of Violation (NOVs) to the responsible party, and take other enforcement actions to ensure that the violations are addressed. The enforcement actions taken in any one case will depend on several factors including, but not limited to, the severity and frequency of the violations in question.

**Comment 3 (BIA):** Requiring a dust control permit for “[E]arthworks” as defined by AMR I will be cumbersome and restrict simple tasks during due diligence or the normal sequencing of a project. Although AMS is reasonably timely with their review and issuance of permits, the proposed amendments will increase the volume of applications significantly. The BIA recommends a single permit application for the entire project (i.e., demolition through earthwork and construction) and that a review time frame be established, and suggests additional staff are needed to accommodate the influx. How the proposed amendments impact projects with building permits and/or already in construction should be clarified.

- **Response:** AMS is aware that there are multiple construction / demolition permitting requirements imposed by the Philadelphia Code and attendant regulations, and that said requirements do impose certain costs on contractors, developers, and building owners. However, AMS has determined that extending the dust control permitting requirements to “Earthworks” as defined in AMR I as amended is appropriate, in light of the nuisance and threat to public health posed by dust generated from certain largescale excavation, land grubbing, or land clearing activities. As defined, “Earthworks” will only encompass earth disturbance projects for which a building permit from the City Department of Licenses of Inspections (i.e. > 5,000 sqft) is currently required. See Title 4 of the Phila Code Sec. A-301.1.1.8. No dust control permit will be required for land clearing or earth disturbance projects that fall below this threshold (i.e.  $\leq$  5,000 sqft). See AMR I Sec. B.12. as amended; AMR II Sec. IX.B.1.c. as amended. However, dust control work practices as specified by AMR II Sec. IX.C. as amended, as well as other dust control requirements will apply to all earth disturbance projects regardless of project size. See AMR II Sec. IX.C. as amended, 25 Pa. Code Sec. 123.2 (no visible dust may pass beyond the property boundary for the worksite).

The procedure of obtaining an AMR II dust control permit for defined “Earthworks” projects will be identical to the current procedure established for qualifying demolition projects provided for in AMR II Sec. IX.B. et. seq. as amended. Applicants may apply for a single dust control permit for projects that will involve both qualifying demolition (i.e. demolition by implosion; or demolition of structures that are > 3 stories tall, > than 40 ft tall, or > 10,000 sqft) and earth disturbance (i.e. > 5000 sqft) activities. See AMR II Secs. IX.B.1.a.-c.

**Comment 4 (BIA):** Requiring the use of a chute to a sealed container will increase the potential for clogging in the chute, waste dumpster space and add truck traffic, which is inefficient and costly. The application of this practice for stored material, which may be moved several times during the course of the project, is of particular concern.

- **Response:** AMR II Sec. IX.C.4. as amended requires chutes to be sealed against the top of the receiving waste container to prevent dust formation when used. However, receiving waste containers need not be sealed to the exit of material drop chutes if the waste is “adequately wetted,” when dropped. Contractors that find the sealed container part of this work practice requirement impracticable may otherwise comply with the alternative work practice as provided in this section. See AMR II Sec. IX.C.4. as amended.

Finally, contractors who are unable to comply with either option stated in AMR II Sec. IX.C.4. may propose an alternative work practice or method to prevent dust generated from dropping materials from leaving the worksite to AMS for approval. See AMR II Sec. IX.E.

**Comment 5 (BIA):** The use of dust control fabric for fencing will restrict visibility onto the job site and raise security and public safety issues. A closed-off jobsite that is blocked from public view is difficult to secure. Additionally, when windscreen is used, contractors often need to cut

openings in screening fabric in order to prevent wind loading on temporary construction fence panels. Because construction fence is temporary by design and needs to be easily moved as site logistics change, it is not permanently anchored. Even when fence bases are weighted with sand bags or concrete bases are used, storm winds will effectively turn fence panels into sails.

Collapsing fences can cause unnecessary damage to private property or vehicles parked alongside the project site.

- **Response:** While the placement of dust control fabric on worksite fencing may pose certain safety and other practical concerns, said concerns are not insurmountable in light of anticipated dust reduction benefits. The attachment of dust control fabric to worksite fencing is already required for demolition projects under Title 4 of the Philadelphia Code. See Title 4 of the Phila. Code Sec. B-3303.11.2.

Contractors, developers, and property owners who wish to deviate from this requirement on worksites where no demolition activity is being pursued may, pursuant to AMR II Sec. IX.E., seek approval of an alternative dust control work practice or method from AMS.

**Comment 6 (BIA):** The requirement that all roadways on the worksite and vehicle access points to be adequately wetted down and swept will be extremely challenging for small urban sites and those not equipped with water. There is likely to be an increase in requested hydrant permits, with the risk of damage to the hydrants or use without a permit. Dust suppression agents will add significant cost. AMS-approved dust suppressants should be identified. PWD storm water management enforcement should also be considered.

- **Response:** Although the use of water, or other dust suppression agents may incur additional costs to contractors, developers, and / or property owners, such costs are outweighed by the health benefits anticipated from reducing dust. Contractors, developers, and property owners who wish to deviate from this requirement may, pursuant to AMR II Sec. IX.E., request approval for an alternative dust control method or work practice.

**Comment 7 (BIA):** The authority for AMS to require air monitoring and/or dust sampling should be clarified to identify who conducts the sampling and incurs the cost; if the request impacts or prevents work from proceeding while samples are tested; the distance from the project site a contractor will be responsible for air quality; how many times a project can be subjected to testing; and how AMS will determine fault in areas undergoing a lot of construction, with multiple nearby projects by multiple builders.

- **Response:** As amended, AMR II Sec. IX.F. restates AMS's existing authority under the Title 3 of the Philadelphia Code to require necessary air monitoring and testing generally, as it relates to dust generation from projects involving construction, demolition, and other earth disturbing activities. See Phila. Code Secs. 3-301(8), (10)-(12). AMS has the authority to specify the parameters of such testing if, in AMS's opinion, it is necessary. Id. The obligation to carry out said testing, if required, is to be borne by the property owner, developer, and / or contractor responsible for the worksite. See Phila. Code Sec. 3-301(8).

**Comment 8 (RK; JP):** Neighbor notification should be expanded to at least 400 feet away from single-family housing demolition, not just adjacent properties.

- **Response:** AMS believes the current notification requirements, as incorporated in AMR II Secs. IX. A.1. and A.2. as amended, are adequate and protective of public health. Required neighbor notifications, provided in to AMR II Sec. IX as amended, reflect the scale of demolition activity, and hence the amount of dust that could be generated by such activity. It should be further noted that these notification requirements are in addition to, demolition notification requirements enforced by the City Department of Licenses and Inspections. See i.e. Title 4 of the Phila. Code Secs. A-303.2 (Department of Licenses and Inspections is authorized to “distribute an informational bulletin indicating that the City or owner intends to demolish said structure . . . to the properties located within a 100 foot radius of the subject property”), B-3307.2.1 (written notification to adjacent property owner when access to said adjacent property is necessary for conduct of the demolition).

**Comment 9 (RK; JP):** Clarify and provide more detail for “adequately wetting” process.

- **Response:** “Adequately wetted,” as defined in AMR I Sec. B.2., means that material must be sufficiently wetted with water to prevent dust formation and dust emission from a worksite. What is considered “[a]dequately wetted” is determined on a case by case basis, and depends in part, on existing worksite conditions. This definition has not been changed by the proposed amendments.

**Comment 10 (RK; JP):** How will dust control permit and other requirements be enforced? What is the frequency of a regular inspection? Is the enforcement entirely dependent on community members report to police and violations? What is the penalty for these violations?

- **Response:** AMS will conduct inspections, and request air monitoring of worksites as necessary to enforce the new dust control requirements contained in AMR II as amended. This includes the conduct of inspections of worksites to investigate citizen complaints. As provided by the Pennsylvania Air Pollution Control Act, specifically 35 P.S. Secs. 4009.1, 4012, the maximum civil penalty is twenty-five thousand dollars (\$25,000) per violation for every day that said violation exists. However, the actual civil penalty sought by AMS in any one case will depend on a number of factors including, but not limited to, the severity and frequency of the violations in question. Outside of civil penalties, AMS may order the contractor, developer, and property owner responsible for a worksite to correct said violations if necessary. See Phila. Code Sec. 3-305.

**Comment 11 (RK):** Clarification of the definition of “Earthworks” in Air Management Regulation I. Does this only include clearing, grubbing or earth disturbance of any land in excess of 5000 ft<sup>2</sup>? What about smaller sites < 5000 ft<sup>2</sup>?

- **Response:** Pursuant to AMR I Sec.B.12. and AMR II Secs. IX.A.2., B.c. as amended, worksites where land clearing, grubbing, or other earth disturbance activities > 5000 sqft

are subject to Dust Control Permitting and pre-commencement notification requirements. Such permitting and notification requirements do not extend to worksites where 5000 sqft or less land clearing, grubbing, or other earth disturbance activities will occur.

However, dust control practices and work practices as provided in AMR II Sec. IX.C. as amended will apply regardless of the land area disturbed by said activity. Similarly, all land clearing, grubbing, or earth disturbance activities must not emit visible fugitive dust that travels past the property line of the worksite regardless of its size. See 25 Pa. Code 123.2.

**Comment 12 (RK):** How will sites be chosen if AMS decides Air Monitoring and Dust sampling is required. Will a site be chosen after they are in violation of AMR Regulations? Is it at random?

- **Response:** As noted in the Response to Comment 7, AMS has the authority to require air monitoring and testing with respect to air pollution sources like worksites where construction, demolition, or earth disturbance activities take place. AMS will determine when air monitoring will be required, following a review of the circumstances present at a worksite, on a case by case basis.

**APPENDIX: Transcript of October 10, 2018 Public Hearing, and  
Received Written Comments**

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PHILADELPHIA AIR MANAGEMENT  
SERVICES PROGRAM

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October 10, 2018

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PHILADELPHIA AIR MANAGEMENT SERVICES

Spelman Building  
321 South University Avenue  
Philadelphia, PA 19104

Taken by Lori Guyer, Court Reporter

PRECISION REPORTING, INC.  
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1                   MR. MAHADEVAN: I guess we will  
2 have whoever is going to speak stand up there.  
3 I will introduce myself first.

4                   My name is Ramesh Mahadevan. I  
5 am an engineering supervisor for Air Management  
6 Services of the Philadelphia Department of  
7 Public Health. And before I get started I would  
8 just like to ask everyone to sign in on the  
9 record for attendance, regardless of whether or  
10 not you plan to testify.

11                  Please note if you're planning on  
12 providing testimony we are requesting that you  
13 sign in on the testimony sheet that's located on  
14 the front table.

15                  We are here to accept testimony  
16 on the amendments to the dust control  
17 regulation, air management regulation one and  
18 air management regulation two, section nine.

19                  This hearing was advertised in  
20 the legal notices section of the Philadelphia  
21 Daily News on August 31st of this year, 2018.  
22 It was published in the notices section of the  
23 Legal Intelligencer on August 31, 2018.

24                  The amendments were voted and

1 passed by the Air Pollution Control Board on  
2 July 26, 2018.

3                           The amendments provide for new  
4 and modified dust control notification,  
5 permitting and work practice requirements as  
6 applicable to certain demolition, construction  
7 and excavation activities.

8                           These requirements are in  
9 addition to the requirements set forth for such  
10 activities in the Philadelphia Building Code.

11                          The department is holding this  
12 hearing to allow all interested parties to  
13 testify with comments on these amendments to the  
14 dust control regulation, air management  
15 regulation one and two.

16                          This hearing is being  
17 transcribed. Please state your name, address  
18 and who you represent for the record before you  
19 begin.

20                          Please limit your testimony to  
21 approximately ten minutes. Each organization  
22 should designate one witness to present  
23 testimony. Following your testimony we may need  
24 to ask you for additional information.

1                   This hearing will not be a  
2 question-and-answer session; however, I can  
3 assure you that we will address all comments and  
4 questions concerning this dust control  
5 regulation before any decision is made on  
6 further amendments.

7                   All oral and written comments  
8 received will become part of the public record.  
9 We will prepare a response document prior to the  
10 final action on these regulation amendments.

11                  Anyone who included their address  
12 on the record of attendance will be mailed one.  
13 If anyone has any written comments, please do so  
14 now. You already have.

15                  So we will start the oral  
16 comments now. And our first speaker is, and  
17 please introduce yourself as described above.

18                  MS. SCOTT: My name is Mary Ann  
19 Scott. I'm here on behalf of the Building  
20 Industry Association of Philadelphia, 1735  
21 Market Street, suite 432-A, Philadelphia 19103.

22                  My name is Mary Ann Scott. I am  
23 speaking on behalf of the Building Industry  
24 Association of Philadelphia, BIA, to provide

1 comments on the amendments to air management  
2 regulations one and two that were promulgated by  
3 the City of Philadelphia Department of Public  
4 Health on August 29, 2018.

5                   BIA represents the region's  
6 residential home builders, residential  
7 contractors and suppliers. Compliance with the  
8 proposed MRA amendments may be challenging,  
9 particularly for small urban project sites  
10 without access to water.

11                  BIA requests and supports  
12 responsible measurements that are realistic and  
13 can be implemented and followed. Some specific  
14 comments on specific sections.

15                  Fugitive dust. On small sites  
16 storage piles of building material may need to  
17 be moved several times during the construction  
18 process. BIA recommends that a plan for how  
19 dust will be controlled should be agreed upon  
20 with AMS but allow for flexibility and stockpile  
21 placement within the site, as site logistics  
22 change throughout the construction sequence.

23                  Control of dust from construction  
24 and demolition activities, public notification.

1                   Once the required ten-day  
2 notification is distributed the procedure for  
3 how comments from adjacent and nearby neighbors  
4 are managed, their effect on the stopping and  
5 starting of work should be clarified in the  
6 regulation.

7                   Dust control permits. Requiring  
8 a dust control permit for earthwork as defined  
9 by AMR I, will be cumbersome and restrict simple  
10 paths of due diligence on the normal sequencing  
11 to a project.

12                  Although AMS is reasonably timely  
13 with their review and issuance of permits, the  
14 amount will increase the volume of applications  
15 significantly. BIA recommends a single permit  
16 application for the entire project. That is  
17 demolition to earthwork and construction, and  
18 that a review timeframe be established and  
19 suggest additional staff are needed to  
20 accommodate the influx.

21                  How the proposed amendments  
22 impact projects with building permits and are  
23 already in construction should be clarified.

24                  General work practice standards.

1 Requiring the use of a chute to a sealed  
2 container will increase the potential for  
3 clogging the chute, waste dumpster space and add  
4 traffic, which is a significant -- the  
5 application of this practice for storage of  
6 material which may be moved several times during  
7 the course of the project is a particular  
8 concern.

9                   The use of dust control fabric  
10 for fencing will restrict visibility on the job  
11 site and raise security and public safety  
12 issues. A closed-off job site that is blocked  
13 from public view is difficult to secure.

14                   Additionally, when these screens  
15 are used contractors often need to cut openings  
16 into screens in order to prevent wind loading on  
17 temporary construction panels.

18                   Because construction fences are  
19 temporary by design and need to be easily moved  
20 as site logistics change, it's not permanently  
21 anchored. Even when fence bases are weighted  
22 with sand bags or concrete bases are used, storm  
23 winds will effectively turn the fence panels  
24 into sails. Collapsing fences can cause

1 unnecessary damage to private property or  
2 vehicles parked along the project site.

3                   The requirement that all roadways  
4 on the worksite and vehicle access points be  
5 adequately wetted down and swept will be  
6 extremely challenging for urban sites and those  
7 not equipped with water. There is likely to be  
8 an increase in hydrant current with the risk of  
9 damage to the hydrants or use without permit.

10                  Dust suppression acts will add  
11 significant cost. AMS approved dust  
12 suppressants should be identified and PWD water  
13 department storm water management enforcement  
14 should also be considered.

15                  Air monitoring and dust sampling.  
16 The authority for AMS to require air monitoring  
17 and/or dust sampling should be clarified to  
18 identify who conducts the sampling and incurs  
19 the cost. The request impacts -- prevents from  
20 proceeding while all samples are tested, the  
21 distance from the project site, a contractor  
22 will be responsible for air quality, how many  
23 times a project can be subjected to testing and  
24 how AMS will determine fault in areas undergoing

1       a lot of construction with multiple projects by  
2       multiple builders. Thank you for this  
3       opportunity to provide comment.

4                     MS. KAMINSKI: Good evening. My  
5       name is Rachel Kaminski. I live at 2323 East  
6       Dauphin Street, Philadelphia, PA 19125. I am a  
7       person from ward 31, district four, and I am  
8       also a founding member of Get the Lead Out in  
9       Philadelphia.

10                  I would like to applaud you for  
11       creating these amendments in order to strengthen  
12       our current air management regulations. They  
13       are sorely needed.

14                  However, there are areas that can  
15       be strengthened before these amendments are  
16       approved. I was happy to see the studies done  
17       that were done in Baltimore and Chicago. The  
18       lead and other heavy metals in dust that falls  
19       from single-family housing demolition were cited  
20       here and we are finally making changes in  
21       Philadelphia.

22                  However, one crucial detail that  
23       those findings found is missing here in these  
24       amendments, that being the conclusions that are

1 listed on page 454 of said study stating, the  
2 notification should expanded to at least 400  
3 feet away from a single-family housing  
4 demolition, not just the adjacent properties.

5                   Currently the demolition  
6 notification in Philadelphia only reaches the  
7 three nearest properties on either side of the  
8 site, the seven years property across the street  
9 from the site and the seven years properties in  
10 the rear of the site. This is a significantly  
11 smaller radius than 400 feet. The AMR I and II  
12 document under section 2-A under health and  
13 environmental effects attributed to the dust  
14 generated from construction and demolition  
15 activity states, the general health effects of  
16 particulate matter, notwithstanding the presence  
17 of such construction or demolition related  
18 contaminants pose an additional health risk to  
19 persons who otherwise reside or occupy  
20 properties near such construction or demolition  
21 sites.

22                   I strongly urge that these  
23 amendments expand the notification to 400 feet,  
24 as we already know the risk associated to those

1 around construction demolition sites.

2 I also ask that the terms  
3 adequately wetted and adequately wetting be  
4 defined as far as what adequately is considered.  
5 The term is used in multiple places within these  
6 documents and regulation one, general provision,  
7 under section B-2, adequately wetted is defined  
8 as an application of water or other liquid in  
9 sufficient quantity to prevent conditions of  
10 dust or other particulate matter.

11 The amendments do not include  
12 what those would be considered -- considered  
13 efficient and how exactly wetting should so  
14 occur, misting, multiple hoses. This is where  
15 the language needs to be defined as one person's  
16 definition of sufficiently and adequately wetted  
17 may be much less than what was intended in these  
18 amendments.

19 I question the definition of  
20 earthwork, which in regulation I, general  
21 provision, section B-12, is defined as cleaning,  
22 grubbing or earth disturbance of any land in  
23 excess of 5,000 square -- square feet. If this  
24 is only defined in excess of 5,000 square feet,

1       that would be a very large piece of property,  
2       excluding the smaller demolition -- renovation  
3       sites ignore the issue at large. If this is  
4       meant to cover all cleaning, grubbing or earth  
5       disturbance of any land up to 5,000 square feet  
6       this needs to be stated.

7                 If it's not specified that this  
8       is meant for smaller sites up to 5,000 square  
9       feet it will not be interpreted that way. In my  
10      experience with speaking with the contractors  
11      about current L & I best practices and air  
12      management regulation violations, they feel that  
13      this is meant for larger sites, not single  
14      family demolition, excavation and -- demolition  
15      and construction sites.

16                I also want an opportunity to ask  
17      what the penalties would be for violations of  
18      the AMR I and II amendments.

19                Currently the community will  
20      monitor and police it themselves. I have  
21      attached a flyer that was created by the  
22      Department of Public Health and School of  
23      Medicine and see -- and that lists the numbers  
24      to call if you see dust coming from a site. If

1 Air Management Services is called for dust  
2 coming out from a site an inspector will come  
3 out and they will be shut down for the day.

4                   This community has dealt with  
5 repeat offenders, and unlike L & I violations,  
6 AMR violations don't go towards points against  
7 the license of the responsible party. It is  
8 only noted and the violations are dangerous to  
9 the community and their own workers. It matters  
10 to me and the community at large how this is  
11 enforced.

12                   Lastly, I ask how the site will  
13 be monitored. In regulation two, air  
14 contaminant and particulate matter emissions  
15 under section nine F, air monitoring and dust  
16 sampling, it states, the department may require  
17 air monitoring and/or dust sampling during the  
18 performance of any filling, grading, excavation,  
19 land clearing, earthwork, construction or  
20 demolition activities at a worksite to verify  
21 that the soil and other contaminants at the  
22 worksite will not have adverse impacts beyond  
23 the property line.

24                   How will a site be chosen for

1   this? Will a site be chosen after violation of  
2   the air management regulations? Is it at  
3   random? How will this occur? I thank you for  
4   your time.

5                         I urge you to strengthen these  
6   amendments before they are approved. I've  
7   attached the first page study of lead and other  
8   metals and dustfall from single-family housing  
9   demolition which lists the conclusion of the  
10   study, the details, the EBDI, responsible  
11   demolition protocols, a sample of a door hanger  
12   that we at Get the Lead Out Philadelphia created  
13   to inform residents of a demolition and what  
14   they can do to protect themselves and the Air  
15   Management Services flyer. Thank you very much.

16                         MR. PINES: Good evening. My  
17   name is Justin Pines, and I am a resident in  
18   Fishtown. I live at 2208 Trenton Avenue in  
19   Philadelphia, 19125.

20                         I greatly appreciate you granting  
21   a public hearing on the matter of air management  
22   regulations. And the amendments you are  
23   limiting to enhance the current air management  
24   regulations are a great step forward in the

1 quest to eliminate lead dust and other hazardous  
2 material from spreading throughout the area,  
3 especially with the construction and demolition  
4 boom that Philadelphia is experiencing.

5                   The prevalence of these materials  
6 is concerning and there are a few additions to  
7 the proposed AMR amendments that might prevent  
8 further harm.

9                   Last spring a colleague and close  
10 friend of mine was very excited sending her  
11 5-month-old to the daycare on Frankford Avenue  
12 near Norris.

13                  When the article came out in June  
14 2017 about the lead poisoned soil she quickly  
15 had her daughter tested for lead, and much to  
16 her horror she had elevated lead levels. They  
17 lived in a brand new construction house on Coral  
18 Street. There was no outdoor space and quickly  
19 it was concluded that the lead dust and high  
20 blood lead levels were from the multi-unit  
21 construction project being demolished and built  
22 adjacent to her daycare. Without knowing what  
23 else to do, she immediately put her house on the  
24 market, sold it and moved to the suburbs.

1                   There are stories like this all  
2         around us that have resulted in much less  
3         fortunate situations, like children with lead  
4         poisoning, learning disabilities and behavioral  
5         and medical issues.

6                   I live a few blocks from this  
7         site and there was constantly dirt on the street  
8         and sidewalk. There was open digging, no  
9         fencing with debris guards, and it was easy to  
10       see how the fugitive dust could affect the  
11       surrounding area.

12                  Had the proper notices been  
13         given, the awareness by the developers, builders  
14         and crew have been sufficient, and if all of the  
15         protocols laid out in these amendments had been  
16         followed the situation may have been avoided.

17                  I am recommending the following:  
18         In AMR II, section 9-A, public notification of  
19         construction and demolition activities to  
20         occupants of nearby properties. I and II state  
21         to notify the properties immediately adjacent  
22         for structures less than two stories and for  
23         structures equal two or more than two stories  
24         notify the three nearest properties across and

1 the seven nearest properties across and behind  
2 the site. I don't think this is sufficient.

3 I am requesting a demolition  
4 slash construction notification of 400 feet for  
5 both less than two stories in height and equal  
6 to or more than two stories in height to ensure  
7 the surrounding area can be informed, aware of  
8 the potential hazards and able to report any  
9 violations.

10 In other cities there has been  
11 precedent for this standard work practice, and I  
12 don't see why it shouldn't be in Philadelphia,  
13 as well.

14 AMR II, section 9-C2B. This  
15 references ensuring of construction materials or  
16 structure services are adequately wetted.

17 There's nothing describing or mandating how  
18 builders will be wetting down services, nor  
19 describing what the, quote, adequately wetting,  
20 unquote, process is.

21 I recommend defining and  
22 specifying the adequately wetting process so  
23 there is no gray area for demolition or  
24 construction zones.

1                   AMR II, section 9-C5, the water  
2       and dust suppressants approved by the department  
3       must be applied to all work sites for filing,  
4       grading, excavation, land clearing, grubbing or  
5       earthwork activities open to the outdoor air to  
6       prevent dust emissions.

7                   Again, there is nothing  
8       describing or mandating how builders will be  
9       wetting down surfaces or describing what the  
10      adequately wetting process is. I recommend  
11      defining and specifying the adequately wetting  
12      process so there's no gray area for demolition  
13      or construction zones.

14                  Finally AMR II, section 9-B2,  
15      permit, and section 9-F, monitoring, a few  
16      questions.

17                  How will this be enforced? Will  
18      there be a regular inspection, a weekly or  
19      monthly walkthrough? Up until now it's been  
20      entirely on community members policing and  
21      reporting violations. Is this still going to be  
22      the case? What is the penalty for these  
23      violations?

24                  My request is that these answers

1 are clear and specified for these amendments.

2 As the father of a nine-month-old girl, I'm  
3 terrified of my daughter being subjected to lead  
4 poisoning or other potentially dangerous  
5 fugitive dust.

6 I've been a resident of  
7 Philadelphia for eight years. I've spent three  
8 years in Fishtown. I love our neighborhood and  
9 I want to make it better, but also do not want  
10 to put my family's health at risk simply by  
11 walking outside, or when my daughter is old  
12 enough to play in our backyard, play in the  
13 grass or dirt.

14 Lead poisoning is not a new issue  
15 to Philadelphia, but the booming construction  
16 that has overtaken the area must be regulated,  
17 and the developers, builders and workers need to  
18 be educated and aware of the dangers for  
19 themselves, their own families and neighborhood.  
20 Thank you for your time and consideration, and I  
21 strongly encourage you to incorporate these  
22 issues and questions into the amendments being  
23 proposed. Thank you.

24 MR. MAHADEVAN: Would anyone else

1 like to testify? Okay. No further public  
2 comments. Now that all testimony has been  
3 received, this hearing is adjourned. And I  
4 thank you for your time and attendance and  
5 providing testimony to us.

6 (The hearing was concluded at 7:08 p.m.)

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1                   C E R T I F I C A T E

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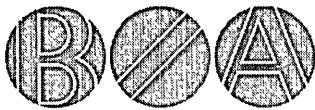
5

6         I, LORI GUYER, BEING A REGISTERED  
7         PROFESSIONAL REPORTER, DO HEREBY CERTIFY THAT  
8         THE FOREGOING TESTIMONY WAS TAKEN  
9         STENOGRAPHICALLY BY ME AFTER THE SAID WITNESS  
10        WAS DULY SWORN OR AFFIRMED PRIOR TO THE  
11        COMMENCEMENT OF THEIR TESTIMONY; AND THAT THIS  
12        DEPOSITION TRANSCRIPT IS A TRUE AND CORRECT  
13        TRANSCRIPT OF THE SAME, FULLY TRANSCRIBED UNDER  
14        MY DIRECTION, TO THE BEST OF MY ABILITY AND  
15        SKILL.

16        I FURTHER CERTIFY THAT I AM NOT A RELATIVE,  
17        EMPLOYEE OR ATTORNEY OR ANY OF THE PARTIES IN  
18        THIS ACTION; THAT I AM NOT A RELATIVE OR  
19        EMPLOYEE OF ANY ATTORNEY INTERESTED IN THE EVENT  
20        OF THIS ACTION.

21                   \_\_\_\_\_  
22                   LORI GUYER  
23

24        (THE FOREGOING CERTIFICATION OF THIS  
25        TRANSCRIPT DOES NOT APPLY TO ANY REPRODUCTION OF  
26        THE SAME BY ANY MEANS, UNLESS UNDER THE DIRECT  
27        CONTROL AND/OR SUPERVISION OF THE CERTIFYING  
28        SHORTHAND REPORTER.)



BUILDING INDUSTRY ASSOCIATION  
of Philadelphia

## **Testimony on Amendments to Air Management Regulations I and II (Construction, Demolition Dust Control)**

My name is Marianne Scott and I am speaking on behalf of the Building Industry Association of Philadelphia (BIA) to provide comment on the Amendments to Air Management Regulations (AMRs) I & II - General Provisions and Air Contaminant and Particulate Matter Emissions that were promulgated by the City of Philadelphia Department of Public Health on August 29, 2018. The BIA represents the region's residential home builders, residential contractors and suppliers.

Compliance with the proposed AMR amendments may be challenging, particularly for small urban project sites without access to water.

### **1. AMS II. Section VIII. Fugitive Dust**

On small sites, storage piles of building material may need to be moved several times during the construction process. The BIA recommends that a plan for how dust will be controlled should be agreed upon with Air Management Services (AMS), but allow for flexibility in stockpile placement within the site as site logistics change throughout the construction sequence.

### **2. AMS II. Section IX. Control of Dust from Construction and Demolition Activities**

#### **Public Notification**

Once the required 10-day notification is distributed, the procedure for how inquiries and comments from adjacent and nearby neighbors are managed and their effect on the starting and stopping of work should be clarified.

#### **Dust Control Permits**

Requiring a dust control permit for "earthworks" as defined by AMR I will be cumbersome and restrict simple tasks during due diligence or the normal sequencing of a project. Although AMS is reasonably timely with their review and issuance of permits, the proposed amendments will increase the volume of applications significantly. The BIA recommends a single permit application for the entire project (i.e., demolition through earthwork and construction) and that a review time frame be established, and suggests additional staff are needed to accommodate the influx. How the proposed amendments impact projects with building permits and/or already in construction should be clarified.

### **General Work Practice Standards**

Requiring the use of a chute to a sealed container will increase the potential for clogging in the chute, waste dumpster space and add truck traffic, which is inefficient and costly. The application of this practice for stored material, which may be moved several times during the course of the project, is of particular concern.

The use of dust control fabric for fencing will restrict visibility onto the job site and raise security and public safety issues. A closed-off jobsite that is blocked from public view is difficult to secure. Additionally, when windscreen is used, contractors often need to cut openings in screening fabric in order to prevent wind loading on temporary construction fence panels. Because construction fence is temporary by design and needs to be easily moved as site logistics change, it is not permanently anchored. Even when fence bases are weighted with sand bags or concrete bases are used, storm winds will effectively turn fence panels into sails. Collapsing fences can cause unnecessary damage to private property or vehicles parked alongside the project site.

The requirement that all roadways on the worksite and vehicle access points to be adequately wetted down and swept will be extremely challenging for small urban sites and those not equipped with water. There is likely to be an increase in requested hydrant permits, with the risk of damage to the hydrants or use without a permit. Dust suppression agents will add significant cost. AMS-approved dust suppressants should be identified. PWD stormwater management enforcement should also be considered.

### **Air Monitoring and Dust Sampling**

The authority for AMS to require air monitoring and/or dust sampling should be clarified to identify who conducts the sampling and incurs the cost; if the request impacts or prevents work from proceeding while samples are tested; the distance from the project site a contractor will be responsible for air quality; how many times a project can be subjected to testing; and how AMS will determine fault in areas undergoing a lot of construction, with multiple nearby projects by multiple builders.

Good evening and thank you having a public hearing about this matter.

My name is Rachel Kaminski and I'm a Democratic Committee Person from Ward 31, Division 4 and I'm also a founding member of Get the Lead OUT- Riverwards Philadelphia.

I would like to applaud you for creating these Amendments in order to strengthen the current Air Management Regulations. They are sorely needed. However, there are areas that can be strengthened before these Amendments are approved.

I was happy to see that studies that were done in Baltimore and Chicago (Lead and Other Heavy Metals in Dust Fall from Single-Family Housing Demolition) were cited here and are finally making changes in Philadelphia; however one critical detail that those findings found is missing in these Amendments. That being, the conclusions that are listed on page 454 of said study stating:

"Neighbor notification should be expanded to at least 400 feet away from single-family housing demolition, not just adjacent properties."

Currently, the demolition notification in Philadelphia only reaches the three nearest properties on each side of the site, the seven nearest properties across the street from the site and the seven nearest properties to the rear of the site. This is a significantly smaller foot radius than 400 feet. The AMR I & II Background Document under Section II, A. Health and Environmental Effects Attributed to Dust Generated from Construction and Demolition Activities states: "The general health effects of PM [Particulate Matter] notwithstanding, the presence of such construction or demolition related contaminates pose additional health risks to persons who otherwise reside or otherwise occupy property near such construction or demolition sites."

I strongly urge that these Amendments expand the notification to 400 feet as we already know the risks associated to those who reside around construction and demolition sites.

I also ask that the term "adequately wetting" and "adequately wetted" be defined as far as what adequate is considered. This term is in multiple places within these documents; and in Regulation I General Provisions Section B, 2 "Adequately Wetted" is defined as "The application of water or other liquid in sufficient quantity to prevent the emission of dust or other particulate matter."

The Amendments have not included what would be considered "sufficient" and how exactly wetting should occur. Misting? Multiple hoses? This is where that language needs to be defined as one person's definition of "sufficient" and "adequately" may be much less than what is intended in these Amendments.

I question the definition of "earthworks" which in Regulation I General Provisions Section B, 12 is defined as "Cleaning, grubbing, or earth disturbance of any land in excess of 5,000 square feet". If this is only defining land in excess of 5,000 square feet that would be a very large piece of property. Excluding the smaller demolition and renovation sites ignores the issue at large. If this is meant to cover all cleaning, grubbing, or earth disturbance of any land up to 5,000 square feet, this needs to be stated. If it's not specified that it's meant for smaller sites up to 5,000 square feet, it will not be interpreted that way. In my experience when speaking to contractors about current L+I Best Practice and Air Management Regulation violations, they feel that this is meant for larger sites, not single family demolition/excavation/construction sites.

I also wanted an opportunity to ask what the penalties would be for violations of the AMR I and II Amendments. Currently, the community will monitor and police it themselves. I have attached the flyer that was created by the Department of Public Health, the Perelman School of Medicine and CEET that lists the numbers to call if you see dust coming from a site. When Air Management Services is called about dust coming from a site, an inspector will come out and the work will be shut down for the day. This is a momentary inconvenience at best. The Riverwards Community have dealt with repeat offenders and unlike L+I violations, AMR violations does not go towards points against the license of the responsible party. It is only noted, though the violations are dangerous to the Community and their own workers. It matters to me and the Community at large, how this is enforced.

Lastly, I ask how a site will be monitored. In Regulation II-Air Contaminant and Particulate Matter Emissions under Section IX (9), F Air Monitoring and Dust Sampling is states "The Department may require air monitoring and/or dust sampling during the performance of any filling, grading, excavation, land clearing, grubbing, earthworks, construction, or demolition activities at a worksite to verify that soil and other contaminates at the worksite will not have adverse impacts beyond the property line." How will a site be chosen for this? Will a site be chosen after they are in violation of the Air Management Regulations? Is it at random? Neither of the Amendments state how this will occur.

Again, thank you for your time. I urge you to strengthen these Amendments before they are approved.

I've attached the following to my statement:

- The first page of the study "Lead and Other Heavy Metals in Dust Fall from Single-Family Housing Demolition" which lists the conclusions of the study.
- The Details of the EBDI Responsible Demolition Protocols
- A sample Door Hanger we at Get the Lead OUT-Riverward Philadelphia created to inform residents of a demolition
- The Air Management Service Flyer

# Lead and Other Heavy Metals in Dust Fall from Single-Family Housing Demolition

DAVID E. JACOBS, PhD, CIH<sup>a,b</sup>  
 SALVATORE CALI, MS, CIH<sup>b</sup>  
 ALISON WELCH, MS<sup>c</sup>  
 BOGDAN CATALIN, PhD<sup>c</sup>  
 SHERRY L. DIXON, PhD<sup>b</sup>  
 ANNE EVENS, PhD<sup>d</sup>  
 AMY P. MUCHA, PhD<sup>d</sup>  
 NICOLE VAHL, MS<sup>c</sup>  
 SERAP ERDAL, PhD<sup>c</sup>  
 JOHN BARTLETT, BA<sup>d</sup>

## ABSTRACT

**Objective.** We measured lead and other heavy metals in dust during older housing demolition and effectiveness of dust suppression.

**Methods.** We used American Public Housing Association Method 502 and U.S. Environmental Protection Agency Methods SW3050B and SW6020 at 97 single-family housing demolition events with intermittent (or no) use of water to suppress dust at perimeter, non-perimeter, and locations without demolition, with nested mixed modeling and tobit modeling with left censoring.

**Results.** The geometric mean (GM) lead dust fall during demolition was 6.01 micrograms of lead per square foot per hour ( $\mu\text{g Pb}/\text{ft}^2/\text{hour}$ ). GM lead dust fall was 14.18  $\mu\text{g Pb}/\text{ft}^2/\text{hour}$  without dust suppression, but declined to 5.48  $\mu\text{g Pb}/\text{ft}^2/\text{hour}$  ( $p=0.057$ ) when buildings and debris were wetted. Significant predictors included distance, wind direction, and main street location. At 400 feet, lead dust fall was not significantly different from background. GM lead concentration at demolition (2,406 parts per million [ppm]) was significantly greater than background (GM=579 ppm,  $p=0.05$ ). Arsenic, chromium, copper, iron, and manganese demolition dust fall was significantly higher than background ( $p<0.001$ ). Demolition of approximately 400 old housing units elsewhere with more dust suppression was only 0.25  $\mu\text{g Pb}/\text{ft}^2/\text{hour}$ .

**Conclusions.** Lead dust suppression is feasible and important in single-family housing demolition where distances between houses are smaller and community exposures are higher. Neighbor notification should be expanded to at least 400 feet away from single-family housing demolition, not just adjacent properties. Further research is needed on effects of distance, potential water contamination, occupational exposures, and water application.

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<sup>b</sup>National Center for Healthy Housing, Columbia, MD

<sup>c</sup>Chicago Department of Public Health, Chicago, IL

<sup>d</sup>Metropolitan Tenants Organization, Chicago, IL

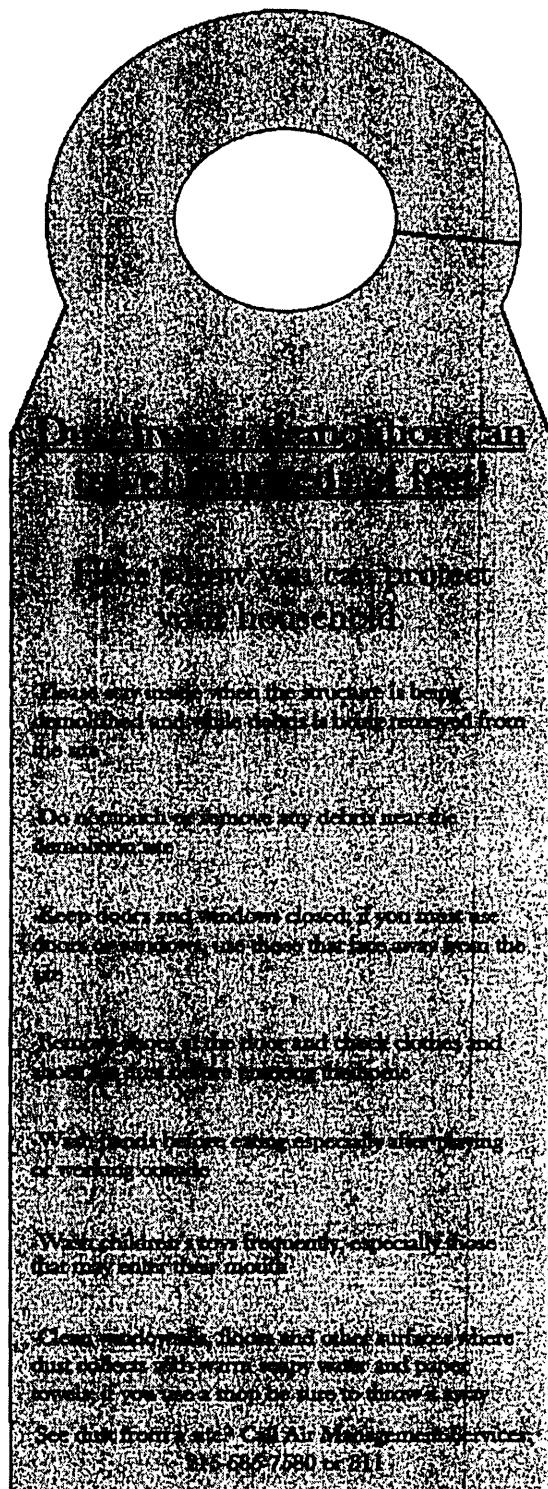
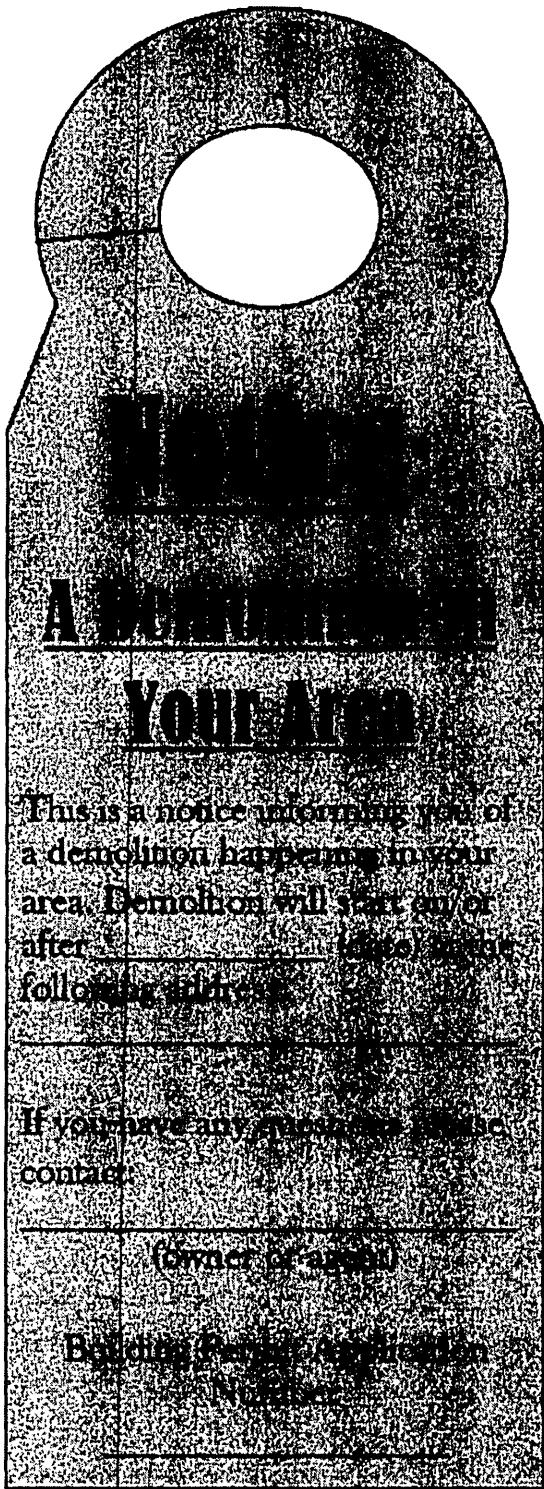
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## ☒ Details of the EBDI Responsible Demolition Protocols

The demolition protocols developed for the East Baltimore Revitalization Initiative set a new national standard in the battle against lead poisoning, and, more broadly, in the field of responsible redevelopment. Specifically, the demolition protocols included several core elements:

- Adequate use of fencing, barriers and other means to limit casual entry to demolition sites until demolition is complete and all debris removed.
- Widespread notification to residents, community organizations, faith-based organizations and city agencies about when and where demolition would be happening, along with highly visible signage on the houses to be demolished.
- Training community block monitors to observe the demolition process and assist residents with questions and home safety measures.
- Four days of training on lead safety and related issues for demolition supervisors and two days of training for all other workers.
- Removal and safe disposal of building components containing high amounts of lead before demolishing buildings that were structurally sound.
- Using ample amounts of water throughout the process to reduce the spread of dust.
- Careful demolition using the “picker method” (instead of the more traditional wrecking ball, bulldozing or implosion methods) and high fencing to control the spread of debris and dust.
- Careful procedures for removing debris from demolished buildings, including use of hoses to suppress dust and plastic covering on trucks to ensure that debris and dust are contained during removal.
- Post-demolition street and sidewalk cleaning and debris removal.
- Removing two inches of topsoil on all properties where demolition has occurred and replacing it with new sod.
- Providing community residents with high-efficiency particulate air (HEPA) vacuums and “tack mats,” which remove dust from shoes as individuals enter the home, to reduce lead dust exposure in residents’ homes following demolition.
- Independent testing of the streets and sidewalks surrounding demolished properties to measure the impact of demolition and debris removal on the local environment.



# DID YOU KNOW?

Dust generated during demolition and construction may contain hazardous materials  
If you see any dust...

...in file a complaint with  
Philadelphia Air Management at  
215.684.7389  
8:00AM to 4:00PM  
or 215.684.7316 after business hours

Complaints will be  
investigated within an hour

Department of  
**Public Health**  
CITY OF PHILADELPHIA



**Perelman**  
School of Medicine  
UNIVERSITY of PENNSYLVANIA

**CEET**

Good evening, my name is Justin Pines and I greatly appreciate you granting a public hearing on the matter of Air Management Regulations. I am a resident in Fishtown on Trenton and Susquehanna and a member of Get the Lead OUT – Riverwards Philadelphia.

The amendments you are implementing to enhance the current Air Management Regulations are a great step forward in the quest to eliminate lead dust (and other hazardous material) from spreading throughout the area, especially with the construction and demolition boom that Philadelphia is experiencing. The prevalence of these materials is concerning and there are a few additions to the proposed AMR II amendments that might prevent further harm.

Last spring, a colleague and close friend was very excited to send her 5-month old to the daycare on Frankford Ave near Norris. When the article came out in June 2017 about the lead-poisoned soil ([http://www.philly.com/philly/news/special\\_packages/toxic-city/philadelphia-lead-soil-fishtown-construction-dust.html](http://www.philly.com/philly/news/special_packages/toxic-city/philadelphia-lead-soil-fishtown-construction-dust.html)), she quickly had her daughter tested for lead and much to her horror, she had elevated lead-blood levels. They lived in a new-construction house on Coral St, had no outdoor space, and quickly concluded that it was the lead dust from the multi-unit construction project that was being demolished and built adjacent to the daycare. Without knowing what else to do, she immediately put her house on the market, sold it in a day and moved to the suburbs. There are stories like this all around us, that have resulted in much less fortunate situations like children with lead poisoning, learning disabilities and behavioral and medical issues. I live a few blocks from this site and there was constantly dirt on the street and sidewalk, open digging, no fencing with debris guards and it was easy to see how the fugitive dust could affect the surrounding area. Had the proper notices been given, the awareness by the developers, builders and crew been sufficient, and if all protocols laid out in these amendments had been followed, this situation may well have been avoided.

My questions/suggestions are as follows:

- AMR II, Section 9.A: "Public Notification of Construction and Demolition Activities to Occupants of Nearby Properties"
  - 1 & 2 states to notify properties immediately adjacent for structures less than 2 stories and for structures equal to or more than 2 stories, notify the 3 nearest properties on either side and the 7 nearest properties across and behind the site.
  - I am requesting a demolition/construction notification of 400ft for both less than 2 stories in height and equal to or more than 2 stories in height to ensure the surrounding area can be informed, aware of the potential hazards and able to report any violations. In other cities, this has been a standard work practice and I don't see why it shouldn't be in Philadelphia as well.
- AMR II, Section 9.C.2.b: This references ensuring that construction materials or structure surfaces are adequately wetted.
  - There is nothing describing or mandating how builders will be wetting down surfaces, nor describing what the "adequately wetting" process is
  - I recommend defining and specifying this "adequately wetting" process so there is no gray area for demolition or construction zones
- AMR II, Section 9.C.5: Water / Dust suppressants approved by Department must be applied to all worksites for filling, grading, excavation, land clearing, grubbing or earthworks activities open to the outdoor air to prevent dust emissions.

- There is nothing describing or mandating how builders will be wetting down surfaces, nor describing what the “adequately wetting” process is
  - I recommend defining and specifying this “adequately wetting” process so there is no gray area for demolition or construction zones
- AMR II, Section 9.B.2 (Permit) and Section 9.F (Monitoring):
  - How will this be enforced?
  - Will there be a regular inspection?
  - A weekly or monthly walk-through?
  - Is this still going to be entirely on the community members to police and report violations?
  - What is the penalty for these violations?
  - I request that these answers are clear and specified in the amendments

As a father of a 9-month old girl, I am terrified of my daughter being subject to lead poisoning or other potentially dangerous fugitive dust. I have been a resident of Philadelphia for 8 years and have spent 3 years in Fishtown. I love our neighborhood and want to make it better, but I also do not want to put my family's health at risk simply by walking outside or when my daughter is old enough to play in the backyard or at local playground. Lead poisoning is not a new issue to Philadelphia, but the booming construction that has overtaken the area must be regulated and the developers, builders and workers need to be educated and aware of the dangers for themselves, their own families and the neighborhood.

Thank you for your time and consideration and I strongly encourage you to incorporate these issues and questions into the amendments being proposed.

Justin Pines

Resident, 19125

[Justin.pines@gapinternational.com](mailto:Justin.pines@gapinternational.com)

610-457-7110