



The City of New York
Department of
Environmental
Protection

Joel A. Miele Sr., P.E.
Commissioner

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MEMORA

TO: **Russ Pecunies**
 FROM: **Mark D. Hoffer** *THF*
 DATE: **3/25/02**
 RE: **Downtown Air Task F**

New file

(F) WORLD TRADE CENTER - JOINT TASK FORCE ON AIR QUALITY

As you know, the City is participating in a multi-agency Joint Task Force on Air Quality in Lower Manhattan. DEP is represented, although we are not the lead (OEM is coordinating the City's efforts, as per the directive of the Mayor).

OEM is also organizing a multi-agency Legal subcommittee (or work group) to support the work of the Task Force. I attended the first meeting last Wednesday, at 59 Maiden Lane.

I would like you to serve as my representative at the Legal work group's meetings (the current plan is to meet every two weeks).

Attached to this memo you will find:

- 1) Agenda for the first meeting held last Wednesday;
- 2) Sign-in sheet for that meeting (minus me; they forgot to give it to me to sign)
- 3) A summary of my notes from and recollection of the meeting (OEM's General Counsel, Lai-Sun Yee, indicated she would be creating some form of "minutes").

As my summary shows, we spent most of the first meeting discussing agency authority to compel production of air monitoring tests conducted by private landowners. Other issues were barely touched on, if at all.



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(718) DEP-HELP

59-17 Junction Boulevard, Flushing, N.Y. 11373-5108



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MEMORANDUM

TO: Russ Pecunies
FROM: Mark D. Hoffer *MDH*
DATE: 3/25/02
RE: Downtown Air Task Force - Legal Working Group

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The next meeting is scheduled for: April 3, @ 10 AM, 100 Gold Street - 5th Floor. Please keep me advised as to the group's progress. Thanks.

MDH:mdh
dair.wpd
Enc.

LEGAL SUBCOMMITTEE OF JOINT TASK FORCE ON AIR QUALITY IN LOWER MANHATTAN AGENDA

MARCH 20, 2002

Introduction

Mayor Bloomberg designated OEM as the lead agency of a Joint Task Force on air quality in Lower Manhattan to coordinate federal, state and local response to questions regarding air quality in lower Manhattan. The joint task force meets on a weekly basis.

Topics

1. Agencies statutory authority
2. Access to apartment buildings
3. Enforcement authority
4. Compelling—doing repairs, cleaning
5. What information and relationships do agencies have
6. The relationship among the federal, state, and local agencies
7. Agencies authority to compel disclosure of information and the response to FOIA requests
8. Access to buildings terraces in order to test and clean
9. Jurisdiction for cleaning
10. Definition of hazardous materials
11. Items for FEMA scope of work

OFFICE OF EMERGENCY MANAGEMENT SIGN IN SHEET

DATE

3/20/02

TOPIC OF MEETING

Air Quality in Lower Manhattan

NAME	AGENCY	OFFICE NUMBER	FAX NUMBER	CELLULAR PHONE NUMBER	E-MAIL ADDRESS
Harold Shultz	HPD	212 863-6070	212 863-6302	PII	shultz-h@hpd.nyc.gov
Elena Ferrera	Fire Dept.	718-999-2037	212-999-2235		ferrere@fdny.nyc.gov
Lisa Orrantia	DOB	646 248 8130	646 248 8238		lisa.o@buildings.nyc.gov
Julian Bazel	FDNY	(718) 999-0297	(718) 999-2235		bazelj@fdny.nyc.gov
Heidi Rubinstein	Law Dept Environmental Law Division	212 232 1114	212 232 1188		HRUBINST@LAW.NYC.GOV
Robert L. Doan	NYCHA	212-776-5176	212-776-5009	PII	doanr@nycha.nyc.gov
Elisabet Palladino	Law Dept Leg. Coun.	212.232.1178	212 232 1178		
Thomas Lieber	USEPA Office of Reg. Cassas & L	212 637 3158	212 637 3104		lieber.thomas@epa.gov

OFFICE OF EMERGENCY MANAGEMENT SIGN IN SHEET

DATE

3/20/22

TOPIC OF MEETING

Air Quality in Lower Manhattan

NAME	AGENCY	OFFICE NUMBER	FAX NUMBER	CELLULAR PHONE NUMBER	E-MAIL ADDRESS
Lai Sun Yee	OEM	718 422-4617		PII	lyce@oem.nyc.gov
Wilfredo Lopez	DOH	212 295-5382		PII	Wlopez@health.nyc.gov
Roslyn Windholz	DOH	212-788-5010			Rwindholz@health.nyc.gov
Tim MILLER	DOH	917 642 2809 (CELL)			JMILLER@HEALTH.NYC.GOV



SUMMARY OF MEETING NOTES & MARK'S RECOLLECTIONS: Meeting of Legal Subcommittee, Joint Task Force on Air Quality in Lower Manhattan - Wed. 3/20/02

J Miller - good deal of data collected and sent to DEP voluntarily; a database will be created showing where testing was done.

M Hoffer - describes DEP powers under Spill Bill to compel production of test results

W Lopez - DOH can issue subpoenas for testimony, documents on any matter before DOH

H Shultz - we have similar powers at HPD re residential properties

J Miller - but can we compel testing?

W Lopez - Outside of a building - nexus to public health is clear; private space inside is trickier

- commercial space - cd justify under worker safety
- private apartment - less easy to do

H Shultz - whatever statue we go under, we need to determine that a health threat or risk exists

J Miller - there is a contaminants of concern working group developing that - chaired by EPA - developing list of contaminants of concern, which may include fibrous glass, silica. EPA will give us approp. contaminant levels.

Thinks the default standard will be "what was the state of facts" on 9/11.

E Pelegrino - surprised by difficulty/time needed in establishing relevant standards for contaminants; there are standards that can be applied; e.g. OSHA standards; auto mfr's standards (fibrous glass used to make cars)

J Miller - workplace standards may not be approp. here - workplace standards are temporary (8 hr exposure) and there's no children present (here, with private dwellings, you're dealing with full time occupancy and the potential presence of children)

T Lieber - there may be different standards that attach to

- investigation - release or threat of release
- clean up - threat caused by a release

H Shultz - quite apart from setting an approp. standard, someone with expertise needs to be able to say that there's a hazard - because we'll need that to justify what we do

W Lopez - we've been telling people everything is OK

J Miller - as of November, 60% of landlords did not do the clean-up we recommended

M Hoffer - how do we reconcile telling people they now have to do testing or clean-up, if we've been telling everyone things are OK

[general consensus was - we told people everything is OK if you do X, Y and Z, including cleaning up in a certain way; if they didn't do that, it's not contradictory to now say - we're directing that you X, Y and Z]

J Miller - does EPA have broader authority to order things because this is a federal disaster area?

T Lieber - no federal indoor air statute; there may be some relevant authority under CERCLA



Mtg.
3/20/02

Air Tech
Force

J Miller - good deal of info forwarded re: Port Authority
to DEP

Hotline set on 3/8 - database will show where
testing was done (by address)

Assembling data
Disclosure

mm - describes just full provisions

WL - DON can issue subpoenas for testimony
documents on any matter before the Dept.

~~DEP~~
HPD rep - We have similar powers re a re
residential premises

JM - But can we compel testing?

WL - Outside the bldg - nexus to public
health is easy

Inside - public areas - OK

- private space

↳ commercial - worker safety

↳ priv opt - less easy

HPD rep - Whatever the stat reference,
we need to do that a health
threat or risk exists

Jim - Contaminants of concern ^{working} group
 dev. that - drawn by EPA
 Fibrous glass,
 Silica & other contents may have/
 will cause health problems
 EPA will give a level

Thinking default standard will be -
 What was the state of facts on 9/10

Tom Lieber (EPA) - There are some selected
 standards that EPA has been
 using

70 structures / m² of fiber

1/2 of bulk

by Pellegrino (Legal Counsel) - Surprised that there is
 a reluctance to set standards

There's OSHA

There's auto info that made case of
 fibrous glass

Jim - Workplace standards may not be reliable
 - temporary (8 hrs/day)
 - adults only

Tom Lieber - Diff standards

Investigation - release or threat of release

Clear up - threat caused by a
 release

Tom Lieber - typical policy is to redirect indoor
homes residents on wall testing

KPD - Quite apart from setting a standard,
we need to know if someone is prepared
to pay there's a hazard - but we'll need
that to justify what we do

Jm - As of Nov - lots of landlords didn't
do the clean-up we recommended
WU - We've been telling people everything is OK -
We're just doing this to make people happy

KPD - There may be multiple standards
- standard for testing
- standard for clean-up w/ a sense
of risk

Jm - Does federal govt have broader auth than the
a federal disaster area?

OGM - Defined area under FEMA

TL - No federal under an statutes

TL - There may be auth under CERCLA

100 Gold @ 2:30pm each Wed - Test Force mfg.

Next mfg 4/3/02 @ 10AM at ~~600~~ 100 Gold
5th fl