



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
August 29, 2013
9:00 a.m.

Commissioners Present

Jack Baker, Chairman
Gary Pendergrass, Vice Chairman
Mark Garnett, Member
David Zimmermann, Member

Staff Members Present

Darcy Bybee, Compliance/Enforcement Section Chief, Air Pollution Control Program (APCP)
Steve Feeler, Deputy Director, Division of Environmental Quality
David Gilmore, Program Secretary, APCP
Wayne Graf, Air Quality Planning Section, APCP
Kendall Hale, Permits Section Chief, APCP
Stephen Hall, Air Quality Analysis Section Chief, APCP
Julia Katich, Department of Natural Resources
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Stan Payne, Air Quality Planning Section, APCP
Shelly Reimer, Air Quality Planning Section, APCP
Aarick Roberto, Commission Secretary, APCP
Russell Sullivan, Compliance/Enforcement Section, APCP
Richard Swartz, Compliance/Enforcement Section, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Emily Wilbur, Air Quality Planning Section, APCP

Others Present by Attendance Record

Mike Alesadrini, URS Corporation
Ken Anderson, Ameren
Robert Brundage, Newman, Comley and Ruth, P.C.
Chris DeCioccio, The Doe Run Company
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Tim Duggan, Attorney General's Office
Chad Fisher, Anheuser-Busch, LLC
Daniel Hedrick, City Utilities of Springfield
Kirk Krause, Environmental Compliance & Engineering
Todd Tolbert, Associated Electric Cooperative, Inc.
Chris Schreiber, Schreiber Engineering, LLC
David Shanks, Boeing
Roger Walker, Regulatory Environmental Group for Missouri

A. Call to Order

Chairman Jack Baker called the August 29, 2013, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Mark Garnett, Gary Pendergrass, and David Zimmermann.

B. Minutes from July 24, 2013, Meeting

Commissioner Mark Garnett moved to approve the July 24, 2013, minutes as written. Commissioner David Zimmermann seconded the motion and all commissioners voted to approve the minutes.

C. Reports - The following referenced reports are in the August 29, 2013, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT

Ms. Darcy Bybee said the Compliance/Enforcement Report begins on page 11 with the Complaint or Concern Report. There were a total of 74 concerns received during the time period of June 16, 2013, through July 15, 2013. During this time period there were 70 investigations completed and four violations issued.

The Ongoing Negotiations Report is on pages 33 through 35, with 75 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 36. For the time period from June 16, 2013, through July 15, 2013, the department finalized agreements for a total penalty of \$22,000. \$17,400 of that amount is suspended, with the remaining \$4,600 paid to the school fund of the county in which the violation occurred.

The Pending Referrals Report is on page 37. At this time, there are 16 active referrals and do not have any referrals on the agenda for today.

Ms. Bybee also gave an update on the decommissioning of the Stage II Vapor Recovery Program in St. Louis. Of the approximately 700 facilities subject to these requirements, 227 have completed the entire decommissioning process and have received a Stage I Operating Permit. There are an additional 245 that are currently moving through the process.

Finally, Nicole Eby's position as the Vapor Recovery and Inspection Maintenance Unit Chief position has been filled by Richard Swartz. Mr. Swartz has been with the department for several years, and with the Air Pollution Control Program's Compliance and Enforcement Section for the last eight years.

2) PERMITS REPORT

Mr. Kendall Hale said the Permits Report begins on page 39 of the briefing document. For the month of July 2013, the Permits Section received 36 construction permit projects, and 33 operating permit projects, for a total of 500

permit projects received for the year. The Permit Applications Received Report is located on pages 40 through 46, where there is detail of the projects received.

Beginning on page 47 is the Permits Applications Completed Report. There were 46 construction permits and 24 operating permits completed for the month of July, for a total of 493 projects completed for the year. The Permits Applications Completed Report is located on pages 48 through 55.

On page 56 of the briefing document is the Open Permits Report. There are currently 496 projects open, and six operating permits on public notice that are not mentioned in the briefing document.

Interviews have been completed for one of the vacant permit writer's positions within the Air Pollution Control Program as well.

3) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan Agenda

Ms. Wendy Vit said that at the September 26, 2013 commission meeting, the following items will be presented for public hearing: a proposed amendment to 10 CSR 10-6.020, *Definitions and Common Reference Tables*; a proposed new rule, 10 CSR 10-6.161, *Commercial and Industrial Solid Waste Incinerators* (CISWI); and a plan for existing CISWI units developed pursuant to Clean Air Act Sections 111(d) and 129. The amendment to 10 CSR 10-6.020 is a regular update to incorporate definitions from other air rules in keeping with the current practice of consolidating all air rule definitions in one rule. 10 CSR 10-6.161, along with its associated 111(d)/129 plan, address new federal requirements for existing CISWI units in order for the Air Pollution Control Program to be the enforcing agency. These three items are available for public review and comment through October 3, 2013.

b) Sewage Sludge Incinerator Plan Revisions

The Air Pollution Control Program identified several minor errors in Missouri's Clean Air Act Section 111(d)/129 plan addressing federal requirements for existing sewage sludge incinerators (SSI) units (adopted February 2013 and submitted to the Environmental Protection Agency (EPA) in April 2013). The main error was double-counting of emissions from affected sources in one of the tables in the plan. Since the errors are non-substantive and do not impact the rule associated with the plan (10 CSR 10-6.191), the commission agreed it made sense for the Air Pollution Control Program to correct the SSI plan and re-submit it to EPA without taking it through the public process again. The final, corrected version of the SSI plan will be posted on the Air Pollution Control Program's website with an itemized list of the changes made.

c) **Opacity Rulemaking**

The Air Pollution Control Program is planning a rulemaking in the near future to make several revisions to 10 CSR 10-6.220, *Restriction of Emission of Visible Contaminants*, commonly referred to as the opacity rule. The first change would be in response to EPA's proposed State Implementation Plan (SIP) Call, which finds that language in subsection (3)(C) regarding startup, shutdown, and malfunction operations is not allowed by the federal Clean Air Act. Once the SIP Call is final (expected by September 26, 2013), the program will have 18 months to revise the rule and submit it to EPA. While the rule is open to address the SIP Call, the program is considering making other changes based on suggestions from stakeholders to clarify reporting and record keeping requirements and reduce burden where it makes sense. For instance, we are considering adding an exemption to the rule for utilities subject to the federal Mercury and Air Toxics Standards, which has stringent particulate matter limits. An exemption for natural gas combustion sources, which have negligible particulate matter emissions, is also being considered. The formal rulemaking has not yet started and therefore no rulemaking schedule has been established. The Air Pollution Control Program is in the process of getting EPA input on these changes and is also working closely with the Air Program Advisory Forum.

d) **Rule Review Process**

The Air Pollution Control Program is starting early on reviewing air rules (10 CSR 10) as required by RSMo 536.175. This new statute requires a periodic review of all state rules. The initial review of the department's rules is scheduled to begin no later than July 1, 2016, with subsequent reviews every five years thereafter. The statute requires development of a report addressing whether rules are obsolete, duplicative of other requirements, and other factors, as well as addressing any public comments received during a 60-day review and comment period. The Air Program Advisory Forum has expressed an interest in working with the Air Pollution Control Program in the early information-gathering stages of this process. The intent is to get a head start on this effort in order to reduce the workload when the department rule review period officially begins in 2016.

e) **Final Sulfur Dioxide Nonattainment Area Designations**

EPA finalized the initial round of nonattainment areas for the 1-hour sulfur dioxide standard. For Missouri, the nonattainment areas were consistent with our recommended boundaries – partial county areas in Kansas City (Jackson County) and Herculaneum (Jefferson County). These designations take effect October 4, 2013, after which affected areas will have 18 months to develop and submit their SIPs to EPA (April 6, 2015). Attainment is required within five years after designation (October 2018). EPA also intends to conduct additional rounds of designations in the future based on new monitors and/or dispersion modeling analyses.

f) 2008 Ozone Standard

As of August 28, Missouri has monitored a total of four exceedances of the 2008 ozone NAAQS. In addition, several ozone monitors throughout the state continue to be in violation of the 2008 ozone NAAQS for the current three-year period (2011-2013): five located in the St. Louis area, four in the Kansas City area, and one in Joplin. St. Louis is the only nonattainment area for this standard, and it is classified as a marginal area. Based on the recent proposed implementation rule, it appears the SIP requirements will be minimal, primarily consisting of an emissions inventory. The SIPs for marginal areas are due in July 2014 (24 months after final designations).

g) Fine Particulate Matter Boundary Recommendation

In December 2012, EPA lowered the annual primary standard from 15 to 12 micrograms per cubic meter ($\mu\text{g}/\text{m}^3$). No Missouri monitors violate the new standard, but two monitors located on the Illinois side of the St. Louis area are currently in violation. The Air Pollution Control Program is conducting a technical evaluation to determine the impacts of Missouri emission sources on the violating monitors in Illinois. Based on the analysis done thus far, we anticipate recommending to EPA that the entire state of Missouri be designated as attainment/unclassifiable. Our estimated timeline is: posting the recommendation and supporting technical information on for public review and comment no later than September 30, 2013; public hearing with a public hearing on October 31, 2013, and adoption on December 5, 2013. The recommendations are due to EPA in December 2013, and EPA has one year to take final action (December 2014).

4) DIRECTOR'S REPORT

a) Climate Action Plan

Ms. Moore updated the commission on the President of the United State's Climate Action Plan. As discussed at the July 24, 2013, meeting, a new rule was proposed by EPA that affected new power plant operations, and this rule had received quite a few comments, which prompted EPA to revise the rule. EPA will also begin communicating with stakeholders and states about the rule for existing power plants via webinars and conference calls. The Air Pollution Control Program will distribute the information on when these meetings will take place through the ListServe program on the department's website.

b) Staffing Update

Richard Swartz has accepted the Unit Chief position in Vapor Recovery Unit in the Compliance/Enforcement Section. Also, Steve Hall, who was previously the Air Monitoring Unit Chief, has accepted the Air Quality Analysis Section Chief position.

There are currently 10 vacant positions in the Air Pollution Control Program. Five of these vacancies are currently in the process of being filled. The other five will be filled as needed.

Mr. Pendergrass asked Ms. Moore if the department attends job fairs as a way to attain more applicants for vacant positions.

Ms. Moore answered that the department does attend job fairs, and there are usually a fair amount of applications received from these.

Ms. Moore introduced Ms. Julia Katich from the department's General Counsel's Office.

D. Public Hearing

Chairman Baker called the public hearing to order.

Ms. Shelly Reimer presented 10 CSR 10-3.010, *Auto Exhaust Emission Controls*. Information on the proposed rule amendment begins on page 71.

To obtain a copy of the public hearing transcript, please contact Ms. Kellene Feddersen by writing to Midwest Litigation Services at 3432 West Truman Boulevard, Suite 207, Jefferson City, MO 65109, or by phone at 800-280-3376.

E. Recommended for Adoption and Actions to be Voted On

Mr. Stan Payne presented 10 CSR 10-6.070, *New Source Performance Regulations*, 10 CSR 10-6.075, *Maximum Achievable Control Technology Regulations*, and 10 CSR 10-6.080, *Emission Standards for Hazardous Air Pollutants*. Information on the adoption item can be found beginning on pages 75, 81 and 89, respectively.

Commissioner Zimmermann moved to adopt 10 CSR 10-6.070, *New Source Regulations*, 10 CSR 10-6.075, *Maximum Achievable Control Technology Regulations*, and 10 CSR 10-6.080, *Emission Standards for Hazardous Air Pollutants*. Commissioner Pendergrass seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.070, *New Source Regulations*, 10 CSR 10-6.075, *Maximum Achievable Control Technology Regulations*, and 10 CSR 10-6.080, *Emission Standards for Hazardous Air Pollutants*.

Ms. Shelly Reimer presented 10 CSR 10-6.130, *Controlling Emissions During Episodes of High Air Pollution Potential*. Information on the adoption item can be found beginning on page 93.

Commissioner Garnett moved to adopt 10 CSR 10-6.130, *Controlling Emissions During Episodes of High Air Pollution Potential*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.130, *Controlling Emissions During Episodes of High Air Pollution Potential*.

F. New Business

1) Necessity Finding

Mr. Wayne Graf presented Necessity Finding 10 CSR 10-5.240, *Additional Air Quality Control Measures May be Required When Sources Are Clustered in a Small Land Area*, to the commission for adoption. Information on the Necessity Finding begins on page 103 of the briefing document.

Commissioner Zimmermann moved to adopt the Necessity Finding as presented by Mr. Graf. Commissioner Pendergrass seconded the motion. All of the commissioners voted to approve the Necessity Finding as presented by Mr. Graf.

2) Suggested 2014 MACC Meeting Dates

Ms. Kyra Moore presented a list of suggested 2014 meeting dates to the commission, proposing a choice of nine meetings in 2014 or ten meetings in 2014.

Commissioner Zimmermann moved to adopt the nine meeting proposal. Commissioner Garnett seconded the motion. Commissioner Zimmermann, Garnett and Baker all voted to approve the nine meeting proposal. Commissioner Pendergrass voted against. The nine meeting dates, as they were proposed in the agenda, were approved with a three to one vote.

G. Unfinished Business

None.

H. Appeals and Variance Requests

None.

I. Open Session

None.

J. Future Meeting Dates

September 26, 2013 – Kansas City

Holiday Inn Southeast
816-737-0200
Grand D
9103 East 39th Street
Kansas City, MO 64133

October 31, 2013 – Jefferson City

Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

December 5, 2013 – Jefferson City
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

K. Discussion of Pending Litigation and Legal Matters

None.

L. Missouri Air Conservation Commission

Commissioner Zimmermann moved to adjourn the August 29, 2013, Missouri Air Conservation Commission meeting. Commissioner Pendergrass seconded the motion and all commissioners voted to adjourn the meeting.

Chairman Baker adjourned the August 29, 2013, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Jack Baker, Chairman
Missouri Air Conservation Commission