



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
February 5, 2013
9:00 a.m.

Commissioners Present

Jack Baker, Vice Chairman
Ron Boyer, Chairman
Mark Garnett, Member*
Gary Pendergrass, Member

Commissioners Absent

David Zimmermann, Member

Staff Members Present

Adel Alsharafi, Air Quality Planning Section, Air Pollution Control Program (APCP)
Aaron Basham, Air Quality Planning Section, APCP
Darcy Bybee, Compliance/Enforcement Section Chief, APCP
David Gilmore, Program Secretary, APCP
Wayne Graf, Air Quality Planning Section, APCP
Bern Johnson, Air Quality Planning Section, APCP
Clifford Johnson, Compliance/Enforcement Section, APCP
Ashley Jurgensmeyer, Air Quality Planning Section, APCP
Steven Kratky, Missouri Department of Natural Resources
Mark Leath, Air Quality Planning Section, APCP
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Paul Myers, Air Quality Planning Section, APCP
Stan Payne, Air Quality Planning Section, APCP
Aarick Roberto, Commission Secretary, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Joe Winkelmann, Air Quality Planning Section, APCP
Shirley Wolverson, Missouri Department of Natural Resources

Others Present by Attendance Record

Abby Beshuk, Lighthouse Preparatory Academy (LPA)
Genevieve Bodnar, The Doe Run Company
Robert Brundage, Newman, Comely and Ruth, P.C.
Larry Coen, LPA
Chris DeCioccio, The Doe Run Company
Bethany Elliot, LPA
Sarah Feisel, LPA
Dave Fraley, City Utilities of Springfield

Brittany Hart, LPA
Jim Lanzafame, Buick Resource Recycling Facility
Madison Marsch, LPA
Sarah Medler, St. Louis County Department of Health
Glenn Miller, Precision Lumber and Pallet
Michael Montgomery, The Doe Run Company
Austin Perkins, LPA
David Shanks, Boeing
Joseph Stolle, Shell Engineering
Logan Stotler, LPA
Courtney Vance, LPA
Roger Walker, Regulatory Environmental Group for Missouri
Steve Whitworth, Ameren
Tim Wilson, Empire District Electric Company

A. Call to Order

Chairman Ron Boyer called the February 5, 2013, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Ron Boyer, Mark Garnett, and Gary Pendergrass.
*Commissioner Mark Garnett participated by phone.

B. Minutes from December 6, 2012, Meeting

Commissioner Jack Baker moved to approve the December 6, 2012, minutes as written, Commissioner Gary Pendergrass seconded the motion and all commissioners voted to approve the minutes.

C. Recommended for Adoption and Actions to be Voted On

Mr. Aaron Basham presented 10 CSR 10-6.368, *Control of Mercury Emissions from Electric Generating Units*, to the commission. Information on the adoption item can be found beginning on page 145 of the briefing document.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.368, *Control of Mercury Emissions from Electric Generating Units*. Commissioner Garnett seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.368, *Control of Mercury Emissions from Electric Generating Units*.

Mr. Stan Payne presented 10 CSR 10-6.191, *Sewage Sludge Incinerators*, to the commission. Information on the adoption item can be found beginning on page 151 of the briefing document.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.191, *Sewage Sludge Incinerators*. Commissioner Baker seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.191, *Sewage Sludge Incinerators*.

Ms. Ashley Jurgensmeyer presented Clean Air Section 111(d)/129 State Plan Revision – Section 111(d)/129 State Plan for Implementation of the Sewage Sludge Incinerator

Emission Guidelines for Missouri. Information on the adoption item can be found beginning on page 157 of the briefing document.

Commissioner Baker moved to adopt Clean Air Section 111(d)/129 State Plan Revision – Section 111(d)/129 State Plan for Implementation of the Sewage Sludge Incinerator Emission Guidelines for Missouri. Commissioner Pendergrass seconded the motion. All of the commissioners voted to adopt Clean Air Section 111(d)/129 State Plan Revision – Section 111(d)/129 State Plan for Implementation of the Sewage Sludge Incinerator Emission Guidelines for Missouri.

D. New Business

1) Necessity Findings

Mr. Wayne Graf presented eight Necessity Findings to the commission for adoption: 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees, and Process Information*, 10 CSR 10-6.130, *Controlling Emissions During Episodes of High Air Pollution Potential*, 10 CSR 10-6.345, *Control of NO_x Emissions From Upwind Sources*, 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*, 10 CSR 10-6.060, *Construction Permits Required*, 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes*, 10 CSR 10-5.570, *Control of Sulfur Emissions From Stationary Boilers*, and 10 CSR 10-6.040, *Reference Methods*. Information on the Necessity Findings begins on page 169 of briefing document.

Commissioner Baker moved to adopt the Necessity Findings as presented by Mr. Graf. Commissioner Pendergrass seconded the motion. All commissioners voted to approve the Necessity Findings as presented by Mr. Graf.

2) Attorney General's Office Referrals

Ms. Bybee began by stating that the Air Pollution Control Program is close to a resolution with Sabre Excavating Service and Mr. Mark Gerlach. Therefore, the Air Pollution Control Program will not be referring their respective cases to the commission at this time.

Ms. Bybee presented the referral case for Mr. Daniel Jensen. Information on the proposed referral begins on page 161 of the briefing document.

Chairman Ron Boyer asked if anyone representing Mr. Daniel Jensen was present for the commission meeting.

No one answered.

Commissioner Pendergrass moved to refer Mr. Daniel Jensen to the Attorney General's Office (AGO). Commissioner Baker seconded the motion. All commissioners moved to refer Mr. Daniel Jensen to the AGO.

Ms. Bybee presented the referral case for Precision Lumber and Pallet. Information on the proposed referral begins on page 165 of the briefing document.

Chairman Boyer asked if anyone representing Precision Lumber and Pallet was present for the commission meeting.

Mr. Glenn Miller, owner of Precision Lumber and Pallet addressed the commission and requested his case not be referred to the AGO.

Mr. Tim Duggan from the AGO addressed the commission and explained that the AGO has had many complaints about Precision Lumber and Pallet. He asked that the case be referred to the AGO.

Commissioner Garnett abstained from voting due to Mr. Miller being a personal acquaintance.

Commissioner Baker moved to refer Precision Lumber and Pallet to the AGO. Commissioner Pendergrass seconded the motion. Three out four commissioners moved to refer Precision Lumber and Pallet to the AGO.

E. Public Hearing

Chairman Boyer called the public hearing to order.

Mr. Stan Payne presented 10 CSR 10-1.010, *General Organization*. Information on the proposed rule amendment begins on page 111.

Mr. Paul Myers presented 10 CSR 10-2.330, *Control of Gasoline Reid Vapor Pressure*. Information on the proposed rule amendment begins on page 121.

Mr. Bern Johnson, Mr. Bob Randolph and Mr. Joe Winkelmann presented Missouri State Implementation Plan Revisions – Attainment Demonstrations for the 2008 Lead National Ambient Air Quality Standard for the Buick/ Viburnum Trend Lead Nonattainment Area, and the Herculaneum Lead Nonattainment Area. Information on the State Implementation Plan (SIP) Revision for the Buick/Viburnum Trend Lead Nonattainment Area can be found on page 127, and information on the SIP Revision for the Herculaneum Lead Nonattainment Area can be found on page 135. Mr. Johnson, Mr. Randolph and Mr. Winkelmann also gave a PowerPoint presentation to the commissioners, which can be found after the minutes and is labeled Attachment A.

Mr. Mark Leath presented Missouri SIP Revision – Early Progress Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground-Level Ozone National Ambient Air Quality Standard. Information on the SIP Revision can be found on page 141.

To obtain a copy of the public hearing transcript, please contact Ms. Melissa Bennett by writing to Midwest Litigation Services at 401 Locust Street, Suite 204, Columbia, MO 65201, or by phone at 800-280-3376.

F. Reports - The following referenced reports are in the December 6, 2012, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT

The Compliance/Enforcement Reports begin on page 17 with the Complaint or Concern Report. There were a total of 118 concerns received from November 1, 2012 through December 31, 2012. 107 investigations were completed and 22 violations were issued.

The Ongoing Negotiations Report is on pages 49 and 50. There are 59 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 51. From November 1, 2012 through December 31, 2012, the department finalized agreements for a total penalty of \$40,000. \$27,000 of that amount is suspended and \$13,000 is to be paid to the school fund in the county where the violation occurred.

The Pending Referrals report is on page 52. At this time, there are 21 active referrals with two referral requests on the agenda for today.

Finally, the Gateway Vehicle Inspection Report is on page 53. This report is for the fourth quarter of 2012. Over 150,000 vehicles were tested from October 1, 2012 through December 31, 2012, with 574 audits conducted. Noted in the report are default judgments that were reached against three individuals in the Clark's Tire and Auto, LLC clean scanning case. The first quarter report for 2013 will be presented to the commission at the April 25, 2013, meeting.

2) AIR QUALITY PLANNING REPORT

a) Rules and State Implementation Plan Agenda

A revised area boundary recommendation for the 1-Hour Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) will be presented for public hearing at the March 28, 2013 Missouri Air Conservation Commission meeting. The revision will remove the Springfield-Greene County area from the recommended nonattainment areas based on compliant monitoring data from 2010-2012. The recommended nonattainment areas in the Kansas City and Herculaneum areas will not be changed. The department will submit the revised area boundary recommendation to the U.S. Environmental Protection Agency (EPA) before this initial round of nonattainment designations is finalized in June 2013. A proposed infrastructure SIP for the 1-Hour Nitrogen Dioxide (NO₂) NAAQS will also be presented for public hearing on March 28, 2013. This plan addresses the basic program elements needed to implement and enforce the 1-Hour NO₂ NAAQS. Both of these items will be made available for public review and comment on February 25, 2013, and the comment period will close April 4, 2013.

Another potential item for public hearing on March 28, 2013, is a proposed SIP revision consisting of a consent judgment with the Carthage Crushed Limestone (CCL) facility to address violations of the coarse particulate matter (PM₁₀) NAAQS. The Air Pollution Control Program is currently negotiating with CCL to finalize the consent judgment and is hoping to post it on the department's website by February 25, 2013 for a public review and comment period that would run through April 4, 2013.

b) Ozone

On January 15, 2013, EPA published findings of failure to submit in the Federal Register for 2008 ozone NAAQS infrastructure SIPs for 28 states, including Missouri. In the notice, the agency states, "The EPA recognizes that its efforts to reconsider the 2008 8-Hour Ozone NAAQS delayed and complicated the efforts of some states to develop and submit these infrastructure SIPs, but at this time the EPA is nevertheless required by the [October 17, 2012] court order to make these findings." The findings of failure to submit become effective February 14, 2013, which starts a two-year clock for states to submit plans and for EPA to approve them, otherwise EPA can issue a Federal Implementation Plan. The Air Pollution Control Program intends to submit a plan to EPA as soon as possible, with a tentative schedule of making a draft plan available for public review and comment later this spring or early summer.

c) Particulate Matter

On December 14, 2012, the EPA lowered the annual fine particulate matter (PM_{2.5}) NAAQS from 15 micrograms per cubic meter (µg/m³) to 12 µg/m³. EPA also established new near-roadway monitoring requirements for PM_{2.5} to be phased starting in 2015. At this time, it appears all of Missouri's monitors are in compliance with the new annual PM_{2.5} NAAQS. There is a monitor located on the Illinois side of the St. Louis area with a 2009-2011 three-year average of 13.5 µg/m³, which is in violation of the new NAAQS. The Air Pollution Control Program is required to evaluate factors such as emissions, meteorology, population, and other data to determine if the Missouri-side counties in the St. Louis area are contributing to the violating monitor. This evaluation will form the basis of the state's boundary designation recommendation, which is due to EPA by December 2013. EPA is expected to finalize designations by December 2014.

3) PERMITS REPORT

Ms. Moore presented the Permits Report due to Mr. Hale being unable to attend this month's meeting. The Permits Report begins on page 55 of the briefing document. The Permits Section received 61 construction permit projects and 51 operating permit projects during the months of November and December 2012. A total of 889 permit projects were received for the year.

The Permit Applications Received Report is located on pages 56 through 64. The report details the projects received.

Beginning on page 65 is the Permits Applications Completed Report. There were 81 construction permits and 116 operating permits completed during the months of November and December 2012, for a total of 900 projects completed for the year. The Permit Applications Completed Report is located on pages 66 through 88.

On page 89 of the briefing document is the Open Permits Report. There are currently 494 projects open.

4) DIRECTOR'S REPORT

a) Legislative Session

There are some department-wide fee bills that will sunset this year: a Clean Water Fee, a Hazardous Waste Fee, and an Industrial Mineral Fee. Another bill of interest is a rule on Fast Track Rulemaking, which would speed up the rulemaking process when the rulemaking is solely for the adoption of federal rules.

b) Monitoring Update

The near-roadway monitor in St. Louis is operational, beginning January 1, 2013, and the data from the monitor can be found on the Department of Natural Resources' Air Pollutants webpage, under the Nitrogen Dioxide heading: <http://dnr.mo.gov/env/apcp/airpollutants.htm>.

c) Stage II Vapor Recovery

The Air Pollution Control Program is using enforcement discretion ahead of the rule process and SIP process to allow the gas stations to begin the decommissioning process of the Stage II equipment. Starting March 15, 2013, gas station owners can begin the removal process of the equipment following a very detailed procedure. Gas station owners must first apply for a construction permit in order to begin the decommissioning process.

d) Other Updates

The sixth annual REGFORM Air Seminar is scheduled for March 27, 2013, at the Stony Creek Inn in Columbia, Missouri. The EPA has been invited to the seminar to discuss and elaborate on certain rules.

Other updates include a staff change with the Air Pollution Control Program. Tiffany Drake, who was the Air Pollution Control Program Planning Unit Chief, has accepted a position within the Hazardous Waste Program.

G. Unfinished Business

Commission Operating Policies

At this time, due to commissioner's absence, discussion of the Operating Policy is on hold until the March 28, 2013, meeting.

H. Appeals and Variance Requests

None.

I. Open Session

Mr. Jim Lanzafame, with the Buick Research Recycling Facility, expressed his thanks to the Air Pollution Control Program staff for the work they do within the Department of Natural Resources.

Chairman Boyer stated that the difficulty of maintaining a quorum indicates the need for additional board members. Mr. Boyer stated that he would resign his status as chairman and board membership prior to the next meeting scheduled for March 28, 2013, if more board members were not appointed.

J. Future Meeting Dates

March 28, 2013 – Jefferson City

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

April 25, 2013 – Joplin

La Quinta Inn
417-781-0500
Meeting Room BC
3320 South Rangeline Road
Joplin, MO 64804

May 30, 2013 – Jefferson City

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

June 27, 2013 – St. Louis

Sheraton St. Louis City Center
314-613-5430
Colonnade Salon D
400 South 14th Street
St. Louis, MO 63103

July 24, 2013 (Wednesday) – Jefferson City

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

August 29, 2013 – Jefferson City

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

September 26, 2013 – Kansas City

Holiday Inn Southeast
816-737-0200
Grand BC
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 Baker moved to adjourn the February 5, 2013, Missouri Air Conservation Commission meeting. Commissioner Pendergrass seconded the motion and all commissioners voted to adjourn the meeting.

Chairman Boyer adjourned the February 5, 2013, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Ron Boyer, Chairman
Missouri Air Conservation Commission