



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Sheraton St. Louis City Center
400 South 14th Street
Colonnade Salon D
St. Louis, MO 63103
June 27, 2013
9:00 a.m.

Commissioners Present

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

Staff Members Present

Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)
Darcy Bybee, Compliance/Enforcement Section Chief, APCP
David Gilmore, Program Secretary, APCP
Wayne Graf, Air Quality Planning Section, APCP
Kendall Hale, Permits Section Chief, APCP
Steven Kratky, Department of Natural Resources
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Paul Myers, Air Quality Planning Section, APCP
Aarick Roberto, Commission Secretary, APCP
Seanmichael Stanley, Air Quality Planning Section, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP

Others Present by Attendance Record

Mike Alesandrini, URS Corp
Ken Anderson, Ameren
Genevieve Bodnar, The Doe Run Company
Chris DeCioccio, The Doe Run Company
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Sara Edgar, Sierra Club
Dave Fraley, City Utilities of Springfield
Ashley Franklin, Department of Natural Resources, St. Louis Regional Office
Scott Hoffman, Department of Natural Resources, St. Louis Regional Office
Alexandra Rather, Sierra Club
Buffy Santel, Metropolitan St. Louis Sewer District
David Shanks, Boeing
Tom Sims, Department of Natural Resources, St. Louis Regional Office
Roger Walker, Regulatory Environmental Group for Missouri
Shirley Wolverson, Department of Natural Resources, St. Louis Regional Office
Michael Zlatic, St. Louis County Health Department

A. Call to Order

Chairman Jack Baker called the June 27, 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 May 30, 2013, Meeting

Commissioner David Zimmermann moved to approve the May 30, 2013, minutes as written. Commissioner Gary Pendergrass seconded the motion and all commissioners voted to approve the minutes.

C. Reports - The following referenced reports are in the June 27, 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 13 with the Complaint or Concern Report. There were a total of 69 concerns received during the time period of April 16, 2013, through May 15, 2013. During this time there was 53 investigations completed and four violations issued.

The Ongoing Negotiations Report is on pages 33 and 34, with 65 enforcement actions in the negotiation process at this time, many of those being close to resolution at this time. With the passage of the Emissions Inventory Questionnaire and Annual Compliance Certifications deadlines, the Air Pollution Control Program may add a significant number of actions to this list.

The Finalized Agreement Report is on page 35. For the time period from April 16, 2013, through May 15, 2013, the department finalized agreements for a total penalty of \$76,000. \$22,000 of that amount is suspended, with the remaining \$54,000 paid to the school fund of the county in which the violation occurred.

The Pending Referrals Report is on page 36. At this time, there are 19 active referrals, with two referrals listed on the agenda for today. With regard to today's referrals, the Air Pollution Control Program believes that a resolution has been reached with Mr. Steven A. Klein. Therefore, Mr. Klein will not be presented to the commission today to be referred to the Attorney General's Office.

2) PERMITS REPORT

Mr. Kendall Hale said the Permits Report begins on page 37 of the briefing document. For the month of May 2013, the Permits Section received 36 construction permit projects, and 28 operating permit projects, for a total of 361 permit projects received for the year. The Permit Applications Received Report is located on pages 38 through 44, where there is detail of the projects received.

Beginning on page 45 is the Permits Applications Completed Report. There were 57 construction permits and 17 operating Permits completed for the month of April, for a total of 337 projects completed for the year. The Permits Applications Completed Report is located on pages 46 through 54.

On page 55 of the briefing document is the Open Permits Report. There are currently 508 projects open, and 12 operating permits on public notice that are not mentioned in the briefing document.

3) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan Agenda and Rules in Progress Schedule

At the July 24, 2013, commission meeting, annual updates to 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* are scheduled for public hearing. These updates will incorporate by reference changes to these federal regulations that were issued from February 17, 2012, to December 13, 2012. In addition, proposed revisions to 10 CSR 10-6.130, *Controlling Emissions during Episodes of High Air Pollution Potential* will be presented at July 24 public hearing. These revisions would remove pollutant-specific breakpoints for the Air Quality Index that become inaccurate when a National Ambient Air Quality Standard (NAAQS) is revised and make other formatting changes in order to make the rule more user-friendly. These proposed rulemakings were published in the *Missouri Register* on June 16, 2013, and are available for public review and comment through July 31, 2013.

10 CSR 10-6.161, *Commercial and Industrial Solid Waste Incinerators* is a new rule being developed to address federal requirements for existing commercial and industrial solid waste incinerators. The estimated schedule is for the proposed rulemaking to be filed with the Secretary of State by July 15, 2013, published in the *Missouri Register* on August 15, 2013, go to public hearing on September 26, 2013, and become effective February 28, 2014.

b) Cross State Air Pollution Rule

The U.S. Supreme Court has decided to review the August 21, 2012, judgment of the U.S. Court Appeals for the D.C. Circuit vacating Environmental Protection Agency's (EPA) Cross State Air Pollution Rule (*EME Homer City Generation, L.P., et al., v. EPA*). The Supreme Court will take this case up in its next term, which begins in October 2013. In the meantime, the Clean Air Interstate Rule (CAIR) remains in place, and EPA is moving forward with efforts to develop a new interstate transport rule with the assumption that the Homer City decision will stand.

c) Ozone National Ambient Air Quality Standard

No exceedances of the 2008 ozone NAAQS of 75 parts per billion (ppb) have occurred at any monitors in the state thus far in the 2013 ozone season. However, three of the St. Louis area monitors, as well as two of the Kansas City area monitors, continue to violate the 75 ppb standard for the 2011-2013 period.

EPA's proposed implementation rule for the 2008 ozone NAAQS was published in the *Federal Register* on June 6, 2013. This rule outlines State Implementation Plan (SIP) requirements for nonattainment areas for the 2008 ozone NAAQS. EPA is accepting comments on this proposal through August 5, 2013.

4) DIRECTOR'S REPORT

a) Climate Action Plan

The President of the United States recently announced the Climate Action Plan. With this plan, the EPA will issue a new proposal this September, addressing carbon emissions from new power plants. EPA proposed carbon dioxide emissions standards for new power plants in April 2012. In light of the over two million comments received on the proposal, EPA will reissue a draft. In addition, EPA will propose carbon emission standards for existing power plants by June 1, 2014, with final standards by July 1, 2015.

b) House Bill 28 Update

Discussed at the May 30, 2013, meeting, House Bill 28, which includes various department statute revisions, including extensions to the clean water fees, hazardous waste fees and battery fees, as well as a change to the air emission fee statutes, is pending final signature.

c) Staffing Updates

There are currently seven vacancies in the Air Pollution Control Program, with two of them currently in the process of being filled.

5) East-West Gateway Air Quality Planning Presentation

Mr. Mike Coulson presented to the commission an explanation of the East-West Gateway Air Quality Planning Program. Mr. Coulson is the Chairman of the East-West Gateway Council of Governments. The East-West Gateway Air Quality Planning presentation can be found at <http://www.dnr.mo.gov/env/apcp/macc.htm> under the June 27, 2013, heading. See also Attachment A of the June 27, 2013, meeting minutes for the East-West Gateway Air Quality Planning presentation.

D. Public Hearing

Chairman Baker called the public hearing to order.

Mr. Paul Myers presented 10 CSR 10-6.040, *Reference Methods*. Information on the proposed rule amendment begins on page 73.

Mr. Joe Winkelmann presented Missouri State Implementation Plan – Modification to the Attainment Demonstration for the 2008 Lead NAAQS for the Buick/Viburnum trend Lead Nonattainment Area.

To obtain a copy of the public hearing transcript, please contact Ms. Beth Zink by writing to Midwest Litigation Services at 711 North 11th Street, St. Louis, MO 63101, or by phone at 800-280-3376.

E. Recommended for Adoption and Actions to be Voted On

Mr. Aaron Basham presented 10 CSR 10-6.060, *Construction Permits Required*. Information on the adoption item can be found beginning on page 89.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.060, *Construction Permits Required*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.040, *Construction Permits Required*.

Mr. Seanmichael Stanley presented 10 CSR 10-5.570, *Control of Sulfur Emissions From Stationary Boilers*. Information on the adoption item can be found beginning on page 131.

Commissioner Pendergrass moved to adopt 10 CSR 10-5.570, *Control of Sulfur Emissions From Stationary Boilers*. Commissioner Mark Garnett seconded the motion. All of the commissioners voted to adopt 10 CSR 10-5.570, *Control of Sulfur Emissions From Stationary Boilers*.

Mr. Wayne Graf presented 10 CSR 10-6.345, *Control of NO_x Emissions From Upwind Sources*. Information on the adoption item can be found beginning on page 139.

Commissioner Zimmermann moved to adopt 10 CSR 10-6.345, *Control of NO_x Emissions From Upwind Sources*. Commissioner Pendergrass seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.345, *Control of NO_x Emissions From Upwind Sources*.

Mr. Seanmichael Stanley presented 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes*. Information on the adoption item can be found on page 145.

Commissioner Zimmermann moved to adopt 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Process*. Commissioner Pendergrass seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes*.

Mr. Aaron Basham presented 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees and Process Information*. Information for the adoption item can be found on page 151.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees and Process Information*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees and Process Information*.

Mr. Paul Myers presented 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*. Information for the adoption item can be found on page 161.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*.

Ms. Wendy Vit presented Missouri State Implementation Plan (SIP) – Section 110 Infrastructure Requirements for the 2008 Ozone National Ambient Air Quality Standard. Information for the adoption item can be found on page 167.

Commissioner Zimmermann moved to adopt Missouri SIP – Section 110 Infrastructure Requirements for the 2008 Ozone National Ambient Air Quality Standard. Commissioner Garnett seconded the motion. All of the commissioners voted to adopt Missouri SIP – Section 110 Infrastructure Requirement for the 2008 Ozone National Ambient Air Quality Standard.

Ms. Wendy Vit presented Missouri SIP – Section 110 Infrastructure Requirements for the 2010 SO₂ National Ambient Air Quality Standard. Information for the adoption item can be found on page 169.

Commissioner Zimmermann moved to adopt Missouri SIP – Section 110 Infrastructure Requirements for the 2010 SO₂ National Ambient Air Quality Standard. Commissioner Garnett seconded the motion. All of the commissioners voted to adopt Missouri SIP – Section 110 Infrastructure Requirements for the 2010 SO₂ National Ambient Air Quality Standard.

F. New Business

1) Attorney General's Office Referrals

Ms. Bybee presented the referral case for Mr. Vernard Tucker. Information on the proposed referral begins on page 175 of the briefing document.

Chairman Baker asked if anyone representing Mr. Vernard Tucker was present for the commission meeting.

No one answered.

Commissioner Pendergrass moved to refer Mr. Vernard Tucker to the Attorney General's Office (AGO). Commissioner Zimmermann seconded the motion. All of the commissioners moved to refer Mr. Vernard Tucker to the AGO.

2) Necessity Findings

Mr. Wayne Graf presented Necessity Finding 10 CSR 10-6.200, *Hospital, Medical, Infectious Waste Incinerators*, to the commission for adoption. Information on the Necessity Finding begins on page 177 of the briefing document.

Commissioner Garnett 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.

G. Unfinished Business

None.

H. Appeals and Variance Requests

None.

I. Open Session

Ms. Sara Edgar of the Sierra Club spoke to the Air Commission about monitoring concerns that were brought up at the June 28, 2012, meeting.

J. Future Meeting Dates

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 Garnett moved to adjourn the June 27, 2013, Missouri Air Conservation Commission meeting. Commissioner Zimmermann seconded the motion and all commissioners voted to adjourn the meeting.

Chairman Baker adjourned the June 27, 2013, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Jack Baker, Chairman
Missouri Air Conservation Commission