



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
La Quinta Inn
3320 South Rangeline Road
Meeting Room BC
Joplin, MO 64804
April 25, 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)
Camille Graves, Southwest Regional Office
David Gilmore, Program Secretary, APCP
Kendall Hale, Permits Section Chief, APCP
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Aarick Roberto, Commission Secretary, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Paul Vitzthum, Southwest Regional Office

Others Present by Attendance Record

Amy Bhesania, Environmental Protection Agency (EPA)
Jeff Burkett, Empire District Electric
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Tim Duggan, Attorney General's Office
Lachala Kemp, EPA
Drew Landoll, Empire District Electric
Genee Mallory, Empire District Electric
Charles Means, Regulatory Environmental Group for Missouri (REGForM)
Dan Pekarek, Environmental Taskforce of Jasper and Newton Counties
George Thullesen
Roger Walker, REGForM
Tim Wilson, Empire District Electric

A. Call to Order

Chairman Jack Baker called the April 25, 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 March 28, 2013, Meeting

Commissioner Mark Garnett moved to approve the March 28, 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 April 25, 2013, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT

The Compliance/Enforcement Report begins on page 15 with the Complaint or Concern Report. There were a total of 42 concerns received from February 15, 2013 through March 15, 2013, with 33 investigations completed and 2 violations issued.

The Ongoing Negotiations Report is on pages 29 and 30, with 61 enforcement actions in the negotiation process. The Finalized Agreement Report is on page 31. For the time period of February 16, 2013 through March 15, 2013, the department finalized agreements for a total penalty of \$44,500. \$36,000 of that amount is suspended, and \$8,500 is paid to the school fund in the county where the violation occurred.

The Pending Referrals report is on page 31. At this time, there are 20 active referrals and no referrals listed on the agenda for today.

Finally, the Gateway Vehicle Inspection Report for the first quarter of 2013 is on page 33. There is an error in the briefing document that states the report ends March 2012. Over 160,000 vehicles were tested from January 1, 2013 through March 31, 2013, with about 800 audits conducted during that time.

2) PERMITS REPORT

The Permits Report begins on page 35 of the briefing document. For the month of March 2013, the Permits Section received 36 construction permits projects, and 42 operating permits projects, for a total of 202 permits projects received for the year.

The Permit Applications Received Report is located on pages 36 through 44, where there is detail of the projects received.

Beginning on page 45 is the Permits Applications Completed Report. There were 42 construction permits and 22 operating permits completed for the month of March, for a total of 187 projects completed for the year. The Permit Applications Completed Report is located on pages 46 through 53.

On page 54 of the briefing document is the Open Permits Report. There are currently 158 construction permit projects and 347 operating permit projects that are open, for a total of 505 projects open. At this time, there are a couple big permit projects staff will be working on.

Additionally, a January 22, 2013, decision by the U.S. Court of Appeals for the District of Columbia Circuit Court vacated the Significant Monitoring Concentrations (SMC) for Particulate Matter (PM_{2.5}). It also vacated and remanded two provisions containing Significant Impact Levels (SIL) for PM_{2.5}. This will definitely impact any PSD for PM_{2.5}.

3) **AIR QUALITY PLANNING REPORT**

a) **Proposed State Implementation Plan for Startup, Shutdown, Malfunction Provisions**

As a follow up to the discussion of Environmental Protection Agency's (EPA) proposed State Implementation Plan (SIP) call for startup, shutdown, malfunction provisions at the March 28, 2013 commission meeting, Ms. Vit noted that the language in 10 CSR 10-6.220 *Restriction of Emission of Visible Air Contaminants* (referred to as the opacity rule) impacted by this action was included in the minutes for that commission meeting. Specifically, the proposed SIP Call indicates that language at subsection (3)(C) of the opacity rule is impermissible because it could be interpreted as allowing for exemptions in federally enforceable SIP emission limitations through the state director's discretion. Once the SIP call is final, the Air Program will have 18 months to fix the deficiency by clarifying the language at subsection (3)(C) of 10 CSR 10-6.220. The proposed SIP call does not impact 10 CSR 10-6.050 *Startup, Shutdown, Malfunction Conditions* because EPA states that the director discretion provision in that rule clearly only applies to state enforcement and doesn't preclude federal enforcement action.

b) **Rules in Progress Schedule**

The following proposed rulemakings are scheduled to go to public hearing on May 30, 2013: 10 CSR 10-6.345 *Control of NO_x Emissions from Upwind Sources*; 10 CSR 10-6.110 *Reporting Emission Data, Emission Fees, and Process Information*; 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 10-5.570 *Control of Sulfur Emissions from Stationary Boilers*; and 10 CSR 10-6.400 *Restriction of Emission of Particulate Matter from Industrial Processes*. 10 CSR 10-6.345 is being proposed for rescission because it expired on December 30, 2011. The proposed revision to 10 CSR 10-6.060 would incorporate by reference the U.S. Environmental Protection Agency's new option allowing plantwide applicability limits (PALs) for greenhouse gas permitting. The rest of these proposed rulemakings are primarily administrative in nature, covering a variety of revisions to clarify language, fix typographical errors, and other editorial changes. Also scheduled for public hearing at the May 30 meeting are proposed infrastructure SIPs for the 2010 Sulfur Dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) and 2008 ozone NAAQS. These are administrative plans that demonstrate the state has the authority and infrastructure to implement and enforce these standards. All of these

proposed rulemakings and plans are available for public review and comment through June 6, 2013.

One item is currently scheduled for public hearing at the June 27, 2013, commission meeting: a proposed revision to 10 CSR 10-6.040 *Reference Methods*. The main purpose is to update the incorporation by reference dates for the latest ambient monitoring methods for nitrogen dioxide, fine particulate matter and methods for laboratory analysis of lead.

c) Transport Issues

The U.S. Solicitor General has petitioned the Supreme Court to review the D.C. Circuit Court's decision on the Cross State Air Pollution Rule (CSAPR). Several other groups also filed petitions to review the decision. On a recent conference call, EPA speculated it may not be until June/July 2013 before the Supreme Court decides whether or not to rehear the case.

EPA held their meetings with a state agencies webinar and has scheduled two meetings with state air agencies—one on April 8, 2013, in Research Triangle Park, North Carolina for Eastern states and another one on April 17, 2013, in Denver, Colorado for Western states. The purpose is to get input from states on key technical questions and regulatory options for moving forward. EPA has not yet provided a summary of these discussions, but we will keep the commission informed as we learn more.

d) Ozone

April 1 was the start of the 2013 ozone season. At this early stage of the ozone season, the cool, rainy weather has kept ozone values low. However, the design value for 2011-2013 at the West Alton monitor in the St. Louis area is already above the 2008 ozone standard of 75 parts per billion (ppb).

We are also continuing discussions with EPA Region VII on actions to address the violation in the St. Louis area of the previous ozone standard of 80 ppb set in 1997. It is clear we will need to do something but we don't know the specifics or the timeline. We'll inform the commission as we learn more.

4) DIRECTOR'S REPORT

a) Commission Members

With only four commissioners on the board, and four commissioners needed for a quorum to vote on various issues, it is appreciated that all four members could be in attendance. Ms. Moore has been in contact with the director's office and they are working towards obtaining additional commissioners as soon as possible

b) Monitoring Issues

Due to the recent rains and flooding in the St. Louis area, staff moved the West Alton ozone monitor and data collection was temporarily suspended.

c) EPA Region VII

The EPA staff is currently in a phase of furloughs of 32 hours, yet is ensuring staff coverage. Two members of EPA Region VII are in the audience today, Amy Bhesania and Lachala Kemp.

d) Other Issues

This week, the Regional Office Central Office Air Inspector Roundtable, a meeting of air inspectors from the regional offices around the state and staff from the central office, took place in Jefferson City. This meeting enabled all of the air inspectors to meet face to face and to discuss any issues that may be taking place.

There is a National Association of Clean Air Agencies Air Director meeting coming up May 6 to May 8, 2013.

Emily Wilbur has officially accepted the SIP Unit Chief position in the Air Quality Planning Section recently vacated by Tiffany Drake. Emily has worked in the Permits Section previously, and her experience there will be a great asset to the Planning Section. Nicole Eby, the Vapor Recovery Unit Chief, has accepted a position as a Unit Chief in the Compliance Section in the Hazardous Waste Program. Finally, interviews will soon begin for the vacant Air Quality Analysis Section Chief position.

5) Environmental Taskforce of Jasper and Newton County Presentation

Mr. Dan Pekarek presented to the commission an explanation of the Environmental Taskforce of Jasper and Newton County. Mr. Pekarek is the director of the City Health Department in Joplin, Missouri. The Environmental Taskforce of Jasper and Newton County presentation can be found at <http://www.dnr.mo.gov/env/apcp/macc.htm> under the April 25, 2013, heading. See also Attachment A of the April 25, 2013, meeting minutes for the Environmental Taskforce of Jasper and Newton County presentation.

D. Public Hearing

None.

E. Recommended for Adoption and Actions to be Voted On

Ms. Wendy Vit presented Proposed Revision to the Boundary Recommendation of Nonattainment and Unclassifiable Areas per the 2010 1-hour Sulfur Dioxide National Ambient Air Quality Standard to the commission. Information on the adoption item can be found beginning on page 75 of the briefing document.

Commissioner Gary Pendergrass moved to adopt Proposed Revision to the Boundary Recommendation of Nonattainment and Unclassifiable Areas per the 2010 1-hour Sulfur Dioxide National Ambient Air Quality Standard. Commissioner Garnett seconded the motion. All of the commissioners voted to adopt Proposed Revision to the Boundary Recommendation of Nonattainment and Unclassifiable Areas per the 2010 1-hour Sulfur Dioxide National Ambient Air Quality Standard.

Ms. Wendy Vit presented Missouri State Implementation Plan (SIP) – Section 110 Infrastructure Requirements for the 2010 Nitrogen Dioxide National Ambient Air Quality Standard to the commission. Information on the adoption item can be found beginning on page 77 of the briefing document.

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

F. New Business

Necessity Findings

Ms. Wendy Vit presented Necessity Finding 10 CSR 10-3.010, *Auto Exhaust Emission Controls*, to the commission for adoption. Information on the Necessity Finding begins on page 81 of briefing document.

Commissioner Pendergrass moved to adopt the Necessity Finding as presented by Ms. Vit. Commissioner Zimmermann seconded the motion. All commissioners voted to approve the Necessity Finding as presented by Ms. Vit.

G. Unfinished Business

Commission Operating Policies

Commissioner Zimmermann recommended that if an issue is brought up by a public body or anyone at the meeting, the issue be added to the next agenda and a vote should be taken on the issue.

Director Moore replied that the staff will adjust the language of the policies document to reflect this concern. Any changes made will be given to the commissioners at the May 30, 2013, meeting for further discussion and approval.

H. Appeals and Variance Requests

None.

I. Open Session

None.

J. Future Meeting Dates

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
400 South 14th Street
Colonnade Salon D
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 CoCo Key
816-737-0200
9103 East 39th Street
Grand BC
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 April 25, 2013, Missouri Air Conservation Commission meeting. Commissioner Pendergrass seconded the motion and all commissioners voted to adjourn the meeting.

Vice Chairman Baker adjourned the April 25, 2013, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Jack Baker, Chairman
Missouri Air Conservation Commission