

MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
August 27, 2015
9:00 a.m.

Commissioners Present

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

Staff Members Present

Larry Archer, Division of Environmental Quality
Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)
Darcy Bybee, Compliance/Enforcement Section Chief, 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
Steve Hall, Air Quality Analysis Section Chief, APCP
Ashley Keas, Air Quality Planning Section, APCP
Mark Leath, Air Quality Planning Section
Patricia Maliro, Air Quality Analysis Section, APCP
Kyra Moore, Director, APCP
Leanne Tippet Mosby, Director, Division of Environmental Quality
Julia Katich Mudd, Department of Natural Resources
Lisa Nahach, Public Information Specialist, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Emily Wilbur, Air Quality Planning Section, APCP

Others Present by Attendance Record

Mike Alesandrini, AECOM
Ken Anderson, Ameren
Renee Cipriano, Schiff Haidin LLP
Susan Cunningham
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Tim Duggan, Attorney General's Office
Lucy Fraiser, Zephyr Environmental Corporation
Mollie Freebairn
D.K. Hirner, Regulated Environmental Group for Missouri
Lloyd Klinedinst

Susan Knowles, Ameren
Beth Koebel
Robert Lewis, Development Strategies Inc.
Maxine Lipeles, Washington University, Environmental Law Clinic
Ken Miller, Washington University, Environmental Law Clinic
Segoleine Renaze Shimotani, Sierra Club
Mark McGill, Sikeston BMW
Robert Paine, AECOM
Rajiv Ravulapati, Sierra Club
Steve Rudloff, Missouri Lime Producers Association
Patricia, Schuba, Labadie Environmental Organization
David Shanks, Boeing
Roger Walker, Regulatory Environmental Group for Missouri
Steven Whitworth, Ameren

A. Call to Order

Chairman David Zimmermann called the August 27, 2015, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass, *Mark Garnett and David Zimmermann. Commissioner Mark Garnett participated by phone.

B. Minutes from August 3, 2015 and August 27, 2015, Meetings

Commissioner Jack Baker moved to approve the August 3, 2015, minutes and the August 27, 2015 minutes as written. Vice Chairman Gary Pendergrass seconded the motion, and all commissioners voted to approve the August 3, 2015, minutes and the August 27, 2015 minutes as written.

C. Public Hearing

Chairman David Zimmermann called the public hearing to order.

Mr. Mark Leath presented the following State Implementation Plan for public hearing: Missouri State Implementation Plan Revision – Infrastructure Elements for the 2012 Annual PM_{2.5} Standard. Information on the proposed plan begins on page 87 of the briefing document.

Ms. Ashley Keas presented the following State Implementation Plan for public hearing: Proposed Options for Area Boundary Recommendations for the 2010 1-Hour Sulfur Dioxide Standard: July 2016 Designations. Information on the proposed plan begins on page 91 of the briefing document.

Mr. Rajiv Ravulapati, representing the Sierra Club, addressed the commission.

Ms. Maxine Lipeles, from the Interdisciplinary Environmental Law Clinic at Washington University, addressed the commission on behalf of the Sierra Club.

Mr. Lloyd Klinedinst addressed the commission.

Mr. Steven Whitworth, representing Ameren, addressed the commission.

Mr. Robert Paine, representing AECOM, addressed the commission.

Ms. Lucy Fraiser, representing Zephyr Environmental Corporation, addressed the commission.

Mr. Robert Lewis, representing Development Strategies Inc., addressed the commission.

Ms. Patricia, Schuba, representing Labadie Environmental Organization, addressed the commission.

Mr. Roger Walker, representing the Regulated Environmental Group for Missouri, addressed the commission.

Ms. Mollie Freebairn addressed the commission.

Commissioner Baker moved to close the August 27, 2015, public hearing. Vice Chairman Pendergrass seconded the motion, and all commissioners voted to close the public hearing.

To obtain a copy of the public hearing transcript, please contact Ms. Kathy Porter by writing to Midwest Litigation Services, 711 North 11th Street, St. Louis, MO 63101, or by phone at 1-800-280-3376.

D. Recommended for Adoption and Actions to be Voted on

Mr. Aaron Basham presented the following three rules for adoption: 10 CSR 10-6.372, *Cross-State Air Pollution Rule Annual NO_x Trading Allowance Allocations*, 10 CSR 10-6.374, *Cross-State Air Pollution Rule Ozone Season NO_x Trading Allowance Allocations*, and 10 CSR 10-6.376, *Cross-State Air Pollution Rule Annual SO₂ Trading Allowance Allocations*. Information on the three proposed rules can be found beginning on pages 95, 111 and 127, respectively, of the briefing document.

Vice Chairman Pendergrass moved to adopt the following three rules as amended: 10 CSR 10-6.372, *Cross-State Air Pollution Rule Annual NO_x Trading Allowance Allocations*, 10 CSR 10-6.374, *Cross-State Air Pollution Rule Ozone Season NO_x Trading Allowance Allocations*, and 10 CSR 10-6.376, *Cross-State Air Pollution Rule Annual SO₂ Trading Allowance Allocations*. Commissioner Baker seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.372, *Cross-State Air Pollution Rule Annual NO_x Trading Allowance Allocations*, 10 CSR 10-6.374, *Cross-State Air Pollution Rule Ozone Season NO_x Trading Allowance Allocations*, and 10 CSR 10-6.376, *Cross-State Air Pollution Rule Annual SO₂ Trading Allowance Allocations* as amended.

E. New Business

None.

F. Unfinished Business

None.

G. Appeals and Variance Requests

None.

H. Reports - The following referenced reports are in the August 27, 2015, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT REPORT

Ms. Darcy Bybee stated that the Compliance/Enforcement Report begins on page 29 with the Concern Report. There were a total of 53 concerns received from June 16, 2015 through July 15, 2015. During this time period there were 52 investigations completed.

To answer Commissioner Garnett's question from last month, the last three years indicate a 10 to 15 percent violation rate, an average of 64 concerns a month, and an average of eight notices of violation that were issued per month.

Chairman Zimmermann inquired if there were any areas of concern more than others.

Ms. Bybee replied there the majority of the concerns have to do with open burning, followed by odors and then asbestos.

The Ongoing Negotiations Report can be found on pages 47 and 48. There are 56 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 49. For the time period of June 16, 2015 through July 15, 2015, the department finalized 14 agreements with a total penalty of \$31,000. Of that amount, \$5,000 was paid to the school fund of the County in which the violation occurred, and the remaining portion was suspended.

The Pending Referrals Report can be found on page 51. At this time, there are 16 Active Referrals.

Ms. Bybee also gave an update on the Decommissioning of the Stage II program in St. Louis. As of this week, 84 percent of the facilities subject to the St. Louis vapor recovery rule have gone through the entire Stage II decommissioning, testing and permitting process. The program continues to work with

approximately 100 facilities that have not started the process to assist them to meet the December 31, 2015, compliance date.

2) **PERMITS REPORT**

Mr. Kendall Hale stated that the Permits Report begins on page 53 of the briefing document with the Permit Applications Received Report. A total of 335 construction and 213 operating permit applications have been received from January through July 2015. Only 15 operating permit projects were received in July. Details of the projects received for July can be seen from pages 54 through 59 of the briefing document.

Beginning on page 61 is the Permit Applications Completed Report. The Permits Section completed a total of 61 construction and 17 operating permits projects for July. A total of 78 construction and operating permit projects were completed in July. Details of the projects completed for July can be seen from pages 62 through 69 of the briefing document.

Mr. Hale briefed the commission on how construction, operating and Part 70 permits are listed in the permits reports.

On page 70 of the briefing document is the Open Permits Report. This report details the types of projects currently open in the Permit Section.

There is currently one Prevention of Significant Deterioration Part 70 operating permit on public notice for Columbia Municipal Power, and one Part 70 Title V operating permit also on public notice.

3) **AIR QUALITY PLANNING REPORT**

a) **Rule and State Implementation Plan Agenda**

The proposed asbestos fee changes will be presented for public hearing at the September 24, 2015 commission meeting. The changes are in two rules: 10 CSR 10-6.241 *Asbestos Projects—Registration, Notification and Performance Requirements* and 10 CSR 10-6.250 *Asbestos Projects—Certification, Accreditation and Business Exemption Requirements*. These proposed rulemakings were published in the Missouri Register on August 17, 2015, and comments will be accepted through October 1, 2015.

The proposed permit fee changes will be presented for public hearing at the October 29, 2015 commission meeting. The changes are in two rules: 10 CSR 10-6.060 *Construction Permits Required* and 10 CSR 10-6.065 *Operating Permits*. These proposed rulemakings will be published in the Missouri Register on September 15, 2015, and comments will be accepted through November 5, 2015.

b) Sulfur Dioxide (SO₂) Update

Two additional rounds of designations for the 1-hour SO₂ standard will occur. The U.S. Environmental Protection Agency (EPA) will finalize designations in these rounds based on modeling data and information from new ambient air monitors in late 2017 and late 2020, respectively. The EPA recently finalized the data requirements rule that outlines how the remaining rounds of designations for the 1-hour SO₂ standard will be conducted. The rule requires states to evaluate all sources that emit 2,000 tons per year or more of SO₂ using air quality modeling or monitoring data. The rule also provides an option for these affected sources to limit their annual SO₂ emissions to less than 2,000 tons, which would effectively remove them from the 2017 and 2020 designation processes. The program will be in touch with the affected sources in Missouri to begin discussions about the option that works best for them. EPA's final data requirements rule was published in the Federal Register on August 21, 2015.

c) Ozone Updates

The summer of 2015 continues to be a mild ozone season. Through August 26, 2015, only two exceedances of the 2008 ozone standard have been recorded statewide: one on June 9 in Perry County and a second one on July 24 in St. Louis. For the current three-year period (2013 through 2015 year to date), all of the state's ozone monitors are in compliance with the 2008 ozone standard. If these low levels continue through the end of the summer, there's a good chance the St. Louis area will attain the 2008 ozone standard by the end of 2015.

As a follow up to a question from Commissioner Zimmerman at the previous commission meeting, Ms. Wendy Vit provided information about the June 9, 2015 exceedance at the Perry County monitor. Based on a review of meteorological conditions that day, winds were from the north, and emissions from the St. Louis area may have had an impact on the Perry County monitor. This is not the typical pattern of south/southeasterly flows on days with elevated ozone levels in the eastern part of Missouri.

4) DIRECTOR'S REPORT

a) Carbon Pollution Standards – Clean Power Plan

Ms. Moore said EPA finalized the Clean Power Plan (CPP), carbon pollution standards, for existing power plants on August 3, 2015. Missouri has 21 affected sources identified in the final rule. There is a stakeholder meeting on September 23, 2015 from 10:00 a.m. until noon in the Bennett Springs conference room. The meeting is open to all interested parties.

b) Future Meetings

Ms. Moore said the proposed 2016 commission meeting dates have been published in the briefing document. There are two options, nine meetings or 10 meetings a year. Nine meetings a year are required by statute. She asked the commission to review those dates.

c) Vacancies

The program currently has 15 vacancies and it is actively looking at filling five of those vacancies.

Ms. Wendy Vit has accepted a position with GeoEngineers in Springfield. Her last day with the Air Pollution Control Program will be September 15, 2015.

I. Open Session

None.

J. Future Meeting Dates

September 24, 2015 – St. Louis

St. Louis Regional Office
7545 South Lindbergh, Suite 220
DESE Conference Room
St. Louis, MO 63125

October 29, 2015 – Jefferson City

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

Tuesday, November 17, 2015 – Jefferson City

Harry S Truman Building
301 West High Street
Fourth Floor - Room 400
Jefferson City, MO 65101

K. Discussion of Pending Litigation and Legal Matters

Mr. Tim Duggan noted that on August 3, 2015 the Missouri Air Conservation Commission (commission) voted on two different appeals; both to adopt the recommendation of the Administrative Hearing Commission. He asked the commission to make a motion to direct staff to mail the decisions to the parties and their attorneys and that the effective date of the commission's decision is August 27, 2015 and not August 3, 2015. This will allow the parties 30 days to seek judicial review, if they are so inclined.

Vice Chairman Pendergrass moved to have staff mail the appeal decisions to the parties and their attorneys and that the effective date of the commission's decision is August 27, 2015. Commissioner Mark Garnett seconded the motion, and all commissioners voted to have staff mail the appeal decisions to the parties and their attorneys and that the effective date of the commission's decision is August 27, 2015.

L. Missouri Air Conservation Commission

Commissioner Baker moved to adjourn the August 3, 2015, Missouri Air Conservation Commission meeting. Vice Chairman Pendergrass seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Zimmermann adjourned the August 27, 2015, Missouri Air Conservation Commission meeting.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kyra L. Moore". The signature is written in black ink and is positioned above a horizontal line.

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

David Zimmermann, Chairman
Missouri Air Conservation Commission