

**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**Lewis and Clark State Office Building**  
**1101 Riverside Drive**  
**LaCharrette and Nightingale Creek Conference Rooms**  
**Jefferson City, MO 65101**  
**August 28, 2014**  
**10:00 a.m.**

**Commissioners Present**

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

**Staff Members Present**

Larry Archer, Division of Environmental Quality, Administration  
Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)  
Van Beydler, Soil and Water Conservation Program  
Darcy Bybee, Compliance/Enforcement Section Chief, Air Pollution Control Program (APCP)  
Wayne Graf, Air Quality Planning Section, APCP  
Kendall Hale, Permits Section Chief, APCP  
Steve Hall, Air Quality Analysis Section Chief, APCP  
Kurt Heine, Environmental Services Program  
Ashley Keas, Air Quality Planning Section, APCP  
Julia Katich, Department of Natural Resources  
Mark Leath, Air Quality Planning Section, APCP  
Jennifer Martin, Air Quality Planning Section, APCP  
Marty Miller, Department of Natural Resources  
Kyra Moore, Director, APCP  
Wendy Vit, Air Quality Planning Section Chief, APCP  
Will Wetherell, Environmental Services Program  
Joe Winkelmann, Air Quality Planning Section, APCP

**Others Present by Attendance Record**

Ken Anderson, Ameren  
Shannon Andrews, Exide Technologies  
Robert Brundage; Newman, Comley and Ruth P.C.  
Jeff Burkett, Empire District Electric Company  
Kathrina Donegan, St. Louis County, Department of Health  
Tim Duggan, Attorney General's Office (AGO)  
Gerad Fox, City Utilities of Springfield  
Dave Fraley, City of Springfield  
Fred Ganster, Exide Technologies  
D.K. Hirner, Regulatory Environmental Group for Missouri

Mike Jay, Environmental Protection Agency  
Jim Lanzafame, Doe Run Company  
Rex McAliley  
David McKercher, Exide Technologies  
David Shanks, Boeing  
Roger Walker, Regulatory Environmental Group for Missouri  
Emily Wright; Stinson, Leonard, Street

**A. Call to Order**

Chairman Gary Pendergrass called the August 28, 2014, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass, Mark Garnett and David Zimmermann.

**B. Minutes from May 29, 2014, Meeting**

Vice Chairman Mark Garnett moved to approve the May 29, 2014, minutes as written. Commissioner Jack Baker seconded the motion, and all commissioners voted to approve the minutes.

**C. Public Hearing**

Chairman Pendergrass called the public hearing to order.

Mr. Joe Winkelmann presented Missouri State Implementation Plan – 2008 Lead National Ambient Air Quality Standard Compliance Plan –Exide Technologies Canon Hollow Facility. Information on the proposed State Implementation Plan begins on page 77 of the briefing document.

Mr. Fred Ganster, representing Exide Technologies, presented comments in regards to the proposed plan.

Mr. Rex McAliley presented comments in regards to the proposed plan.

Mr. Mike Jay, representing the U.S. Environmental Protection Agency (EPA), presented comments in regards to the plan.

To obtain a copy of the public hearing transcript, please contact Ms. Jenna Petree by writing to Midwest Litigation Services, 401 Locust Street, Columbia, MO 65201, or by phone at (573) 449-0561.

**D. Recommended for Adoption and Actions to be Voted On**

Ms. Ashley Keas presented Missouri State Implementation Plan Revision – Regional Haze Plan 5-Year Progress Report. Information on the proposed revision can be found beginning on page 85.

Vice Chairman Mark Garnett moved to adopt Missouri State Implementation Plan Revision – Regional Haze Plan 5-Year Progress Report. Commissioner David

Zimmermann seconded the motion. All of the commissioners voted to adopt Missouri State Implementation Plan Revision – Regional Haze Plan 5-Year Progress Report as revised.

Mr. Joe Winkelmann presented Missouri State Implementation Plan Revision – Marginal Area 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 proposed plan revision can be found beginning on page 89.

Commissioner David Zimmermann moved to adopt Missouri State Implementation Plan Revision – Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard. Commissioner Jack Baker seconded the motion. All of the commissioners voted to adopt Missouri State Implementation Plan Revision – Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard as revised.

**E. New Business**

Mr. Mark Leath presented the EPA Clean Power Plan Proposal to the commission. Details of his presentation can be viewed as an attachment to these minutes (See Attachment A) or a full color copy of his presentation can be seen on the Missouri Air Conservation Commission website at <http://dnr.mo.gov/env/apcp/macc.htm>.

Ms. Kyra Moore presented an overview of the fee stakeholders meetings and the fee proposal for the commissioners to review. Her presentation can be viewed as an attachment to these minutes (See Attachment B) or a full color copy of her presentation can be seen on the Missouri Air Conservation Commission website at <http://dnr.mo.gov/env/apcp/macc.htm>.

**F. Unfinished Business**

None.

**G. Appeals and Variance Requests**

None.

**H. Reports - The following referenced reports are in the July 21, 2014, Missouri Air Conservation Commission Briefing Document and available online at [dnr.mo.gov/env/apcp/macc.htm](http://dnr.mo.gov/env/apcp/macc.htm).**

**1) COMPLIANCE/ENFORCEMENT REPORT**

Ms. Darcy Bybee stated that the Compliance/Enforcement Report begins on page 21 with the Concern Report. There were a total of 80 concerns received from June 16, 2014 through July 15, 2014. During this time period, there were 63 investigations completed.

The Ongoing Negotiations Report can be found on pages 43 and 44. There are 49 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 45. For the time period of June 16, 2014 through July 15, 2014, the department finalized 11 agreements with a total penalty of \$38,000. Of that amount, \$9,000 was paid to the school fund of the county in which the violation occurred, and the remaining \$29,000 was suspended. There is a small typo in the total penalty amount for the Macon R-1 School District; it should \$4,000 rather than \$1,000.

The Pending Referrals Report can be found on page 46. At this time, there are 14 active referrals. There are currently five cases that are being reviewed that meet the criteria for direct referral. Two of the five cases have received letters informing them that their case is being reviewed for referral. The commission will be provided with additional details of those cases in the next briefing document.

Ms. Bybee then updated the commission on the decommissioning of the Stage II Vapor Recovery program in the St. Louis area. As of this month, almost 71 percent of the facilities subject to the Vapor Recovery Rule in St. Louis have gone through the entire decommissioning and testing process and have been issued a Stage I Vapor Recovery operating permit. The amended rule does require decommissioning by December 1, 2015.

Ms. Bybee said there has been one staffing update in the Compliance/Enforcement Section. Mr. Russell Sullivan, the Compliance Unit Chief accepted a position with the Solid Waste Management Program. His last day with the Air Pollution Control Program was August 22, 2014. She stated that we will do our best to respond to issues in a timely manner until his position is filled.

## **2) PERMITS REPORT**

Mr. Kendall Hale stated that the Permits Report begins on page 47 of the briefing document with the Permit Applications Received Report. There were a total of 54 construction permits and 17 operating permits received for the month of July. A grand total of 501 projects has been received for 2014. Details of the projects received for July can be seen from pages 48 through 54 of the briefing document.

Beginning on page 55 is the Permit Applications Completed Report. The Permits Section completed a total of 51 construction permit and 27 operating permit projects for the month of July. A grand total of 454 projects have been completed for 2014. Details of the projects completed for July can be seen from pages 56 through 63 of the briefing document

On page 64 of the briefing document is the Open Permits Report. This report details the types of projects currently in the Permit Section.

Mr. Hale said there are currently two operating permits on public notice. Four operating permits also recently came off public notice within the last few days.

Since the last commission meeting one staff member has retired and one has moved to a different position. One of those positions has been filled leaving the Permit Section with one vacancy.

### **3) AIR QUALITY PLANNING REPORT**

#### **a) Update on 2012 Annual PM<sub>2.5</sub> NAAQS**

On August 19 2014, the U.S. Environmental Protection Agency (EPA) sent 120-day letters to all states about their air quality status under the 2012 annual fine particulate matter (PM<sub>2.5</sub>) National Ambient Air Quality Standard (NAAQS) of 12 micrograms per cubic meter (µg/m<sup>3</sup>).

Missouri's 120-day letter says EPA intends to designate the state as follows for the 2012 PM<sub>2.5</sub> NAAQS:

- Unclassifiable (insufficient data to classify) – St. Louis area, consisting of Franklin, Jefferson, St. Charles, and St. Louis Counties, plus the City of St. Louis; and
- Unclassifiable/attainment (meeting the standard or expected to meet the standard despite a lack of monitoring data) – the rest of the state.

The Air Pollution Control Program does not expect EPA to designate any part of Missouri as “nonattainment” (not meeting the standard) at this time.

The “unclassifiable” status for the St. Louis area is due to unusable PM<sub>2.5</sub> monitoring data on the Illinois side of the metro area. Based on quality-control issues, EPA determined that Illinois' monitoring data cannot be relied on to make decisions about whether or not any of their PM<sub>2.5</sub> monitors are violating the NAAQS. With all of Missouri's monitors in compliance with the 2012 PM<sub>2.5</sub> NAAQS, the only question in this designation process has been whether EPA would find that Missouri sources contribute to violating monitors in Illinois. This determination would have triggered a nonattainment classification and potentially additional control measures in the St. Louis area. In light of the Illinois monitoring data quality issues, it appears a nonattainment designation for Missouri will not happen.

If the program chooses to respond to the 120-day letter, we have until October 29, 2014. EPA will also publish a notice in the Federal Register for a 30-day comment period. EPA intends to make final designations for the state of Missouri by December of 2014.

**b) Ozone**

As of August 25, 2014, only two exceedances of the 2008 ozone standard (75 parts per billion) have occurred statewide: one in the Kansas City area and another one in St. Louis. Two monitors in the St. Louis area continue to be in violation of the 2008 ozone standard.

**4) DIRECTOR'S REPORT**

**a) Logistics**

Ms. Moore thanked the commission for accommodating the change in location and start time to the meeting. She also recognized multiple staff for helping pull the meeting together.

**b) Staffing**

Program wide, there are currently 12 vacancies. The program is currently in the process of filling three of those vacancies, four are being reviewed, and five are on hold due to the budget.

**c) Sulfur Dioxide**

The program has been working through nonattainment designations. There are currently two in the state: Jackson County in the Kansas City area and Jefferson County, which is south of St. Louis. Ms. Moore said she recently participated in a meeting, in Jackson County, with Ms. Emily Wilbur and Ms. Ashley Keas sponsored by the Sierra Club for citizens in the nonattainment area. Ms. Moore said it was a good meeting with a lot of information sharing. Many of the attendees were not aware of the nonattainment designation and the program's process. Ms. Moore said they were able to fill them in about the nonattainment designation process would occur, when the public comment period would occur.

**d) Future Meeting Dates**

The commission will hold a brief teleconference on September 2, 2014.

Ms. Moore said it will be necessary to have a meeting to adopt the Emission Fee rule prior to December 1, 2014. Ms. Moore gave the commission the option of moving the December 4, 2014 to the week of November 17, 2014 or hold a teleconference and still hold the December meeting. Ms. Moore said she would communicate with the commissioners and publish the meeting dates as soon as possible.

Ms. Moore said the 2015 meeting dates and city locations would be need to be finalized in September.

**I. Open Session**

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

**J. Future Meeting Dates**

**September 25, 2014 – Kansas City**

Kansas City Regional Office  
816-251-0700  
500 NE Colbern Road  
Large Conference Room  
Lee's Summit, MO 64086

**October 30, 2014 - Macon**

Northeast Regional Office  
660-385-8000  
1709 Prospect Drive  
North Conference Room  
Macon, MO 63552

**December 4, 2014 – 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**

Vice Chairman Garnett moved to adjourn the August 28, 2014, Missouri Air Conservation Commission meeting. Commissioner Baker seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Pendergrass adjourned the August 28, 2014, Missouri Air Conservation Commission meeting.

Respectfully submitted,

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

Kyra L. Moore, Director  
Air Pollution Control Program

Approved:

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Gary Pendergrass, Chairman  
Missouri Air Conservation Commission

**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**TELECONFERENCE MEETING**  
**Call-In Number: 877-820-7831 Participant Code: 93348999#**  
**Air Pollution Control Program**  
**1659 East Elm Street**  
**Conference Room**  
**Jefferson City, MO 65101**  
**September 2, 2014**  
**9:00 a.m.**

**Commissioners Present**

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

**Staff Members Present**

Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)  
Wayne Graf, Air Quality Planning Section, APCP  
Julia Katich, Department of Natural Resources  
Kyra Moore, Director, APCP  
Leanne Tippett Mosby, Director, Division of Environmental Quality  
Wendy Vit, Air Quality Planning Section Chief, APCP

**Others Present by Phone**

Tim Duggan, Attorney General's Office  
Jacob Barker, St. Louis Post Dispatch  
Jim Urkevich, RR Donnelly  
Robert Brundage; Newman, Comley and Ruth  
Sean Wright, Associated Electric Cooperative, Inc. (AECI)  
Brent Stewart, Association of Missouri Electric Cooperatives  
Kimberly Bauman, Mississippi Lime Company  
Dave Shanks, Boeing  
Ken Anderson, Ameren  
Brent Ross, AECI  
Jeff Burkett, Empire Electric  
Floyd Gilzow, Missouri Public Utility Alliance  
Sara Rains, City of Springfield  
Brian Bernskoetter, R.J. Scherr & Associates (Mining Industry Council/Missouri Concrete Association)

**A. Call to Order**

Chairman Gary Pendergrass called the September 2, 2014, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present by phone: Jack Baker, Gary Pendergrass, Mark Garnett and David Zimmermann.

**B. Unfinished Business**

Proposed Fee Structure Recommendation

Ms. Kyra Moore explained the emission fee proposal of \$48.00 per ton.

Commissioner Jack Baker asked the effective date of the rule.

Ms. Moore explained that once the rulemaking was final, the effective date would be January 2016, for 2015 calendar year emissions.

Commissioner David Zimmermann moved to approve the recommended fee structure and file a proposed rulemaking for 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees, and Process Information* containing the recommended fee structure. Commissioner Baker seconded the motion and all commissioners voted to approve the recommended fee structure and file a proposed rulemaking for 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees, and Process Information* containing the recommended fee structure.

**C. Missouri Air Conservation Commission**

Commissioner Baker moved to adjourn the September 2, 2014, Missouri Air Conservation Commission meeting. Vice Chairman Garnett seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Pendergrass adjourned the September 2, 2014, Missouri Air Conservation Commission meeting.

Respectfully submitted,



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Kyra L. Moore, Director  
Air Pollution Control Program

Approved:

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Gary Pendergrass, Chairman  
Missouri Air Conservation Commission

**D. Future Meeting Dates**

**September 25, 2014 – Kansas City**

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**October 30, 2014 - Macon**

Northeast Regional Office  
660-385-8000  
1709 Prospect Drive  
North Conference Room  
Macon, MO 63552

**November 2014 – To Be Determined**

**December 4, 2014 – Rescheduled to November 2014**

