



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
February 2, 2012
9:00 a.m.

Commissioners Present

Jack Baker, Member
Ron Boyer, Vice Chairman
Mark Garnett, Member*
David Zimmermann, Chairman

Commissioners Absent

Gary Pendergrass, 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 Section Chief, APCP
Mark Conner, Public Information Specialist, APCP
Tiffany Drake, Air Quality Planning Section, APCP
David Gilmore, Program Secretary, APCP
Wayne Graf, Air Quality Planning Section, APCP
Kendall Hale, Permits Section Chief, APCP
Kyra Moore, Director, APCP
Paul Myers, Air Quality Planning Section, APCP
Stan Payne, Air Quality Planning Section, APCP
Shelly Reimer, Air Quality Planning Section, APCP
Aarick Roberto, Commission Secretary, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP

Others Present by Attendance Record

Jason Ahten, Missouri Trucking Association
Robert Brundage; Newman, Comley and Ruth P.C.
Maggie Crocker, The Doe Run Company
Kristine Davies, Trinity Consultants
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Dave Fraley, City Utilities of Springfield
Charles Kutterer, MEMC Electronic Materials, Inc.
Robert LaPlaca, Ameren
Mike Liebert, Trinity Consultants

Paul M. Ling, Kansas City Power and Light
Charles Means, Regulated Environmental Group for Missouri
Richard Rocha, Bayer CropScience
Chris Schreiber, Schreiber Engineering, LLC
David Shanks, Boeing
Roger Walker, Regulated Environmental Group for Missouri
Tim Wilson, Empire District Electric

A. Call to Order

Chairman David Zimmermann called the February 2, 2012, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Mark Garnett, David Zimmermann, Ron Boyer, and Jack Baker. *Commissioner Mark Garnett participated by phone.

B. Minutes from December 8, 2011, Meeting

Commissioner Jack Baker moved to approve the December 8, 2011, minutes as written. Vice Chairman Ron Boyer seconded the motion and all commissioners voted to approve the minutes.

C. Public Hearing

Chairman David Zimmermann called the public hearing to order.

Ms. Shelly Reimer presented 10 CSR 10-2.385, *Control of Heavy Duty Diesel Vehicle Idling Emissions* and 10 CSR 10-5.385, *Control of Heavy Duty Diesel Vehicle Idling Emissions*. Information on the proposed rule amendments begins on pages 95 and 101, respectively.

To obtain a copy of the public hearing transcript, please contact Ms. Julie Kearns by writing to Midwest Litigation Services at 3432 West Truman Boulevard, Suite 207 in Jefferson City, MO 65109 or by phone at 800-280-3376.

D. Recommended for Adoption and Actions to be Voted On

Mr. Stan Payne presented 10 CSR 10-5.040, *Use of Fuel in Hand-Fired Equipment Prohibited*. Information on the proposed rule amendment begins on page 107.

Vice Chairman Boyer moved to adopt 10 CSR 10-5.040, *Use of Fuel in Hand-Fired Equipment Prohibited* as revised. Commissioner Baker seconded the motion. All commissioners voted to adopt 10 CSR 10-5.040, *Use of Fuel in Hand-Fired Equipment Prohibited* as revised.

Mr. Stan Payne presented 10 CSR 10-5.455, *Control of Emissions from Industrial Solvent Cleaning Operations*. Information on the proposed rule amendment begins on page 115.

Commissioner Baker moved to adopt 10 CSR 10-5.455, *Control of Emissions from Industrial Solvent Cleaning Operations* as proposed. Commissioner Garnett seconded the motion. All commissioners voted to adopt 10 CSR 10-5.455, *Control of Emissions from Industrial* as proposed.

Mr. Aaron Basham presented 10 CSR 10-5.130, *Certain Coals to be Washed* and 10 CSR 10-6.020, *Definitions and Common Reference Tables* and 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes*. Information on the proposed rule amendments begin on pages 117, 119 and 121, respectively.

Commissioner Baker moved to adopt 10 CSR 10-5.130, *Certain Coals to be Washed* and 10 CSR 10-6.020, *Definitions and Common Reference Tables* and 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes* as proposed. Vice Chairman Boyer seconded the motion. All commissioners voted to adopt 10 CSR 10-5.130, *Certain Coals to be Washed* and 10 CSR 10-6.020, *Definitions and Common Reference Tables* and 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes* as proposed.

Mr. Paul Myers presented 10 CSR 10-5.490, *Municipal Solid Waste Landfills* and 10 CSR 10-6.310, *Restriction of Emissions from Municipal Solid Waste Landfills*. Information on the proposed rule amendments begin on pages 123 and 153, respectively.

Vice Chairman Boyer moved to adopt 10 CSR 10-5.490, *Municipal Solid Waste Landfills* and 10 CSR 10-6.310, *Restriction of Emissions from Municipal Solid Waste Landfills* as revised. Commissioner Garnett seconded the motion. All commissioners voted to adopt 10 CSR 10-5.490, *Municipal Solid Waste Landfills* and 10 CSR 10-6.310, *Restriction of Emissions from Municipal Solid Waste Landfills* as revised.

E. New Business

a) Attorney General's Office Referrals

Ms. Darcy Bybee informed the commission the cases for Mr. William Parker & Mr. David Lozier and Pro Stone, LLC were moving toward resolution and would not need referral to the Attorney General's Office.

Ms. Bybee presented the referral case for Liberty Sandblasting. Information on the proposed referral begins on page 185 of the briefing document.

Chairman Zimmermann asked if anyone representing Liberty Sandblasting was present for the commission meeting.

No one answered.

Commissioner Garnett moved to refer Liberty Sandblasting to the Attorney General's Office. Commissioner Baker seconded the motion. All commissioners moved to refer Liberty Sandblasting to the Attorney General's Office.

Ms. Bybee presented the referral case for Dan Pfenenger. Information on the proposed referral begins on page 189 of the briefing document.

Chairman Zimmermann asked if anyone representing Dan Pfenenger was present for the commission meeting.

No one answered.

Commissioner Baker moved to refer Dan Pfenenger to the Attorney General's Office. Vice Chairman Boyer seconded the motion. All commissioners moved to refer Dan Pfenenger to the Attorney General's Office.

b) Necessity Findings

Mr. Wayne Graf presented one Necessity Finding to the commission for adoption: 10 CSR 10-5.381, On-Board Diagnostics Motor Vehicle Emissions Inspection. Information on the Necessity Finding is located on page 191 of the briefing document.

Vice Chairman Boyer moved to adopt the Necessity Finding as presented by Mr. Graf. Commissioner Garnett seconded the motion. All commissioners voted to approve the Necessity Finding as presented by Mr. Graf.

F. Reports - The following referenced reports are in the February 2, 2012, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

a) COMPLIANCE/ENFORCEMENT

Ms. Bybee stated the Complaint Summary Report begins on page 17 ends on page 44 of the briefing document. There were 110 complaints received from November 1 – December 31, 2011, and 56 of those were for open burning.

Ms. Bybee then mentioned the Settlement Report begins with the Agreements Achieved report on page 45 of the briefing document. She said the Finalized Agreements, Ongoing Negotiations and Pending Cases Referred to the Attorney General's Office reports are on pages 47, 48, and 50 respectively.

The Gateway Vehicle Inspection Program report begins on page 181 of the briefing document. Over 126,000 vehicles were tested during this time and almost 400 audits were conducted by department staff. The next report will be due in April.

b) PERMITS REPORT

Mr. Kendall Hale stated the Permits Report begins on page 51. For the month of November the Permits Section received 34 construction permit projects and 16 operating permit projects. And for the month of December the Permits Section received 19 construction permit projects and 36 operating permit projects. The Permits Section received a total of 726 construction permit projects for 2011.

Mr. Hale continued with the Permit Completion Report, which begins on page 65. For the month of November the Permit Section completed 24 construction permit projects and 12 operating permit projects. And for the month of December the Permits Section completed 22 construction permit projects and 17 operating permit projects. The Permits Section completed a total of 640 permit projects for 2011.

Mr. Hale stated the Permit Section Status Report can be found on page 75 and provides a breakdown of the types of projects being reviewed in the Permits Section.

No changes have been made to the Ethanol and Biodiesel Plants Report, which begins on page 77 of the briefing document.

By the next commission meeting there should be two construction permit projects on public notice: Kansas City Power and Light's Montrose station and General Motors in St. Louis.

Mr. Hale mentioned that in December, Mr. Mike Stansfield sent out e-mail notifications to all sources requiring operating permits that they need to submit their renewal applications at least six months prior to the expiration date.

c) AIR QUALITY PLANNING REPORT

1) Cross State Air Pollution Rule Update

On December 30, 2011, the U.S. Court of Appeals for the District of Columbia Circuit issued a stay of U.S. Environmental Protection Agency's (EPA's) Cross-State Air Pollution Rule (CSAPR) pending resolution of petitions challenging the rule. This is a delay while the court considers the arguments, not a vacatur or remand. The Court has set an expedited briefing schedule, with oral arguments scheduled for April 13.

EPA is transitioning back to the Clean Air Interstate Rule (CAIR) while the issues with CSAPR are being resolved. EPA has returned allowances to CAIR accounts.

The stay has implications for several state implementation plan actions that rely on CSAPR reductions, including the maintenance plans and redesignation efforts for the St. Louis area under the 1997 ozone and annual fine particulate matter (PM_{2.5}) standards. It is not clear whether EPA will be able to move forward with finalizing redesignations to attainment for these two standards while the stay is in effect. In addition, the Air Program is putting the rulemakings and SIP revisions to reallocate CSAPR emission allowances temporarily on hold at this time. The Air Program is working closely with EPA to resolve these issues.

2) Rules and SIP Agenda

SIP revisions to reallocate CSAPR emission allowances for 2013 were originally scheduled to be presented for adoption at today's meeting but have been delayed indefinitely while the stay of the federal rule is in place.

Amendments to 10 CSR 10-2.385 and 10 CSR 10-5.385, *Control of Heavy Duty Diesel Vehicle Idling Emissions* will be presented for adoption at the March 29, 2012, commission meeting. No items are scheduled for public hearing at the March meeting.

3) Rules In Progress Schedule

Proposed amendments to 10 CSR 10-6.060, *Construction Permits Required* and 10 CSR 10-6.065, *Operating Permits* were filed on January 31, 2012. These amendments would incorporate EPA's deferral of permitting requirements for biogenic sources of carbon dioxide emissions. The proposed rulemakings will be published in the March 1, 2012, Missouri Register and go to public hearing on April 26, 2012.

4) Ozone

On December 9, 2011, EPA sent a letter to the Governor's Office supporting the state's recommendation for designations under the 2008 ozone standard of 75 parts per billion based on the most recent quality-assured monitoring data from 2008-2010. The recommendation is to designate the St. Louis area as nonattainment (Franklin, Jefferson, St. Charles, St. Louis Counties and St. Louis City) and the rest of the state as attainment/unclassifiable. EPA made all of their letters to states – referred to as “120-day” letters – available for public review and is

accepting comments through February 3, 2012. EPA will finalize 2008 ozone standard designations by May 31, 2012.

On January 23, 2012, EPA published in the Federal Register a final action to conditionally approve Reasonably Available Control Technology (RACT) for the St. Louis area under the 1997 ozone standard of 80 parts per billion. This approval means RACT requirements for volatile organic compound (VOC) emissions have been met in the area for the 1997 ozone standard, including recent updates to printing and industrial surface coating rules. The final action is contingent on the Air Pollution Control Program submitting updates to 10 CSR 10-5.455, *Control of Emissions from Industrial Solvent Cleaning Operations* to EPA no later than December 31, 2012. This amended solvent cleaning rule was adopted at today's commission meeting and should be submitted to EPA in the summer of 2012, well before the deadline. Meeting the RACT obligation is a significant step toward redesignating St. Louis to attainment for the 1997 ozone standard.

5) Nitrogen Dioxide

On January 23, 2012, EPA sent a letter to the Governor's Office regarding their intent to designate the entire state of Missouri as attainment/unclassifiable for the 1-hour Nitrogen Dioxide standard of 100 parts per billion. This initial round of designations will be finalized with a notice published in the Federal Register soon. After three years of data have been collected from the new near-road monitoring network that becomes operational starting in January 2013, there will be an additional round of designations for the 1-hour Nitrogen Dioxide standard (roughly the 2016 timeframe).

6) Sulfur Dioxide

In February 2012, EPA is scheduled to send "120-day" letters to states for the 1-hour Sulfur Dioxide standard of 75 parts per billion. These letters should indicate whether or not EPA supports our recommendation of partial-county nonattainment areas in Greene, Jackson, and Jefferson Counties based on monitored violations of the standard. The rest of the state was recommended as unclassifiable. EPA is expected to finalize boundaries by June 2012.

EPA's final SIP and modeling guidance for the 1-hour Sulfur Dioxide standard has not yet been released. However, the Air Pollution Control Program continues preliminary work on verifying modeling inputs for large Sulfur Dioxide emissions sources in the state. This standard is unconventional in that it relies heavily on the use of modeling over

monitoring data to demonstrate compliance and it requires evaluation of Sulfur Dioxide sources in both nonattainment and unclassifiable parts of the state.

d) DIRECTOR'S REPORT

1) Commission

Ms. Kyra Moore thanked the commissioners for attending the meeting, by phone and in person to ensure a quorum. She said the director's office is working to fill the vacancies on the commission.

2) Staffing

Ms. Darcy Bybee has accepted the Section Chief position in the Compliance and Enforcement Section and has past experience in all three units in that section.

Ms. Moore thanked Ms. Nicole Eby and Mr. Paul Jeffery for their efforts in filling in as the Compliance Enforcement Section Chief for the past two years.

Interviews have been conducted for filling Ms. Bybee's former position, the unit chief of the Compliance Unit. The program is working towards filling the few vacancies still open.

3) Local Agencies

The signed Memorandum of Agreement with the Kansas City Health Department is good through April 2012. The Kansas City Health Department was unable to get a ballot initiative in place for the April election to propose some fee initiatives which would allow them additional funding to continue their current air quality efforts. However, the Health Department still intends to perform some air quality duties and will work with the program to edit the Memorandum of Agreement when it expires.

The program has received a signed Memorandum of Agreement with Springfield detailing which air quality tasks they will be able to complete.

St. Louis County is still performing some permitting and inspections. The program is communicating and working with St. Louis County to obtain a signed Memorandum of Agreement.

4) Greenhouse Gas Reporting Rule

This federal rule requires sources to report their greenhouse gas emissions directly to EPA. EPA published the 2010 data on its website. Approximately 6,700 entities reported greenhouse gas emissions; 107 were located in Missouri. Nationwide, 72 percent of the sources were power plants.

5) MACT Standards – Boiler and Utility

The Maximum Achievable Control Technology (MACT) standards are a requirement of the 1990 Clean Air Act Amendments. Over the last several years EPA has completed 96 major source MACT standards.

EPA had originally started the Utility MACT in 2000 and it has gone through several changes and iterations. On December 1, 2011 EPA signed the final Utility MACT standards and it is expected to be published in the federal register on February 16, 2012. EPA made changes to the proposed rule to accommodate comments they received. One of the issues was the compliance time frame. Existing sources have three years to comply with the rule and the permitting authority can grant an additional fourth year. EPA is encouraging the extension of the fourth year if there is proper justification and the program will do that accordingly.

On January 9, 2012 the District Court vacated EPA's stay on the Boiler MACT. EPA had stayed this rule, while they were re-writing the rule. However, with the District Court's action, the rule is in place. EPA issued a "No Action Assurance" letter on January 18, 2012 indicating that facilities that had not reported during the initial notification will not be out of compliance and that EPA will use enforcement discretion for the notification requirement while they finalize the rewrite of the rule.

6) Announcements

The legislative session has started and there are various rules that may affect the Department of Natural Resources. A summary of the rules that would affect the program and the department will be provided to the commission.

The hotel locations for the 2012 commission meetings has been finalized.

G. Unfinished Business

None.

H. Appeals and Variance Requests

None.

I. Open Session

None.

J. Future Meeting Dates

March 29, 2012 – Jefferson City

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

April 26, 2012 – Springfield

1-417-864-7333
University Plaza
Iowa Room
333 John Q. Hammons Parkway
Springfield, MO 65806

May 31, 2012 – Jefferson City

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

June 28, 2012 – St. Louis

1-314-821-6600
Holiday Inn Southwest & Viking Conference Center
Salon 3
10709 Watson Road
St. Louis, MO 63127

July 25, 2012 – Jefferson City (Wednesday)

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

August 30, 2012 – Jefferson City

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

September 27, 2012 – Kansas City

1-816-448-4600
Hampton Inn and Suites
Plaza C
4600 Summit Street
Kansas City, MO 64112

October 25, 2012 – Jefferson City

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

December 6, 2012 – 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 2, 2012, Missouri Air Conservation Commission meeting. Vice Chairman Boyer seconded the motion and all commissioners voted to adjourn the meeting.

Chairman Zimmermann adjourned the February 2, 2012, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

David Zimmermann, Chairman
Missouri Air Conservation Commission