

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, 2016
9:00 a.m.

Commissioners Present

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

Staff Members Present

Van Beydler, Public Information Coordinator, Soil and Water Conservation Program
Darcy Bybee, Air Quality Planning Section Chief, Air Pollution Control Program (APCP)
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
Carolyn Kliethermes, Fiscal and Budget Section Chief, APCP
Debbie Meyers, Compliance/Enforcement Section, APCP
Kyra Moore, Director, APCP
Julia Katich Mudd, Department of Natural Resources
Russell Sullivan, Compliance/Enforcement Section, APCP
Richard Swartz, Compliance/Enforcement Section, APCP

Others Present by Attendance Record

Mike Alesandrini, AECOM
Robert Brundage, Newman, Comley & Ruth, PC
Jeff Burkett, Empire District Electric
Maggie Crocker, Doe Run Company
Dave Fraley, Diamond Sky Ventures
Leslie Holloway, Missouri Farm Bureau
David Shanks, Boeing
Sharon Stock, F&S Printing
Wendy Vit, GeoEngineers Incorporated
Roger Walker, Regulated Environmental Group for Missouri
Steven Whitworth, Ameren
Midge Winkler, General Motors

A. Call to Order

Chairman David Zimmermann called the February 2, 2016, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass, Mark Garnett, Jack Jones and Douglas Drysdale and David Zimmermann. *Commissioner Garnett participated by phone.

B. Minutes from November 17, 2015, Meeting

Vice Chairman Gary Pendergrass moved to approve the November 17, 2015, minutes as written. Commissioner Jack Baker seconded the motion, and all commissioners voted to approve the November 17, 2015, minutes as written.

C. Reports - The following referenced reports are in the February 2, 2016, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) DIRECTOR'S REPORT

a) New Commissioners

Ms. Kyra Moore welcomed two new commissioners to the Missouri Air Conservation Commission: Jack Jones and Douglas Drysdale.

b) Air Pollution Control Program Overview

Ms. Moore gave a brief presentation to the commission regarding the Air Pollution Control Program, how it operates, the different sections, their duties and how they interact. A brief overview of the Clean Air Act and the Clean Power Plan were also included in her presentation. Details of the presentation can be viewed on the commission's website at <http://dnr.mo.gov/env/apcp/macc.htm>.

c) Vacancies and Legislation

The Air Pollution Control Program is actively filling five vacancies. The program continues to review vacancies to determine which vacancies to fill immediately and which positions to hold, balancing expenditures with workload.

The program will provide the commission with a report that includes legislation that has the possibility of impacting the program.

d) Permits and Rules

The public may sign up to receive updates on the program's rules and permits by clicking on the "Get Updates On This Issue" icon (looks like an envelope) located at the top right-hand corner of the Air Pollution Control Program web page (<http://dnr.mo.gov/env/apcp/>) and following the prompts.

2) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan Agenda

Ms. Darcy Bybee began the Air Quality Planning Report by stating the Rule and State Implementation Plan (SIP) Agenda starts on page 87 of the briefing document. No public hearing is scheduled for today's meeting or the March 31, 2016, meeting. Per the November 17, 2015, meeting, the air program had planned to present 3 Necessity Findings to the Commission at this meeting. The Department is reviewing and updating certain rule processes and procedures, and the program will keep the Commission updated. There are rule and SIP actions planned for later in 2016.

The Rules In Progress Schedule starts on page 89 of the briefing document. The rule amendments for the two asbestos rules and the two permits rules were filed with the Secretary of State in November 2014 and January 2015, respectively. The effective dates are listed as January and March of this year, however the fees will not become effective until January 1, 2017.

The State Air Quality Plans Status Report begins on page 91 of the briefing document. There are no updates to the report printed in the briefing document from last month.

b) Cross State Air Pollution Rule

On December 3, 2015, EPA proposed an update to this federal rule. The basis of the rule addresses the transport of air pollution across state lines. Since EPA's modeling continued to indicate that Missouri contributes to downwind state ozone issues, Missouri is included as an affected state and will be required to reduce emissions. The emission reductions are at the statewide total level, and, for Missouri, they amount to about a 30% reduction in ozone season NOx from the previous Cross State Rule level. That reduction is distributed over about 100 emission units at 42 facilities. Each affected unit in the state receives a set allocation. If they don't receive enough allocations to cover their emissions, they will need to either control emissions, reduce their operations to meet their budget, or purchase allocations on the open market from units that are selling them.

The comment period to this rule ended on February 1, 2016. Missouri submitted comments about technical aspects of the rule including a request for EPA to redistribute one allocation for the city of Chillicothe. EPA's proposal is expected to be final in early October 2016, and take effect with the 2017 ozone season (begins May 1).

c) Sulfur Dioxide Standard

EPA has been approaching implementation of the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard in a tiered approach. Ms. Bybee went into detail regarding the four-tiered approach.

There are currently two nonattainment areas from the first round of designations in Missouri, which was based upon monitoring data. Those areas are located in part of Jefferson County and part of Jackson County. Missouri has already submitted State Implementation Plans to address these areas. For the Jefferson County area, the monitoring has demonstrated that it has attained the standard. When a designated nonattainment area has monitoring data that demonstrates that the standard has been achieved, EPA has a policy where they are able to issue a determination of attainment (what is known as a Clean Data Determination). EPA does still have to follow a specific process and the attainment determination is not the same as an official "redesignation." Missouri still has to work through statutory requirements to be officially redesignated to attainment.

The program has quality assured the Jefferson County monitoring data and submitted it to EPA last week. The program also sent EPA a request for the Clean Data Determination for the Jefferson County area. The program will be posting its Clean Data Determination request letter on its website, and it's working on its redesignation package to bring before the commission.

There are three areas that EPA is considering for the second round of designations that will occur this July : Sikeston, Sibley and Labadie. The program presented its recommendations to the commission last year. At that time, the program recommended Sikeston and Sibley as attainment based on modeling data. The program recommended the Labadie area as unclassifiable based on both modeling and monitoring data. The program expects to hear from EPA this month about their intentions to designate these areas. The program will receive what is called a 120-day letter. If EPA disagrees with the program's recommendations, then there will be an opportunity to submit additional information for their consideration. EPA will make their final designations in July.

Moving forward, EPA will be designating additional nonattainment areas in 2017 and 2020—the third and fourth rounds. The program is working on a rulemaking in progress now that will be used in next years' round of designations. Also as part of this third round, the program recently

submitted a list of sources that EPA will consider for designation based on modeling data. This is the letter the commission received a few weeks ago from the program. The list included 16 large sources of SO₂ across the state. This list was also posted on the program's website. Again EPA will be designating these areas in 2017.

Additional details of the briefing can be viewed on the commission's website.

d) Ozone Updates

Ms. Bybee presented a map of the ozone sites and monitors in Missouri to the commission. The map may be viewed on the commission's website at <http://dnr.mo.gov/env/apcp/macc.htm>. Ms. Bybee briefed the commission on the 2008 and 2015 ozone standards.

Missouri currently only has one nonattainment area for ozone for the 2008 standard which consists of the City of St. Louis, and the Counties of St. Louis, Jefferson, Franklin and St. Charles. Based on 2013-2015 monitoring data, the area has met the 2008 ozone standard. Similar to Missouri's status with regard to the Jefferson County SO₂ standard, the air program submitted quality assured monitoring data to EPA along with a request for the Clean Data Determination. The program plans to bring a redesignation package to the Commission in the Spring or early Summer.

With regard to the 2015 ozone standard, EPA set the standard at 70 ppb last fall. So although it is anticipated that the St. Louis area will be redesignated to attainment for the 2008 standard, we will have to wait for this year's ozone monitoring data to see if the St. Louis area (and/or any other areas in the state) will be nonattainment for the 2015 standard. Based on 2013-2015 ozone monitoring data, only one monitor, the West Alton monitor in St. Louis, is violating the 2015 standard. The program is required to submit designation recommendations to EPA by this October. The recommendations will be based upon 2013-2015 ozone monitoring data, however EPA will base their designations on the 2014-2016 monitoring data.

Additional details of the briefing can be viewed on the commission's website.

D. New Business

Election of Officers for 2016

Commissioner Mark Garnett nominated Gary Pendergrass for Chairman and David Zimmermann for Vice Chairman for 2016. Commissioner Jack Baker seconded the motion. All commissioners voted Gary Pendergrass as Chairman and David Zimmermann as Vice Chairman for 2016.

E. Appeals and Variance Requests

F&S Printing Variance Extension Request

Mr. Russell Sullivan presented a variance extension request for F&S Printing. Information regarding the variance request can be found beginning on page 97 of the briefing document.

Commissioner Douglas Drysdale requested the variance extension request include a calendar with milestones for the project.

Ms. Sharon Stock, a consultant representing F&S Printing, said they would be agreeable to including a calendar with milestones within the variance.

Vice Chairman Pendergrass moved to grant a variance extension to F&S Printing for the period of six months with the understanding that it includes a calendar and milestones. Commissioner Mark Garnett seconded the motion. All commissioners voted to grant a variance extension to F&S Printing for a period of six months with the understanding that it includes a calendar and milestones. The variance extension was approved with the conditions for continued monthly progress reports (with specific requirements for the April 2015 report) and the continuation of the variance limit of 70 tons of Volatile Organic Carbon (VOC) emissions in any 12-month rolling period.

The Empire District Electric Company Variance Extension Request

Mr. Sullivan informed the commission that The Empire District Electric Company will be requesting a variance and that request would be presented to the commission at the March 31, 2016 meeting.

F. Reports – Continued from Section C.

1) PERMITS REPORT

Mr. Kendall Hale gave a brief overview and of the Permits Section, including types of permits and timeframes. Details of his presentation may be viewed on the commission's website at <http://dnr.mo.gov/env/apcp/macc.htm>.

Mr. Hale stated the Permits Report begins on page 59 of the briefing document with the Permit Applications Received Report. A total of 524 construction and 335 operating permit applications were received in 2015. A grand total of 859 permits were received in 2015.

The Permit Applications Completed report begins on page 71 of the briefing document. A total of 533 construction and 246 operating permits were completed in 2015. A grand total of 779 permits were completed in 2015.

The Open Permits Report is on page 85 of the briefing document. This report details the types of projects currently open in the Permit Section.

The Permits Section is currently working on one Prevention of Significant Deterioration Part 70 operating permit for Owens Corning in Joplin.

There will be one permit writer leaving the program, which means there will be three vacancies in the Permit Section.

2) **COMPLIANCE/ENFORCEMENT REPORT**

Mr. Richard Swartz gave a brief overview of the Compliance and Enforcement Section, including the different units in the section, and types of violations they deal with. He also noted the section is currently experiencing a significant change in the number of staff.

Mr. Swartz stated that the Compliance/Enforcement Report begins on page 13 with the Concern Report. There were a total of 133 concerns received from October 16, 2015 through December 31, 2015. During this time period there were 113 investigations completed.

The Ongoing Negotiations Report can be found on pages 53 and 54. There are 52 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 55. For the time period of October 16, 2015 through December 31, 2015, the department finalized 17 agreements with a total penalty of \$58,500. Of that amount, \$24,000 was paid to the school fund of the County in which the violation occurred, and the remaining \$34,000 was suspended.

The Pending Referrals Report can be found on page 56. At this time, there are 13 Active Referrals.

The fourth quarter update for the Gateway Vehicle Inspection Program can be found on page 57 of the briefing document. Over 160,000 vehicles were tested and 458 audits were conducted by department and Missouri State Highway Patrol staff from October 1, 2015 through December 31, 2015. The first quarter report for 2016 will be presented in April 2016.

Mr. Swartz also gave an update on the decommissioning of the Stage II program in St. Louis. December 31, 2015, was the deadline for gasoline dispensing facilities to decommission their Stage II vapor recovery equipment. After stations physically decommission they then have 30 days to complete testing and obtain their operating permit. 100 percent of the gasoline dispensing facilities in the St. Louis nonattainment area for ozone have completed the decommissioning process. There are still five stations that require testing to obtain their operating permit.

Commissioner Drysdale asked a question about suspended penalties. Mr. Swartz and Ms. Bybee explained that the money from both the paid portion and suspended portion go to the county school fund per constitutional requirements. Ms. Bybee explained that the suspended portion of the penalty is a good tool to

compel future compliance and we conduct negotiations per our authority granted in the statute. It was further explained that these negotiated settlements are resolved within the air program; these are not cases that have been referred to the Attorney General's Office.

Commissioner Drysdale asked what department policy is when a permit exceedance is documented. Mr. Swartz explained the department procedure in general terms.

Commissioner Drysdale asked about what guidelines are followed in open burning cases regarding the decision to issue a letter of warning versus a notice of violation. Mr. Swartz deferred to Mr. Sullivan who then explained in general terms the guidelines that are followed and explained that the operations and compliance manual is currently undergoing updates to include these guidelines.

Commissioner Jack Jones asked for further clarification as to how the suspended portion of the penalties are determined. Ms. Julia Katich Mudd gave a brief overview of our statutory authority and processes for negotiating and imposing administrative and civil penalties.

G. Public Hearing

None.

H. Recommended for Adoption and Actions to be Voted on

None.

I. Unfinished Business

None.

J. Open Session

Mr. Roger Walker, representing the Regulated Environmental Group for Missouri (REGFORM), addressed the commission. He gave a brief description of REGFORM and complimented the working relationship with the Air Pollution Control Program. Mr. Walker also invited the commissioners to attend the annual Air Compliance Seminar.

K. Future Meeting Dates

March 31, 2016 – Thursday
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

April 28, 2016 – Thursday
Kansas City Regional Office
500 Northeast Colbern Road
Missouri River Conference Room
Lee's Summit, MO 64086

May 26, 2016 – Thursday
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

July 28, 2016 – Thursday
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

August 25, 2016 – Thursday
St. Louis Regional Office
7545 South Lindbergh, Suite 220
DESE Conference Room
St. Louis, MO 63125

September 29, 2016 – Thursday
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

October 27, 2016 – Thursday
Southwest Regional Office
2040 West Woodland
East and West Conference Rooms
Springfield, MO 65807

December 1, 2016 – Thursday
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

L. Discussion of Pending Litigation and Legal Matters

None.

M. Missouri Air Conservation Commission

Commissioner Baker moved to adjourn the February 2, 2016, Missouri Air Conservation Commission meeting. Vice Chairman Pendergrass seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Zimmermann adjourned the February 2, 2016, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Signature on File

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Gary Pendergrass, Chairman
Missouri Air Conservation Commission