

MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
January 29, 2015
9:00 a.m.

Commissioners Present

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

Staff Members Present

Darcy Bybee, Compliance/Enforcement 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
Julia Katich, Department of Natural Resources
Mark Leath, Air Quality Planning Section, APCP
Victoria Lovejoy, Director's Office, APCP
Patricia Maliro, Air Quality Analysis Section, APCP
Kyra Moore, Director, APCP
Will Wetherell, Environmental Services Program
Wendy Vit, Air Quality Planning Section Chief, APCP
Emily Wilbur, Air Quality Planning Section, APCP

Others Present by Attendance Record

Ken Anderson, Ameren
Jack Atterberry, Associated General Contractors
Robert Brundage, Newman, Comley & Ruth PC
Kathrina Donegan, St. Louis County, Department of Health
Tim Duggan, Attorney General's Office (AGO)
Daniel Hedrick, City Utilities of Springfield
D.K. Hirner, Regulatory Environmental Group for Missouri
Leslie Holloway, Missouri Farm Bureau
Jim Lanzafame, The Doe Run Company
David Shanks, Boeing

A. Call to Order

Commissioner Jack Baker called the January 29, 2015, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass*, Mark Garnett* and David Zimmermann.

*Commissioners Gary Pendergrass and Mark Garnett participated by phone.

B. Minutes from October 30, 2014, Meeting

Commissioner David Zimmermann moved to approve the October 30, 2014, minutes as written. Vice Chairman Mark Garnett seconded the motion, and all commissioners voted to approve the minutes.

Minutes from November 20, 2014, Meeting

Vice Chairman Garnett moved to approve the November 30, 2014, minutes as written. Commissioner Zimmermann seconded the motion, and all commissioners voted to approve the minutes.

C. Presentation

Mr. Mark Leath presented the commission with an update on the Cross-State Air Pollution Rule. Please see Attachment A for his presentation. A color copy of the presentation may be viewed on the commission's website at <http://www.dnr.mo.gov/env/apcp/macc.htm>.

D. Public Hearing

Commissioner Baker called the public hearing to order.

Mr. Mark Leath presented Missouri State Implementation Plan Revision – Cross-State Air Pollution Rule NO_x Annual Trading Program. Information on the proposed plan begins on page 99 of the briefing document.

Mr. Mark Leath presented Missouri State Implementation Plan Revision – Cross-State Air Pollution Rule NO_x Ozone Season Trading Program. Information on the proposed plan begins on page 105 of the briefing document.

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.

E. Recommended for Adoption and Actions to be Voted on

None.

F. New Business

Election of Officers

Commissioner Gary Pendergrass nominated David Zimmermann as Chairman for 2015. Commissioner Mark Garnett seconded the motion. All commissioners voted David Zimmermann as Chairman for 2015.

Commissioner David Zimmermann nominated Gary Pendergrass as Vice Chairman for 2015. Commissioner Mark Garnett seconded the motion. All commissioners voted Gary Pendergrass as Vice Chairman for 2015.

Necessity Findings

Mr. Wayne Graf presented two Necessity Findings to the commission for approval: 10 CSR 10-6.261, *Control of Sulfur Dioxide Emissions* and 10 CSR 10-6.260, *Restriction of Emission of Sulfur Compounds*.

Mr. Graf also noted the three Cross-State Air Pollution Rules, 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* are being reviewed internally and will be presented to the commission at a later date.

Information on the Necessity Findings begins on page 109 of the briefing document.

Commissioner Gary Pendergrass moved to approve the Necessity Findings as presented by Mr. Graf. Commissioner Mark Garnett seconded the motion. All of the commissioners voted to approve the Necessity Findings as presented by Mr. Graf.

G. Unfinished Business

None.

H. Appeals and Variance Requests

None.

I. Reports - The following referenced reports are in the January 29, 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 19 with the Concern Report. There were a total of 121 concerns received from October 16, 2014 through December 31, 2014. During this time period there were 99 investigations completed.

The Ongoing Negotiations Report can be found on pages 55 and 56. There are 59 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on pages 57 and 58. For the time period of October 16, 2014 through December 31, 2014, the department finalized 33 agreements with a total penalty of \$100,000. Of that amount, \$27,500 was paid to the school fund of the county in which the violation occurred, and the remaining \$72,500 was suspended.

The Pending Referrals Report can be found on page 59. At this time, there are 19 active referrals. There are currently two cases that have been directly referred to the Attorney General's Office. Details of those two cases can be found in the November 2014 briefing document. Ms. Bybee gave a brief description of the two cases.

Ms. Bybee updated the commission on the fourth quarter report of the Gateway Vehicle Inspection Program (GVIP) for 2014. The GVIP report can be found on page 61 of the briefing document. Over 150,000 vehicles were tested from October 1, 2014 through December 31, 2014. In addition, 585 audits were conducted by staff. The next GVIP report will be provided in April 2015.

Ms. Bybee updated the commission on the variance that the commission granted to F&S Printing in March 2014 from Missouri Air Conservation Commission regulation 10 CSR 10-5.340, *Control of Emissions from Rotogravure and Flexographic Printing Operations*. Basically, the variance approval was based upon the facility's demonstration that compliance with the rule would lead to economic hardship and could result in the closing and elimination of a lawful business without sufficient corresponding benefit to the people. Since this variance was granted in March of last year, F&S Printing has been submitting monthly reports to the St. Louis County Department of Health and Air Program which detail their efforts to obtain compliance with the rule by pursuing alternative inks for their products. F&S Printing has notified the program within the last month that they are currently evaluating the technical and financial feasibility of complying with the regulations by installing a control device. However, due to timing and installation needs they will need additional time added to the variance. F&S Printing has officially requested an extension to the variance. The Air Program is currently reviewing the extension and anticipates presenting their request and the program's recommendation to the commission at the March meeting.

Ms. Bybee then reported that as of this month, 76 percent of the facilities subject to the Vapor Recovery Rule in the St. Louis area have gone through the entire decommissioning and testing process and have been issued a Stage I Vapor Recovery operating permit. The program continues to work with the remaining facilities to make sure they know they must decommission by December 31, 2015, and to remind them of the proper process to do that. There were approximately 150 facilities in the area that have not begun the decommissioning process and the program is doing outreach to those facilities at this time.

Ms. Corinne Rosania has accepted the Compliance Unit Chief position in the Compliance and Enforcement Section. She started in December and brings her experience from the Water Protection Program where she also did compliance and enforcement activities.

2) **PERMITS REPORT**

Mr. Kendall Hale stated that the Permits Report begins on page 63 of the briefing document with the Permit Applications Received Report. A total of 525 construction permit projects and 296 operating permit projects were completed in 2014. Details of the projects received for November and December can be seen from pages 64 through 75 of the briefing document.

Beginning on page 77 is the Permit Applications Completed Report. The Permits Section completed a lower than usual number of operating permits projects in November. In reviewing why this happened, it is probably due to one of the two support staff in the Permits Section that accepted a promotion and moved to another area within the program. Support staff in the Permits Section process applications and finalize them. The Permits Section is currently reviewing whether the Permits Section needs one or two support staff. Details of the projects completed for November and December can be seen from pages 78 through 85 of the briefing document

On page 86 of the briefing document is the Open Permits Report. This report details the types of projects currently open in the Permit Section. There are currently a total of 512 projects in the Permits Section.

Mr. Hale said there are currently nine operating permits on public notice. The public notice period began January 23, 2015 for those operating permits.

The Permits Section is currently working closely with one company and a consultant on two Prevention of Significant Deterioration permit applications.

3) **AIR QUALITY PLANNING REPORT**

a) **Rules In Progress Schedule**

A draft of the new rule, 10 CSR 10-6.261, *Control of Sulfur Dioxide Emissions*, and its Regulatory Impact Report are currently available for review for the initial 60-day comment period through February 11, 2015. This rule will support the state implementation plans (SIPs) for the Jackson and Jefferson nonattainment areas for the 1-hour sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS). In addition, necessary existing SO₂ requirements from 10 CSR 10-6.260, *Restriction of Emission of Sulfur Compounds* (i.e., those in place prior to the 1-hour NAAQS) are being carried forward into 6.261 in order to consolidate all SO₂ requirements. 10 CSR 10-6.260 will be rescinded. These two associated actions (establishing new rule 6.261 and rescinding 6.260) are

projected to follow the same formal rulemaking schedule: proposed rulemakings published in the Missouri Register on May 1, 2015 with public hearings on June 25, 2015.

b) Proposed Ozone NAAQS

In November 2014, the U.S. Environmental Protection Agency (EPA) proposed lowering the ozone NAAQS from 75 parts per billion (ppb) to a range between 65-70 ppb. EPA is accepting comments on this proposal through March 17, 2015. The map in Attachment B illustrates potential impacts of EPA's proposed lower ozone NAAQS on the state of Missouri. The map shows counties out of compliance at the upper and lower ends of the proposed range (70 and 65 ppb) based on 2012-2014 ozone monitoring data (2014 data is not completely quality-assured). The map is for illustrative purposes only because designations will likely be based on monitoring data collected over the next couple of ozone seasons (2014 through 2016), which is unknown. In addition, the extent of any nonattainment area boundaries will not be known until completion of the two-year designation process, which involves an evaluation of technical information (emissions, monitoring, and other data) and opportunities for public input.

EPA is expected to finalize the new ozone NAAQS by October 2015. States will then have one year to submit recommended area boundary designations (October 2016); EPA would finalize area designations within the following year (October 2017). After the designations are final, states would have several years to develop SIPs for any nonattainment areas.

c) 1997 Ozone NAAQS of 80 ppb

On December 31, 2014, the EPA proposed redesignating the St. Louis area to attainment for the 1997 ozone NAAQS. This redesignation action is expected to be final within the next few months. This is a significant milestone, but ozone challenges remain in the St. Louis region. This redesignation fulfills all remaining planning obligations for the 1997 ozone NAAQS, enabling the program to focus efforts on addressing the current 2008 ozone NAAQS of 75 ppb and the upcoming proposed lower standard.

4) DIRECTOR'S REPORT

a) Carbon Pollution Standards - Clean Power Plan

Ms. Moore provided updates on the Clean Power Plan, which is the carbon pollution standards for existing utilities EPA proposed last summer. The comment period closed on December 2, 2014. The program is participating in webinars and conference calls with EPA regarding the proposal. EPA has announced they will take the following actions in the summer of 2015: finalize the Clean Power Plan, finalize the carbon

standards for new power plants, and propose a federal plan for existing carbon standards. If a state chooses not to submit a state plan (on the Clean Power Plan), or the state plan is not approvable by EPA, the federal plan will be implemented. Some states have asked for a federal plan because it will help them to make a decision to do the work for their own state plan or revert to the federal plan.

b) Future Meetings

As the commission is aware, Fee Stakeholder meetings were started last year and the program presented an emission fee rule that the commission adopted. That emission fee rule is expected to be final in January 2016. Permit and asbestos fees were also discussed. The program and stakeholders are discussing permits and asbestos fees this year and intend to have a proposal for the commission to review in Spring 2015.

c) Staff Update

Of the 106 positions listed on the program's organizational chart, there are 15 vacancies. The program continues to review vacancies to determine which vacancies to fill immediately and which positions to hold, balancing expenditures with workload.

Ms. Kimberly Campbell was the second clerical position in the Permit Section and she has moved to the Director's Office. She is currently helping to back up Mr. David Gilmore with the commission duties and helping Ms. Moore.

Mr. Todd Sampsel started in November 2014 as the new Deputy Department Director.

d) Livestream

As a department initiative, over the last few years the commission has livestreamed its meetings. The department has decided it is no longer mandatory to livestream commission meetings and they are leaving that decision up to each individual commission.

Ms. Moore asked the commission if they had a preference.

Commissioner Baker asked to wait until all commissioners were present to make the decision to continue or discontinue livestreaming the commission meetings.

J. Open Session

No one addressed the commission.

K. Future Meeting Dates

March 26, 2015 – Kansas City

Kansas City Regional Office
500 Northeast Colbern Road
Large Conference Room
Lee's Summit, MO 64086

April 30, 2015 – Jefferson City

Lewis and Clark State Office Building
1101 Riverside Drive
LaCharrette and Nightingale Creek Conference Rooms
Jefferson City, MO 65101

May 28, 2015 - Springfield

Southwest Regional Office
2040 West Woodland
East and West Conference Rooms
Springfield, MO 65807

June 25, 2015 – Jefferson City

Governor's Office Building
200 Madison Street
Conference Room 450
Jefferson City, MO 65101

July 30, 2015 – Jefferson City

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

August 27, 2015 – Jefferson City

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

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

December 3, 2015 – Jefferson City

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 Zimmermann moved to adjourn the January 29, 2014, Missouri Air Conservation Commission meeting. Vice Chairman Garnett seconded the motion, and all commissioners voted to adjourn the meeting.

Commissioner Baker adjourned the January 29, 2014, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

David Zimmermann, Chairman
Missouri Air Conservation Commission



Re-Cap/Update Cross-State Air Pollution Rule

Mark Leath, P.E.

Jan. 29, 2015

Prepared for the Missouri Air Conservation Commission



Outline

- Cross-State Air Pollution Rule (CSAPR) Actions Since the Stay
- CSAPR Overview
- Missouri SIPs and Rulemakings to Reallocate CSAPR Allowances

CSAPR Actions Since the Stay

Date	Action
Dec. 30, 2011	D.C. Circuit Court Stays CSAPR
Aug. 21, 2012	D.C. Circuit Court vacates CSAPR and remands it to EPA
April 29, 2014	U.S. Supreme Court reverses D.C. Circuit Court decision to vacate CSAPR and remands case back to D.C. Circuit Court
Oct. 3, 2014	D.C. Circuit Court grants EPA's motion to lift the CSAPR stay and toll compliance dates in the rule by three years
Dec. 3, 2014	EPA issues Ministerial Interim Final Rule to toll compliance dates in CSAPR by three years
Jan. 1, 2015	CSAPR implementation begins
Feb. 25, 2015	D.C. Circuit Court to hear unresolved CSAPR issues

CSAPR Overview

- CSAPR replaces CAIR
- Reduces power plant emissions that contribute to interstate transport of pollution
- Addresses “Good Neighbor” obligations for the following standards:
 - 1997 Ozone NAAQS
 - 1997 annual PM_{2.5} NAAQS
 - 2006 24-hour PM_{2.5} NAAQS

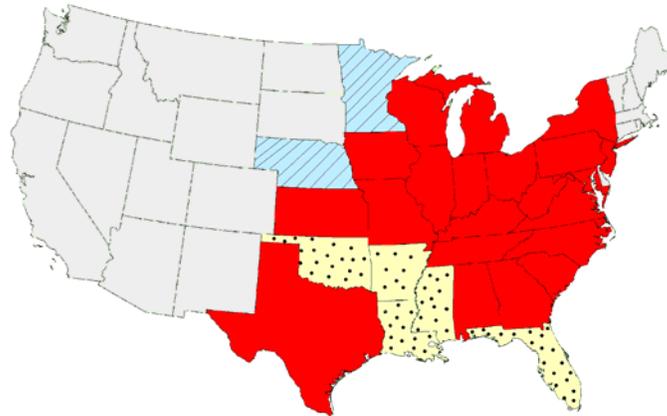
CSAPR Overview (cont.)

- Based on regional trading of emission allowances for Electric Generating Units (EGUs)
- Establishes 4 regional trading programs
 - Annual SO₂ Group 1 (MO)
 - Annual SO₂ Group 2
 - Annual NO_x (MO)
 - Ozone Season NO_x (MO)
- Implemented through Federal Implementation Plans
- Begins Jan. 1, 2015

Amendments to the CSAPR

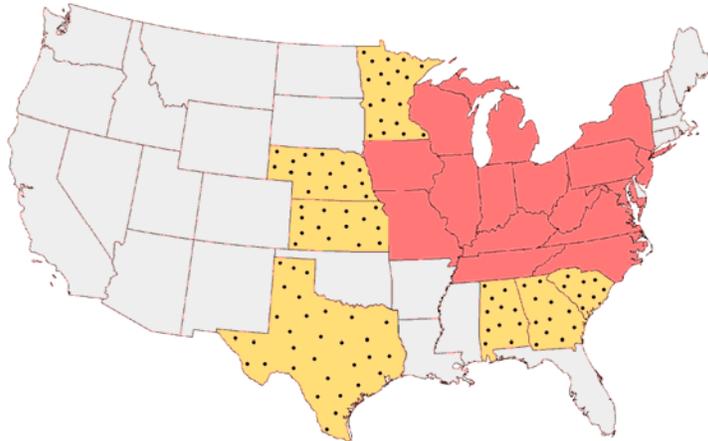
- Supplemental Rule (December 2011)
 - Added MO to the NO_x Ozone Season Trading Program
- 1st Technical Revisions Rule (February 2012)
 - Removed Variability/Assurance Provisions for first two years
- 2nd Technical Revisions Rule (June 2012)
 - Revised MO New Unit Set-Asides for all three trading programs
- Ministerial Final Rule (December 2014)
 - Delayed compliance dates by three years

States Covered Under CSAPR



- States controlled for both fine particles (annual SO₂ and NO_x) and ozone (ozone season NO_x) (21 States)
- States controlled for fine particles only (annual SO₂ and NO_x) (2 States)
- States controlled for ozone only (ozone season NO_x) (5 States)
- States not covered by the Cross-State Air Pollution Rule

Groups 1 and 2 Annual SO₂ States



- Group 1 States (16 States)
- Group 2 States (7 States)
- States not covered by the annual Cross-State Air Pollution Rule

Emission Budgets and Allowances

- **State Budget Levels**
 - Determined using modeled electricity generation with cost effective controls
- **Unit Allowances (federal allocation method)**
 - Based on historical unit level heat input and emissions data
- **New Unit Set-Aside Budget**
 - Applies to new units that began operating after Jan. 1, 2010
 - In Missouri (two units): John Twitty Unit 2 & Iatan Unit 2

Missouri CSAPR Allowances

		NO _x Annual	NO _x Ozone Season	SO ₂ Group 1 Annual
Phase 1 (2015 – 2016)	Budget	52,400	22,788	207,466
	New Unit Set-Aside	3,144 or 6% (3% for 2015)	1,367 or 6% (3% for 2015)	6,244 or 3% (2% for 2015)
Phase 2 (2017 and Beyond)	Budget	48,743	21,099	165,941
	New Unit Set-Aside	2,295 or 6%	1,266 or 6%	4,978 or 3%

Variability and Assurance Provisions

- Variability is the amount of allowances over the state budget that can be spent in a single year without penalty
 - Annual NO_x and SO₂: 18% of the statewide budget
 - Ozone season NO_x: 21% of the statewide budget
- Variability + Initial Budget = Assurance Level
- Starts in 2017 and Beyond

SIP Options

- Budget total cannot be changed
- 2015 allowances: Cannot be changed
- 2016 allowances and beyond: Can be modified by states through a SIP revision
 - 2016 allowances: due **April 1, 2015**
 - 2017 and 2018 allowances: due **Dec. 1, 2015**

SIPs for 2016 Control Period

- SIP Revision to reallocate allowances for two programs:
 - NO_x Annual, and NO_x Ozone Season
- Purpose: Allocate allowances to two facilities that received zero allowances under the FIP
 - Chillicothe and Higginsville
- Public Hearing: Today (Jan. 29, 2015)
- Scheduled Adoption: March 26, 2015

Rulemakings for 2017 and Beyond Control Periods

- State rulemakings for all three programs:
 - NO_x Annual, NO_x Ozone Season, and SO₂ Annual
- Purpose:
 - NO_x Annual and NO_x Ozone: – Chillicothe & Higginsville
 - SO₂ Annual: Address assurance provision concerns for a unit with dual ownership
- Tentative Rulemaking Timeline:
 - 60-Day Comment Period: Early February 2015
 - Public Hearing: July 2015
 - Submittal Deadline: Dec. 1, 2015

Questions?

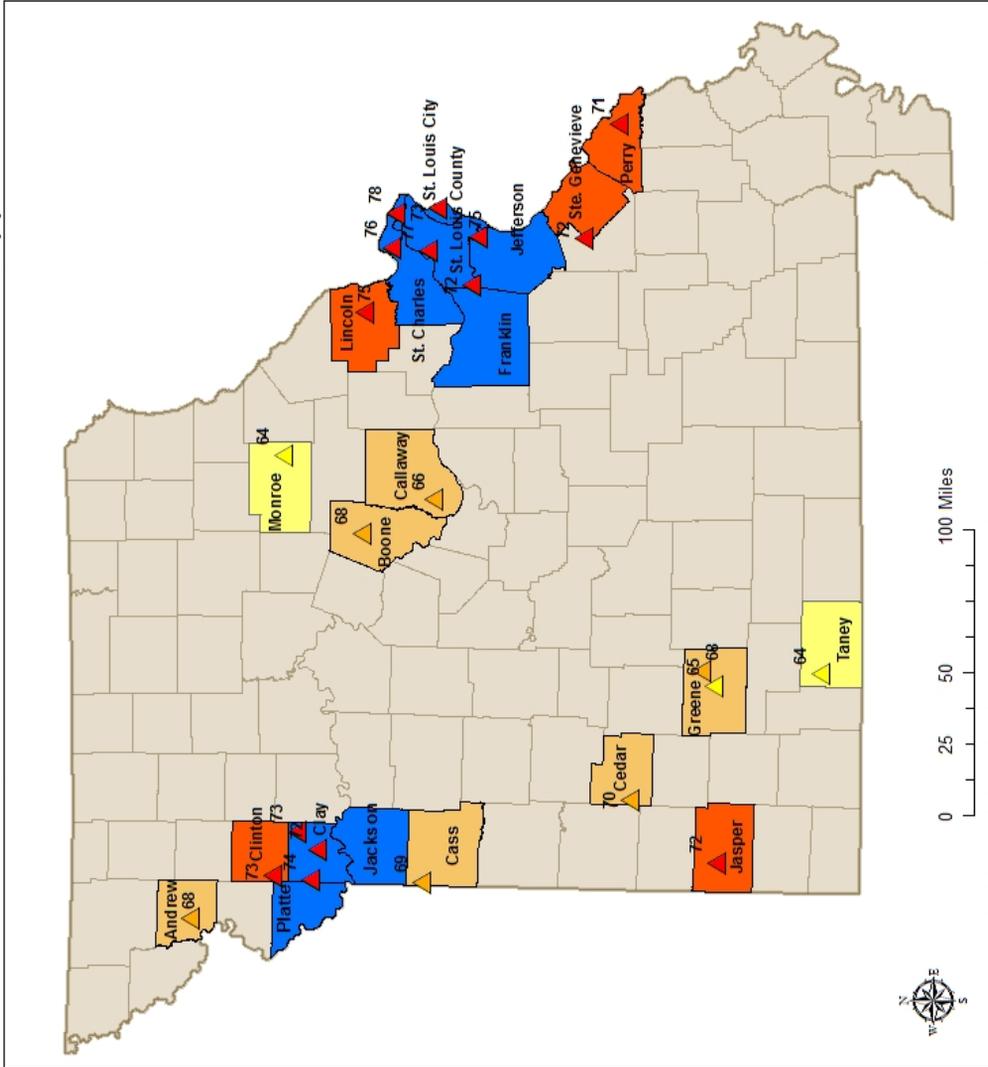
Mark Leath, P.E.
Environmental Engineer
Missouri Department of Natural Resources
Air Pollution Control Program
Phone: 573-751-4817
Email: mark.leath@dnr.mo.gov

Division of Environmental Quality Director: Leanne Tippet Mosby

Date: Jan. 29, 2015

Disclaimer: The statements in this document are intended solely as guidance. This document is not intended, nor can it be relied on, to create any rights enforceable by any party in litigation. This guidance may be revised without public notice.

Potential Impact of 2015 Ozone NAAQS on Missouri Counties
Possible Levels Evaluated: 60, 65, & 70 ppb



Based on 2012-2014 Monitored Designed Values (not yet quality assured data)

Legend

- ▲ Monitors with 12-14 DV > 70 ppb
- ▲ Monitors with 12-14 DV > 65 ppb
- ▲ Monitors with 12-14 DV > 60 ppb
- Kansas City Ozone Maintenance Area
- St. Louis Ozone Nonattainment Area
- County with Monitored 12-14 DV > 70 ppb
- County with Monitored 12-14 DV > 65 ppb
- County with Monitored 12-14 DV > 60 ppb



MISSOURI
DEPARTMENT OF
NATURAL RESOURCES

Air Pollution Control Program
Prepared: 11/18/14

