



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
July 21, 2014
10:00 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)
Carol Eighmey, Missouri Petroleum Storage Tank Insurance Fund
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
Jenny Kissell, Compliance/Enforcement Section, APCP
Carolyn Kliethermes, Fiscal and Budget Section Chief, APCP
Heather Lucas, Compliance/Enforcement Section, APCP
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Stan Payne, Air Quality Planning Section, APCP
Brandon Pollpeter, Air Quality Planning Section, APCP
Sara Pringer, Fiscal and Budget Section, APCP
Patrick Vavra, Compliance/Enforcement Section, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Will Wetherell, Environmental Services Program, APCP
Don Willoh, Department of Natural Resources

Others Present by Attendance Record

Tim Duggan, Attorney General's Office (AGO)
Kevin Perry, Regulatory Environmental Group for Missouri
Chris Schreiber, Schreiber Engineering LLC
Stephanie Tebe, Groundswell Public Strategies
Jacob Westen, AGO

A. Call to Order

Chairman Gary Pendergrass called the July 21, 2014, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker and Gary Pendergrass. * Mark Garnett and David Zimmermann were present by telephone.

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

None.

D. Recommended for Adoption and Actions to be Voted On

Mr. Stan Payne presented 10 CSR 10-5.220, *Control of Control of Petroleum Liquid Storage, Loading and Transfer*. Information on the proposed amendment can be found beginning on page 103.

Commissioner Jack Baker moved to adopt 10 CSR 10-5.220, *Control of Control of Petroleum Liquid Storage, Loading and Transfer*. Vice Chairman Mark Garnett seconded the motion. All of the commissioners voted to adopt 10 CSR 10-5.220, *Control of Control of Petroleum Liquid Storage, Loading and Transfer* as revised.

Mr. Wayne Graf presented 10 CSR 10-6.040, *Reference Methods*. Information on the proposed amendment can be found beginning on page 123.

Commissioner David Zimmermann moved to adopt 10 CSR 10-6.040, *Reference Methods*. Vice Chairman Mark Garnett seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.040, *Reference Methods* as proposed.

E. New Business

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 A) 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

Mr. Jacob Westen, representing the Attorney General's Office, gave a brief history of the appeal of the Department's Administrative Penalty Order issued to the Sanborn, Rae E. and Rita M. Trust and presented the Administrative Hearing Commission's (AHC) recommendation to the Missouri Air Conservation Commission.

Chairman Pendergrass proposed the commission go into Closed Session to discuss the appeal. Commissioner Jack Baker moved the commission go into Closed Session. Vice Chairman Garnett seconded the motion and all commissioners voted the commission go into Closed Session.

Commissioner Baker moved the meeting go back into Open Session. Commissioner Zimmermann seconded the motion. All commissioners voted the meeting go back into Open Session.

Commissioner Zimmermann moved the overall paid penalty be reduced from \$1,000 to \$500 with the remaining \$3,500 suspended pending compliance. Vice Chairman Garnett seconded the motion. All commissioners moved to reduce the penalty to \$500 paid with \$3,500 suspended.

Chairman Pendergrass requested Mr. Tim Duggan draft the Order as agreed upon by the commission.

Mr. Duggan said that under 621.250 of the Revised Statutes of Missouri, the decision has to be made within 180 days of the appeal being filed, and that would be August 7, 2014. Mr. Duggan said he would draft the decision approved by the commission so staff could get the commissioner's signatures. The Air Pollution Control Program would then mail the final decision to Mr. Westen and Mr. Rae Sanborn.

Chairman Pendergrass thanked Mr. Westen for coming to the meeting.

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.

1) COMPLIANCE/ENFORCEMENT REPORT

Ms. Darcy Bybee stated that the Compliance/Enforcement Report begins on page 15 with the Concern Report. There were a total of 114 concerns received from May 1, 2014 through June 15, 2014. During this time period, there were 92 investigations completed.

The Ongoing Negotiations Report can be found on pages 45 and 46. There are 50 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 47. For the time period of May 1, 2014 through June 15, 2014, the department finalized seven agreements for nine facilities with total penalty of \$12,000. Of that amount, \$5,500 was paid to the

school fund of the county in which the violation occurred, and the remaining \$6,500 was suspended.

The Pending Referrals Report can be found on page 48. At this time, there are 14 active referrals. There are currently three cases that are being reviewed that meet the criteria for direct referral. The final decision on the steps for resolution of those cases have not been made. Ms. Bybee said she would keep the commission updated as the process moves forward.

The second quarterly report for 2014 for the Gateway Vehicle Inspection Program is on page 49. Over 200,000 vehicles were tested from April 1, 2014 through June 30, 2014. In that time period 498 audits were also conducted. The third quarterly report for 2014 will be in the October 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 July 15, 2014 almost 70 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.

2) PERMITS REPORT

Mr. Kendall Hale stated that the Permits Report begins on page 51 of the briefing document with the Permit Applications Received Report. There were a total of 271 construction permits received and 155 operating permits received from January 2014 through June 2014. In 2013, the Permits Section received 254 construction permits, and in 2012 it received 249 construction permits. For comparison, the Permits Section has 25 more applications this year than in the last two years.

Operating permits are slightly different. The Permits Section received 155 operating permits this year, in 2013 it was 177 operating permits, and in 2012 it was 248 operating permits. Operating permits are on a five-year renewal cycle so there are some fluctuations in the amount of operating permits received. Construction permits are based more on the economy and what industry is doing. Those projects are listed on pages 52 through 67 of the briefing document.

Beginning on page 69 is the Permit Applications Completed Report. The Permits Section completed a total of 223 construction permit projects and 151 operating permit projects from January 2014 through June 2014. A similar review revealed that in 2013 the Permits Section completed 203 construction permit projects, and in 2012 it was 230 construction permit projects. In 2013, the Permits Section completed 134 operating permit projects, and in 2012 it was 165 operating permits. Those projects are detailed on pages 70 through 87 of the briefing document.

On page 88 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 15 operating permits on public notice.

The Permit Section is also currently fully staffed. Since the last commission meeting the Permits Section has added one construction permit and one operating permit engineer; this will last approximately a week and a half. One engineer will be retiring at the end of the month and one will be leaving by the middle of August.

There was a recent US Supreme Court decision regarding greenhouse gases (GHGs). As the commission is aware, in the last couple of years the Permits Section has been permitting GHGs. GHGs can cause a facility to trigger a Prevention of Significant Deterioration (PSD). If a facility is above a certain level of GHGs it could cause them to apply for a Part 70 operating permit, just because of the GHGs. The US Supreme Court ruled that, in terms of GHGs, it would not trigger a PSD on its own. So if a facility was having to do a major review because of one of the other pollutants, and you were a major emitter of GHGs, then GHGs would be triggered. The other issue would be that Title V Part 70 operating permits would not be triggered solely because of GHGs. That ruling affects two to three sources in the state in terms of operating permits. The Permits Section is waiting on guidance from the Environmental Protection Agency (EPA) on how to proceed, especially on the operating permits side.

3) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan (SIP) Agenda

At the August 28, 2014, commission meeting, a proposed compliance plan for the Exide Technologies Canon Hollow Facility will be presented for public hearing. This plan addresses violations of the 2008 lead National Ambient Air Quality Standard (NAAQS) near this secondary lead smelting facility in Holt County, Forest City, Missouri. The compliance plan will be posted for public review and comment no later than July 28, 2014 and the comment period closes on September 4, 2014. Also at the August 28, 2014 commission meeting, two items will be presented for adoption: the 5-year regional haze progress report and the St. Louis marginal nonattainment area plan for the 2008 ozone standard (75 parts per billion).

b) 1-Hour Sulfur Dioxide National Ambient Air Quality Standard

On June 26, 2014, the program held a stakeholder meeting to present the latest developments regarding 1-hour sulfur dioxide national ambient air quality standard (NAAQS) implementation and to answer questions.

c) Cross State Air Pollution Rule

The U.S. EPA requested that the D.C. Circuit Court lift the stay on Cross State Air Pollution Rule (CSAPR) and adjust the implementation dates. CSAPR was originally supposed to begin in 2012, but it has been delayed

due to litigation. Now that the U.S. Supreme Court has upheld CSAPR, EPA is asking for the CSAPR Phase I emission budgets to become applicable in 2015. The court has not yet responded to EPA's request. In the meantime, the Clean Air Interstate Rule remains in place and there's no immediate action needed on the state's part.

d) Ozone Update

Through July 20, the 2014 ozone season has been a mild one. There has been only one exceedance of the 2008 ozone NAAQS of 75 parts per billion (ppb), and it was in the Kansas City area. Based on a three-year average of 2012-2014 (2014 ozone season to date), one monitor in the St. Louis nonattainment area continues to be in violation of the 75 ppb standard.

4) DIRECTOR'S REPORT

a) Carbon Pollution Stakeholder Meeting

Ms. Kyra Moore said the program held a Carbon Pollution Stakeholder meeting on Monday, July 14, 2014. It was very well attended. Approximately 75 people participated. The EPA gave an overview of the carbon pollution proposal for existing power plants. Air program staff gave an overview of the proposal in terms of what it means for the state of Missouri. <http://dnr.mo.gov/env/apcp/airadvisory/apcpstakeholder.htm>.

The comment period is open until October 16, 2014. Staff are still reviewing the proposal.

Commissioner Baker asked how the state will be affected by EPA's carbon pollution rule and how much will have to be done.

Ms. Moore replied the proposal lists emission goals for the State of Missouri, an interim goal for 2020 and a goal for 2030. The proposal lists 21 sources in Missouri as currently affected by the rule. Ms. Moore offered to give further details in a presentation to the commission at a future meeting.

b) Senate Bill 642

Ms. Moore mentioned the governor signed the department's omnibus bill, Senate Bill 642. This bill will allow the program to work with stakeholders on increasing fees other than emission fees, including permitting and asbestos fees. This bill also impacts other programs in the department.

c) Staffing

The Permit Section is fully staffed until August 1, 2014. The program has two staff members retiring and there are also some staff that were recently hired. On any given month there are approximately eight or nine vacancies in the program, due to the time it takes to hire staff. There are currently four vacancies in the program that are being held open due to budget concerns. Based on fee projections, the program will hold those positions open. Every vacancy is being scrutinized before it is filled.

d) 2015 Commission Meeting Dates

A proposed 2015 commission meeting scheduled will be presented to the commission at the September 25, 2014 meeting.

I. Open Session

Mr. Kevin Perry, representing the Regulatory Environmental Group for Missouri, addressed the commission.

J. Future Meeting Dates

August 28, 2014 – Jefferson City

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

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

Commissioner Baker moved to adjourn the July 21, 2014, Missouri Air Conservation Commission meeting. Vice Chairman Garnett seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Pendergrass adjourned the July 21, 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:

Gary Pendergrass, Chairman
Missouri Air Conservation Commission