

MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Lamplighter Inn
2820 North Glenstone Avenue
Missouri Two
Springfield, MO 65803
March 27, 2014
9:00 a.m.

Commissioners Present

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

Staff Members Present

Richard Barnes, Department of Natural Resources, Southwest Regional Office
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
Julia Katich, Department of Natural Resources
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Aarick Roberto, Commission Secretary, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Paul Vitzthum, Department of Natural Resources, Southwest Regional Office
Joe Winkelmann, Air Quality Planning Section, APCP
Chris Wood, Environmental Services Program

Others Present by Attendance Record

Brian Adams, City of Springfield
Amy Bhesania, Environmental Protection Agency (EPA)
Bob Bromley, Empire District Electric Company
Jeff Burkett, Empire District Electric Company
Mary Campbell, Empire District Electric Company
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Tim Duggan, Attorney General's Office
Daniel Hedrick, City Utilities of Springfield
Becky Heffren, Empire District Electric Company
Tadd Henry, Associated Electric Cooperative
Dave Fraley, City Utilities of Springfield
Lachala Kemp, EPA
Kay Kincannon, City Utilities of Springfield
Andy Knott, Sierra Club
John Kunkel, Inquest Environmental, Inc.
Barbara Lucks, City of Springfield
Kathryn Martin, City Utilities of Springfield
Sara Rains, City of Springfield

A. Call to Order

Chairman Gary Pendergrass called the March 27, 2014, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Mark Garnett, Gary Pendergrass, and David Zimmermann.

B. Minutes from January 30, 2014, Meeting

Commissioner Zimmermann moved to approve the January 27, 2014, minutes as written. Vice Chairman Mark Garnett 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 Revision (SIP) – Supplement/Revision to the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 1997 8-Hour Ground-Level Ozone National Ambient Air Quality Standard. Information on the SIP Revision begins on page 81 of the briefing document.

Mr. Andy Knott presented his testimony offering comments on the Missouri SIP – Supplement/Revision to the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 1997 8-Hour Ground-Level Ozone National Ambient Air Quality Standard.

To obtain a copy of the public hearing transcript, please contact Ms. Paula C. Voyles by writing to Midwest Litigation Services at 2422 East Madrid Street, Springfield, MO 65804, or by phone at 800-280-3376.

D. Recommended for Adoption and Actions to be Voted On

Mr. Joe Winkelmann presented Missouri SIP – Supplement/Revision to the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standard. Information on the adoption item can be found beginning on page 85.

Commissioner David Zimmermann moved to adopt Missouri SIP – Supplement/Revision to the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standard. Vice Chairman Mark Garnett seconded the motion. All of the commissioners voted to adopt Missouri SIP – Supplement/Revision to the Redesignation Demonstration and Maintenance Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 1997 Annual Fine Particulate Matter National Ambient Air Quality Standard.

Ms. Wendy Vit presented Missouri SIP Revision – Americold Logistics, LLC 24-Hour Particulate Matter (PM10) National Ambient Air Quality Standard Consent Judgment. Information on the adoption item can be found beginning on page 89.

Commissioner Jack Baker moved to adopt Missouri SIP Revision – Americold Logistics, LLC 24-Hour Particulate Matter (PM10) National Ambient Air Quality Standard Consent Judgment. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt Missouri SIP Revision – Americold Logistics, LLC 24-Hour Particulate Matter (PM10) National Ambient Air Quality Standard Consent Judgment.

Ms. Wendy Vit presented Missouri SIP – Limited Maintenance Plan for the St. Louis Nonclassifiable Maintenance Area for the 8-Hour Carbon Monoxide National Ambient Air Quality Standard. Information on the adoption item can be found beginning on page 93.

Commissioner Zimmermann moved to adopt Missouri SIP – Limited Maintenance Plan for the St. Louis Nonclassifiable Maintenance Area for the 8-Hour Carbon Monoxide National Ambient Air Quality Standard. Vice Chairman Garnett seconded the motion. All of the commissioners voted to adopt Missouri SIP – Limited Maintenance Plan for the St. Louis Nonclassifiable Maintenance Area for the 8-Hour Carbon Monoxide National Ambient Air Quality Standard.

Mr. Wayne Graf presented a summary of comments to the amendment to 10 CSR 10-6.200, *Hospital, Medical, Infectious Waste Incinerators*. Information on the adoption item can be found beginning on page 95.

Commissioner Baker moved to adopt the amendments to 10 CSR 10-6.200, *Hospital, Medical, Infectious Waste Incinerators*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to adopt the amendments to 10 CSR 10-6.200, *Hospital, Medical, Infectious Waste Incinerators*.

Mr. Wayne Graf presented a summary of comments on the rescission of 10 CSR 10-5.240, *Additional Air Quality Control Measures May be Required When Sources are Clustered in a Small Land Area*. Information on the adoption item can be found beginning on page 117.

Vice Chairman Garnett moved to rescind 10 CSR 10-5.240, *Additional Air Quality Control Measure May be Required When Sources are Clustered in a Small Land Area*. Commissioner Zimmermann seconded the motion. All of the commissioners voted to rescind 10 CSR 10-5.240, *Additional Air Quality Control Measures May be Required When Sources are Clustered in a Small Land Area*.

Mr. Wayne Graf presented a summary of comments on the amendment to 10 CSR 10-6.010, *Ambient Air Quality Standards*. Information on the adoption item can be found beginning on page 119.

Commissioner Zimmermann moved to adopt the amendment to 10 CSR 10-6.010, *Ambient Air Quality Standards*. Vice Chairman Garnett seconded the motion. All of the commissioners voted to adopt the amendment to 10 CSR 10-6.010, *Ambient Air Quality Standards*.

E. New Business

1) Attorney General's Office Referrals

Ms. Darcy Bybee informed the commission that the Air Pollution Control Program would not be requesting Exide Technologies be referred to the Attorney General's Office (AGO), as just prior to the meeting, the case had come to a resolution.

Ms. Darcy Bybee presented the referral request for Premier Petroleum, Incorporated, and the for A.J. Partnership. Information on the proposed referrals begins on pages 125 and 129 of the briefing document, respectively.

Chairman Pendergrass asked if anyone representing Premier Petroleum, Incorporated, or A.J. Partnership was present for the commission meeting.

No one answered.

Vice Chairman Garnett moved to refer Premier Petroleum, Incorporated, and A.J. Partnership to the AGO. Commissioner Zimmermann seconded the motion. All of the commissioners moved to refer Premier Petroleum, Incorporated, and A.J. Partnership to the AGO.

Ms. Darcy Bybee presented the referral request for Ms. Debbie Branson, and for Mr. Dale Brewer. Information on the proposed referrals begins on pages 133 and 135 of the briefing document, respectively.

Chairman Pendergrass asked if anyone representing Ms. Debbie Branson or Mr. Dale Brewer was present for the commission meeting.

No one answered.

Commissioner Zimmermann moved to refer Ms. Debbie Branson and Mr. Dale Brewer to the AGO. Commissioner Baker seconded the motion. All of the commissioners moved to refer Ms. Debbie Branson and Mr. Dale Brewer to the AGO.

2) Referral Presentation

Ms. Darcy Bybee presented a proposal for the Air Conservation Commission to delegate the Department of Natural Resources' Director the authority to refer cases to the Attorney General's Office without individual prior approval by commission. The Referral Presentation can be found at <http://www.dnr.mo.gov/env/apcp/macc.htm> under the March 27, 2014, heading. See also Attachment A of the March 27, 2014, meeting minutes for the Referral Presentation. Following the presentation, Chairman Pendergrass requested that this matter be placed on the agenda for the April 24, 2014, commission meeting. At that meeting, the commission will vote to approve or deny this authority.

F. Unfinished Business

None.

G. Appeals and Variance Requests

Ms. Darcy Bybee presented a request for a variance for F&S Printing, Incorporated. Information on the variance request for F&S Printing, Incorporated begins on page 137 of the briefing document.

Vice Chairman Garnett moved to grant the variance request to F&S Printing, Incorporated for the period of one year. Commissioner Baker seconded the motion. All commissioners voted to grant the variance request to F&S Printing, Incorporated for the period of one year.

Ms. Darcy Bybee presented a request for a variance for Empire District Electric Company's Asbury Power Plant. Information on the variance request for Empire District Electric Company begins on page 141 of the briefing document.

Commissioner Zimmermann moved to grant the variance request to Empire District Electric Company. Vice Chairman Garnett seconded the motion. All commissioners voted to grant the variance request to Empire District Electric Company.

H. Reports - The following referenced reports are in the March 27, 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 13 with the Concern Report. There were a total of 90 concerns received from January 1, 2014, through February 28, 2014. During this time period, there were 43 investigations completed. She stated that the Air Pollution Control Program is continuing work to modify this report to clarify the presented information.

The Ongoing Negotiations Report is on page 35 and 36. There are 57 enforcement actions in the negotiation process at this time, with many anticipated to come to a resolution in the near future.

The Finalized Agreement Report is on page 37. From January 1, 2014, through February 28, 2014, the department finalized four agreements for a total penalty of \$20,000.

The Pending Referrals Report is on page 38. At this time, there are 11 active referrals, and she anticipated coming to a resolution on a few of them in the near future. There are five referrals on the agenda for today.

Ms. Bybee gave an update on the decommissioning of the Stage II Vapor Recovery Program in the St. Louis area. As of March 10, 2014, there are over

730 facilities subject to the vapor recovery rule in St. Louis, of which 556 have applied to decommission. Of those, 434 facilities have gone through the entire process and have been issued a Stage I Vapor Recovery Operating Permit. The Air Pollution Control Program is still working to have the proposed rule amendment on public hearing at the May 29, 2014, commission meeting in St. Louis, and the revised rule text will be available soon on the department's website.

2) PERMITS REPORT

Mr. Kendall Hale state that the Permits Report begins on page 39 of the briefing document with the Permit Applications Received Report. There were a total of 72 construction permits and 55 operating permits received from January 1, 2014 through February 28, 2014, with a total of 127 projects received for the year thus far. The Permits Applications Received Report for the months of January 2014 and February 2014 is located on pages 40 through 51 of the briefing document.

Beginning on page 53 is the Permit Applications Completed Report. There were 65 construction permit projects and 32 operating permits completed from January 1, 2014 through February 28, 2014, with a total of 97 projects completed for the year thus far. One thing to note for the year so far is the applications completed is less than the applications received. Staff has been tasked with reviewing and developing both construction and operating permits, which is much needed, but has taken time away from completing some permits. The Permit Applications Completed Report for the months of January 2014 and February 2014 is located on pages 53 through 63 of the briefing document.

On page 64 of the briefing document is the Open Permits Report. There are currently 463 open projects in house.

Permit staff has been looking into what facilities need a basic operating permit. Incinerators would be required to have a basic operating permit regardless of their amount of emissions. Another requirement for a basic operating permit would be any facility that has a new source performance standard. This is being reviewed at the moment in order to better understand which facilities would be required to have a basic operating permit, and which facilities would not.

Chairman Pendergrass asked if this would require changing the State Implementation Plan (SIP).

Mr. Hale stated that this would require changing the state regulations, as the basic operating permit requirements are not in the SIP, as it is a state permit.

3) AIR QUALITY PLANNING REPORT

a) Rule and State Implementation Plan Agenda

A proposed revision to 10 CSR 10-6.165, *Restriction of Emission of Odors* will be presented for public hearing at the April 24, 2014, commission

meeting. This rulemaking involves removing the definitions that are already contained in 10 CSR 10-6.020, *Definitions and Common Reference Tables*. It was published in the Missouri Register on March 17, 2014, and will be available for public review and comment through May 1, 2014.

A proposed amendment to 10 CSR 10-5.220, *Control of Petroleum Liquid Storage, Loading and Transfer* will be presented for public hearing at the May 29, 2014, commission meeting. This proposed rulemaking involves removing Stage II vapor recovery requirements in the St. Louis area, along with other changes. It will be published in the Missouri Register on April 1, 2014, and the comment period closes on June 5, 2014.

b) Ozone Update

In its second draft policy assessment, the U.S. Environmental Protection Agency (EPA) recommended lowering the ozone National Ambient Air Quality Standard (NAAQS) in the range of 60-70 parts per billion (ppb). The current ozone NAAQS is 75 ppb. EPA's latest estimated schedule for promulgating the new ozone NAAQS is to issue a proposal in January 2015, and a final rule by November 2015. This schedule is subject to change. A lower ozone standard could have implications for multiple areas across the state, including Joplin, Springfield, Kansas City, Ste. Genevieve, and Perry County.

4) DIRECTOR'S REPORT

a) Carbon Pollution Standards Update

EPA is currently working on the carbon pollution standards for new and existing power plants. The new source performance standard for new power plants was proposed in January 2014. The public comment period for the proposal was extended past the sixty day limit, with the new comment end date being May 9, 2014. EPA plans to propose draft guidelines for the existing power plants in June 2014, and finalize the guidelines in June 2015. States need to submit plans by June 2016.

b) Legislative Session

Several items of legislation of interest to the commission and department:

- Several bills on carbon pollution including House Bill 1631, which states "the Air Conservation Commission shall develop emission standards and compliance schedules under federal law for a unit analysis of each existing source of air pollutants."
- Senate Bill 968, which is termed the "Department of Natural Resources Omnibus Bill" includes a variety of items for the department. One section of this bill that affects the Air Pollution Control Program to adjust asbestos fees and permitting fees following a stakeholder process.

House Bill 28, from last session, allows the Air Pollution Control Program to evaluate emission fees through stakeholder process. The department is starting the process of an air fee stakeholder discussion and the initial meeting will take place at the Air Forum meeting on April 24, 2014, in Jefferson City at 1 p.m., in the Roaring River Conference room, and anyone is welcome to attend this meeting. This is the same day as the April commission meeting.

c) Regulatory Environmental Group for Missouri Air Seminar

As mentioned at the January 30, 2014, meeting, the Regulatory Environmental Group for Missouri (REGFORM) Air Seminar took place March 11, 2014, in Columbia. During the seminar, Air Pollution Control Program staff and Chairman Pendergrass gave presentations. Ms. Moore thanked REGFORM for their time and effort in setting this up, and with about 150 people in attendance, stated that the seminar was a success.

d) Other Issues

This year marks the 40th anniversary for the Missouri Department of Natural Resources. Additional information can be on the department's website at www.dnr.mo.gov.

5) 2014 Air Quality Report

Mr. Steve Hall presented to the commission the Air Quality Report for the year 2013. The Air Quality Report can be found at <http://www.dnr.mo.gov/env/apcp/macc.htm> under the March 27, 2014, heading. See also Attachment B of the March 27, 2014, meeting minutes for the Air Quality Report.

I. Open Session

None.

J. Future Meeting Dates

April 24, 2014 – Jefferson City
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

May 29, 2014 – St. Louis
St. Louis Regional Office
314-416-2960
7545 S Lindbergh, Suite 220
DESE Conference Room
St. Louis, MO 63125

July 30, 2014 – Jefferson City
(Wednesday)
Elm Street Conference Center
1730 East Elm Street
Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101

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

Vice Chairman Garnett moved to adjourn the March 27, 2014, Missouri Air Conservation Commission meeting. Commissioner Baker seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Pendergrass adjourned the March 27, 2014, Missouri Air Conservation Commission meeting.

Respectfully submitted,

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

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Gary Pendergrass, Chairman
Missouri Air Conservation Commission