

**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**Southwest Regional Office**  
**2040 West Woodland**  
**East and West Conference Rooms**  
**Springfield, MO 65807**  
**May 28, 2015**  
**9:00 a.m.**

**Commissioners Present**

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

**Staff Members Present**

Larry Archer, Division of Environmental Quality  
Richard Barnes, Southwest Regional Office (SWRO)  
Darcy Bybee, Compliance/Enforcement Section Chief, Air Pollution Control Program (APCP)  
Cindy Davies, Director, SWRO  
David Gilmore, Program Secretary, APCP  
Camille Graves, SWRO  
Kendall Hale, Permits Section Chief, APCP  
Carl Harris, SWRO  
Julia Katich, Department of Natural Resources  
Kyra Moore, Director, APCP  
Tanya Turner, SWRO  
Wendy Vit, Air Quality Planning Section Chief, APCP  
Emily Wilbur, Air Quality Planning Section, APCP

**Others Present by Attendance Record**

Brian Adams, Springfield Air Quality Control  
Nancy Baker  
Ron Boyer  
Kathrina Donegan, St. Louis County Health Department  
Dave Fraley  
Daniel Hedrick, City Utilities of Springfield  
D.K. Hirner, Regulated Environmental Group for Missouri  
Jack McManus, Attorney General's Office  
Sara Rains, 3M Nevada  
Steven Whitworth, Ameren

**A. Call to Order**

Chairman David Zimmermann called the May 28, 2015, meeting of the Missouri Air Conservation Commission to order. The following commissioners were present: Jack Baker, Gary Pendergrass\*, Mark Garnett and David Zimmermann. \*Vice Chairman Gary Pendergrass participated by phone.

**B. Minutes from April 30, 2015, Meeting**

Commissioner Mark Garnett moved to approve the April 30, 2015, 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**

Ms. Emily Wilbur presented Missouri State Implementation Plan (SIP) Revision: Nonattainment Area Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard – Jefferson County Sulfur Dioxide Nonattainment Area. Information on the proposed SIP revision can be found beginning on page 97 of the May 28, 2015 briefing document.

Commissioner Mark Garnett moved to adopt Missouri SIP Revision: Nonattainment Area Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard – Jefferson County Sulfur Dioxide Nonattainment Area. Commissioner Jack Baker seconded the motion. All of the commissioners voted to adopt the Missouri SIP as revised: Nonattainment Area Plan for the 2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard – Jefferson County Sulfur Dioxide Nonattainment Area.

**E. New Business**

**Fee Stakeholder Recommendation**

Ms. Kyra Moore presented the Fee Stakeholder Recommendation to the commission. Her presentation can be found on Attachment A of these minutes. A color copy of her presentation can be found on the Missouri Air Conservation Commission website at <http://dnr.mo.gov/env/apcp/macc.htm>.

**Former Commissioner Ron Boyer**

Chairman Zimmermann recognized former commissioner Ron Boyer was in the audience. He thanked Mr. Boyer for all his years of service.

**F. Unfinished Business**

None.

**G. Appeals and Variance Requests**

None.

**H. Reports - The following referenced reports are in the May 28, 2015, Missouri Air Conservation Commission Briefing Document and available online at [dnr.mo.gov/env/apcp/macc.htm](http://dnr.mo.gov/env/apcp/macc.htm).**

**1) COMPLIANCE/ENFORCEMENT REPORT**

Ms. Darcy Bybee stated that the Compliance/Enforcement Report begins on page 21 with the Concern Report. There were a total of 79 concerns received from March 16, 2015 through April 15, 2015. During this time period there were 70 investigations completed.

The Ongoing Negotiations Report can be found on pages 59 and 60. There are 56 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 61. For the time period of March 16, 2015 through April 15, 2015, the department finalized 16 agreements with a total penalty of \$62,000. Of that amount, \$26,700 was paid to the school fund of the county in which the violation occurred, and the remaining portion was suspended.

The Pending Referrals Report can be found on page 63. At this time, there are 17 active referrals. There is one case that is still being prepared to be referred to the Attorney General's Office. The case is being reviewed for appropriateness of referral. It will fit the criteria for director referral as it is a multimedia case involving the Hazardous Waste and Water Protection Programs.

Ms. Bybee updated the commission on the discrepancy discovered in the first quarter report of the Gateway Vehicle Inspection Program (GVIP) for 2015 presented in April. The original GVIP report noted that only 32 oversight audits were conducted. After additional data entry and review, the reports noted approximately 600 audits were completed, which is above average. The second quarter GVIP report for 2015 will be presented to the commission in July, at which time the commission will be able to see the updated first quarter report.

Ms. Bybee then reported that as of this week, 80 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. There are approximately 120 facilities in the area that have not begun the decommissioning process and the program is doing outreach to those facilities at this time.

Ms. Bybee said there is a pending appeal before the Administrative Hearing Commission (AHC) for an asbestos supervisor certification that was denied. Staff attended the hearing on May 14, 2015. The program is waiting on a decision from the AHC and the attorneys are continuing to file their briefs. More information regarding the appeal will be provided to the commission at a future meeting.

## 2) **PERMITS REPORT**

Mr. Kendall Hale stated that the Permits Report begins on page 65 of the briefing document with the Permit Applications Received Report. A total of 37 construction permit and 36 operating permit applications were received in April 2015, which is approximately half the number received in March. A total of 163 construction permit and 144 operating permit projects have been received in 2015. Details of the projects received for April can be seen from pages 66 through 74 of the briefing document.

Beginning on page 75 is the Permit Applications Completed Report. The Permits Section completed a total of 34 construction permit and 21 operating permit projects. Details of the projects completed for April can be seen from pages 76 through 81 of the briefing document

On page 82 of the briefing document is the Open Permits Report. This report details the types of projects currently open in the Permit Section.

Mr. Hale said there are currently nine Intermediate and Part 70 operating permits on public notice. The Plantwide Applicability Limit (PAL) permit for 3M Nevada came off of public notice and there were no requests for public hearing. The Prevention of Significant Deterioration for Ag Processing in St. Joseph, Missouri went on public notice on May 22, 2015.

The Permit Section has an operating permit engineer who will be leaving the program so there will be one vacancy in the Permit Section. His last day will be tomorrow.

The CB Asphalt permit under appeal by the City of Marston will be heard by the AHC on June 2, 2015. Another asphalt plant near Knob Noster State Park will also likely be appealed.

## 3) **AIR QUALITY PLANNING REPORT**

### a) **Rule and State Implementation Plan Agenda**

The Jackson County sulfur dioxide (SO<sub>2</sub>) nonattainment area SIP is scheduled for public hearing on June 25, 2015. The SIP package consists of a new rule, 10 CSR 10-6.261 *Control of Sulfur Dioxide Emissions*, to establish enforceable emission limits and other requirements for sources contributing to the nonattainment area, as well as a modeled attainment demonstration and other plan elements. The proposed rulemaking will be

published in the Missouri Register on May 15, 2015. The other SIP elements will be posted on the department's webpage no later than May 22, 2015. Comments on the SIP and rule will be accepted through July 2, 2015.

In conjunction with the 10 CSR 10-6.261 rulemaking, the existing rule 10 CSR 10-6.260 *Restriction of Emission of Sulfur Compounds* is being rescinded. This is because needed provisions from 10 CSR 10-6.260 are being incorporated into the new rule, 10 CSR 10-6.261, in order to streamline and consolidate SO<sub>2</sub> requirements for affected sources. The 10 CSR 10-6.260 rulemaking follows the same schedule as 6.261: published in Missouri Register on May 15; public hearing on June 25; comments accepted through July 2, 2015.

The program is presenting three new state rules associated with the federal Cross State Air Pollution Rule (CSAPR) for public hearing on July 30, 2015: 10 CSR 10-6.372, 6.374 and 6.376 to reallocate annual nitrogen oxides (NO<sub>x</sub>), ozone season NO<sub>x</sub> and SO<sub>2</sub> emission allowances among Missouri's affected utilities. These state rules do not make any other changes to this federal emissions trading program; EPA administers and enforces CSAPR. These proposed rules were filed with the Secretary of State on May 15, 2015 and will be published in the *Missouri Register* on June 1, 2015.

**b) Update on Startup, Shutdown, Malfunction SIP Call**

On May 22, 2015, the U.S. Environmental Protection Agency (EPA) took final action on a Sierra Club petition by issuing a SIP call for 36 states determined to have startup, shutdown, malfunction (SSM) SIP provisions that do not meet Clean Air Act requirements. Missouri is one of the states affected by this SIP Call. This action directs us to make a minor revision to the opacity rule (10 CSR 10-6.220) because of problematic "director's discretion" language in (3)(C) of this rule. EPA determined this provision could be read to mean that once the state determines excess visible emissions due to SSM events do not warrant enforcement action, those excess emissions would not be subject to federal enforcement action. The program's proposed remedy is to remove this language. A rulemaking is already well underway to make this change as well as other revisions, including adding an exemption for sources subject to the federal Mercury and Air Toxics Standard (MATS) and other exemptions. The program expects to submit the revised opacity rule well before EPA's final SIP call deadline of 18 months (November 22, 2016). The program expects to file a proposed rulemaking soon and will update the commission on the rulemaking schedule at the next meeting. The SIP call does not impact the state's startup, shutdown, malfunction rule (10 CSR 10-6.050).

c) **2008 Ozone Standard Attainment Date Extension Request**

On May 22, 2015, the program sent a letter to EPA requesting a one-year extension of the 2008 ozone standard attainment date for the St. Louis marginal nonattainment area. Ozone attainment is based on three complete years of monitoring data. St. Louis' attainment date is July 2015, which means monitoring data averaged over 2012-2014 must be in compliance with the 75 parts per billion (ppb) standard. Due to the extremely hot summer of 2012, one monitor in the St. Louis area is still in violation for the 2012-2014 period. Without an extension of the attainment date, there's a risk that EPA would bump St. Louis up to a moderate nonattainment area, which has more requirements than a marginal classification. If EPA approves the request, St. Louis' attainment date will be July 2016, and attainment would be based on 2013-2015. This looks favorable because the 2013 and 2014 ozone seasons were relatively mild, and 2015 has been mild so far. As long as the fourth highest 8-hour daily value for 2015 stays below 85 ppb at the Orchard Farm and West Alton monitors, St. Louis will be in attainment of the 2008 ozone standard by the attainment date of July 2016.

Commissioner Garnett asked if St. Louis had ever been in attainment for the ozone standard. Ms. Vit said she would look into the history and provide information at the next commission meeting.

4) **DIRECTOR'S REPORT**

a) **Legislative Session**

Ms. Kyra Moore gave a brief update on the legislative session that ended on May 15, 2015. There are two bills awaiting signature that affect the department: House Bill 92 and Senate Bill 142.

House Bill 92, includes many provisions applicable to the department including the ability to propose a fee structure under the Oil and Gas law, changes to the Solid Waste law, changes to the definition of the "waters of the state" and updates to the permit appeals process.

Senate Bill 142, requires DNR to prepare an "implementation impact report" in lieu of a regulatory impact report, when developing SIPs for criteria pollutants in non-attainment areas, and State Plans under Section 111(d) of the Clean Air Act. The act also requires an implementation impact report for non-point source management plans under the federal Clean Water Act. The report is required to include a cost benefit analysis of the proposed plans including impacts to electricity rates, the overall economy as well and the benefits to public health. The report and the proposed plan are required to be delivered to the Governor, the Joint Committee on Government Accountability and General Assembly leadership 45 calendar days prior to submission to the Environmental

Protection Agency. The report and proposed plan are also required to be posted on the department's website home page. The Joint Committee may hold public hearings to seek public comment on the plan and the report.

**b) Carbon Pollution Standards – Clean Power Plan**

EPA will finalize the Carbon Pollution Rules later this summer.

**c) Enhanced Efficiency and Effectiveness**

The department has an initiative called E3, which stands for Enhanced Efficiency and Effectiveness. The initiative uses program reviews, process improvements and the expanded use of technology to improve how we conduct business.

In looking at items for process improvements within the air program, the program is reviewing how commission briefing documents are developed, process and distributed. Ms. Moore welcomed any comments and suggestions.

**d) Staff Update**

There are currently 14 vacancies in the program. The program is actively filling four of the vacancies. The program continues to review vacancies to determine which vacancies to fill immediately and which positions to hold, balancing expenditures with workload.

**e) Future Commission Meetings**

The June 25, 2015 commission meeting in Jefferson City is at the Governor Office Building and the July meeting is rescheduled to August 3, 2015.

Ms. Moore introduced Ms. Cindy Davies, the Regional Director of the Southwest Regional Office.

**5) SOUTHWEST REGIONAL OFFICE UPDATE**

Ms. Cindy Davies introduced the air pollution staff in her office and gave a brief description of their job duties. The air staff includes Ms. Tanya Turner, Mr. Richard Barnes, Ms. Camille Graves and Mr. Carl Harris.

Ms. Davies said her office performs all of the same activities as the other regional offices. These include technical assistance visits, inspections, concern investigations, burn permits, etc. On average, staff complete 150 concern investigations, 200 inspections, and 100 burn permits a year. This is quite a bit of work for a small number of staff.

Unique to this area of the state, which is a fast growing region, there are a lot of construction-related burn issues. In anticipation of these issues, the office has distributed open burning fact sheets to developers. In addition, Mr. Barnes has provided training to a couple dozen of the local fire departments.

A good portion of the population in this region has an interest in the environment and protecting it. There are a lot of groups that are involved in environmental education and activities. This is important to the department and its mission so the regional office is supportive of these activities. A local group, the Ozarks Clean Air Alliance, has implemented a program utilizing an air quality flag, which is posted on buildings and schools. The regional office participates in this program and the flag is posted at the entrance of this building. The color of the flag indicates the air quality and it is updated by staff each day.

**I. Open Session**

No one addressed the commission.

**J. Future Meeting Dates**

**June 25, 2015 – Jefferson City**

Governor 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

**K. Discussion of Pending Litigation and Legal Matters**

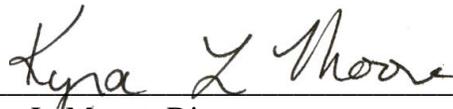
Mr. Jack McManus addressed the commission. He referred the commission to page 63 of the briefing document. He gave a brief update on two companies and the five Chaudhri cases at the bottom of the page.

**L. Missouri Air Conservation Commission**

Commissioner Baker moved to adjourn the May 28, 2015, Missouri Air Conservation Commission meeting. Commissioner Garnett seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Zimmermann adjourned the May 28, 2015, Missouri Air Conservation Commission meeting.

Respectfully submitted,



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Kyra L. Moore, Director  
Air Pollution Control Program

Approved:

\_\_\_\_\_  
David Zimmermann, Chairman  
Missouri Air Conservation Commission





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## Air Pollution Control Program Fee Stakeholder Meetings Overview Asbestos Fee Proposal - For Review

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May 28, 2015



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## History of Fee Stakeholder Process

- House Bill 28 (2013)
- Senate Bill 968 (2014)
- Revised Statute of Missouri 643.079.10

### Outcome:

- Review of Fee Structure with stakeholders
- Submit Proposed Fee Structure to Commission
- Start rulemaking process after commission approval

## 2014 Fee Stakeholder Process

- <http://www.dnr.mo.gov/env/apcp/docs/feestakeholderpastmtgs.pdf>
- Initial Discussion included:
  - Emission Fee
  - Permit Fees
  - Asbestos Fees
- Final Proposal to Commission:
  - Emission Fee Only
    - \$48 per ton – effective January 1, 2016 for 2015 emissions

## 2015 Fee Stakeholder Process

- Continue the discussion of fees that support the activities of the program:
  - Permit fees
  - Asbestos Fees
- Goal – submit revised fee structure to Missouri Air Conservation Commission mid-year

## Fee Stakeholder Meetings Held:

- January 29, 2015
- April 30, 2015
- May 19, 2015
- May 26, 2015

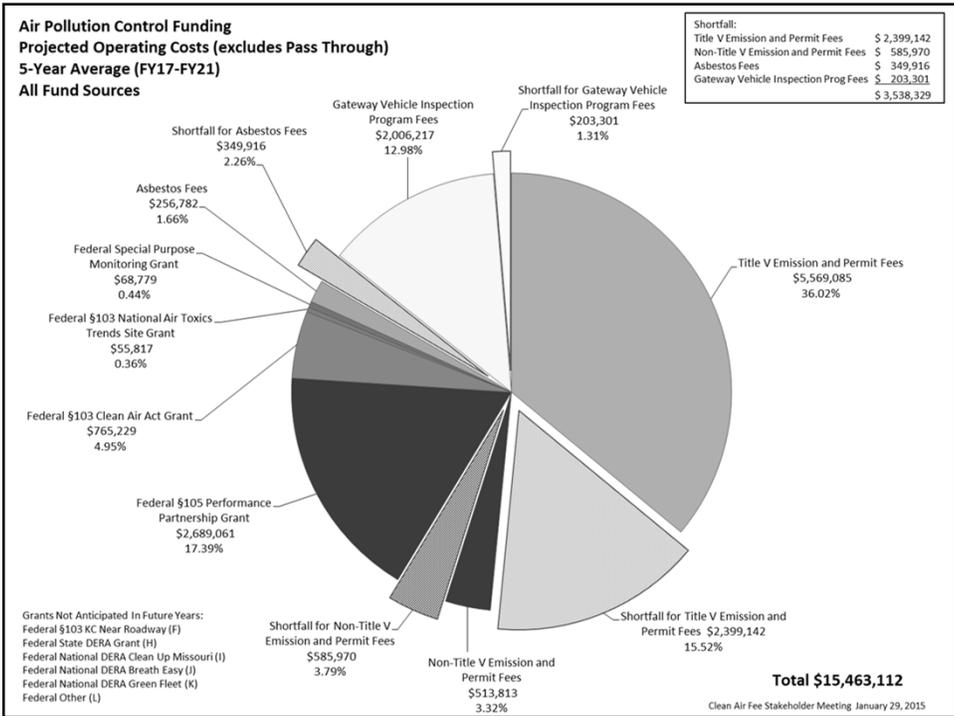
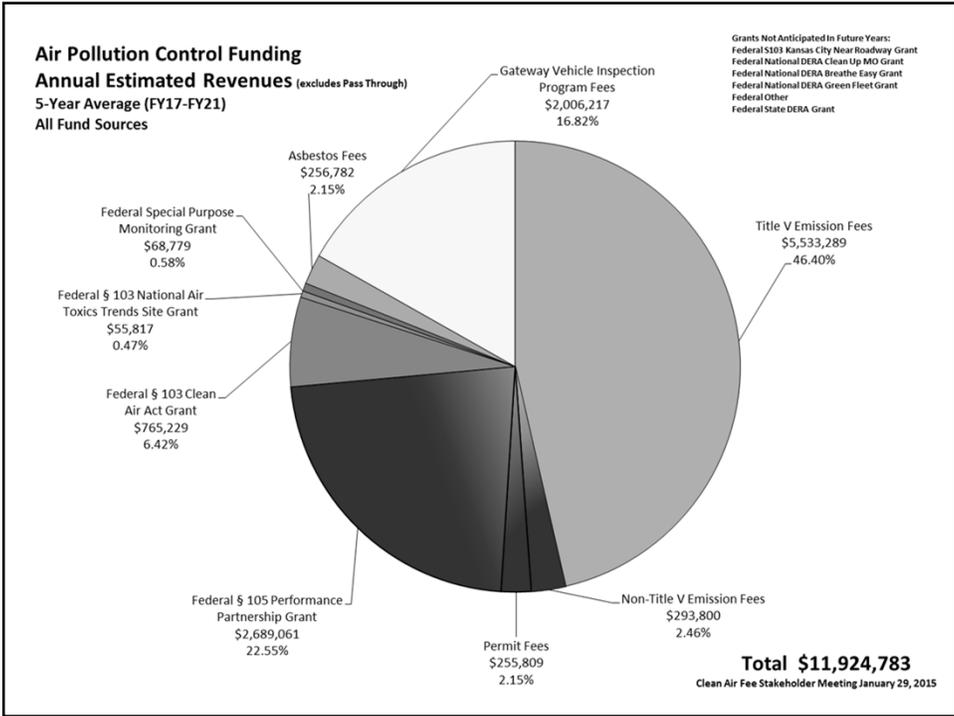
Presentations from meetings:

<http://www.dnr.mo.gov/env/apcp/AirAdvisory/APCPstakeholder.htm>

## Expenditures FY13 & FY14

| FY2013 Actual<br>Operating<br>Expenditures      | FY2014 Actual<br>Operating<br>Expenditures |
|---|--|
| \$14,311,000                                    | \$13,391,016                               |
| FY13 to FY14 reduction in spending<br>\$919,984 |  |

- ✓ Continued to hold vacancies
- ✓ Continued to restrict training
- ✓ Reduced office supply purchases
- ✓ Reduced unnecessary travel
- ✓ Reduced monitoring equipment purchases
- ✓ Indirect (overhead) costs decreased



## Asbestos Fees

- Goal – Asbestos fees support 100% of asbestos activities
  - Approximate annual expenditure  
\$600,000 - \$625,000
- Suggested increases reflect goal

### Fee Adjustment Proposal Based on Fee Stakeholder Meetings - Asbestos Fees

| Fee Type  | Current Fee                        | Fee Adjustment For Discussion*                      |
|---|------------------------------------|---|
| Asbestos Demolition Fee (allowed in RsMO 643.237/currently not collected) | \$100/Demolition Project           | <b>No fee adjustment / propose start collecting</b> |
| <b>Asbestos Certification Fee</b>   |                                    |   |
| Worker Asbestos Certification   | \$25 for Workers                   | <b>\$40</b>   |
| Other Disciplines Asbestos Certification                                  | \$75 for All Other Disciplines     | <b>\$100</b>  |
| <b>Asbestos Recertification Fee</b>                                       |                                    |   |
| Worker Asbestos Recertification   | \$5 for All Workers                | <b>\$20</b>   |
| Other Disciplines Asbestos Recertification                                | \$5 for Other Disciplines          | <b>\$50</b>   |
| Asbestos Registration Fee   | \$1,000/Registration               | <b>\$2,650</b>                                      |
| Asbestos Exam Fee   | \$25/Exam                          | <b>\$25</b>   |
| Asbestos Accreditation Fee  | \$1,000 per Course/<br>\$3,000 cap | <b>\$1,000 per Course/<br/>\$3,000 cap</b>          |
| Asbestos Inspection Fee   | \$100/\$300 Max                    | <b>\$200/\$400</b>                                  |
| Asbestos Exemption Fee  | \$250/Exemption                    | <b>No fee adjustment</b>                            |
| Asbestos Abatement Notification Fee                                       | \$100/Notification                 | <b>\$200</b>  |

## Timeline for Rulemaking - Asbestos

- May 28, 2015 : Present proposed asbestos fee structure to Missouri Air Conservation Commission (MACC)
- June 25, 2015: MACC approve department to start asbestos rulemaking.
- July 2015: File proposed rulemaking

## Timeline for Rulemaking Asbestos - Continued

- September 24, 2015 – Asbestos Rules Public hearing
- October 29, 2015 – MACC adoption of rules
- December 1, 2015 – File order of Rulemakings
- January **2017** - Rulemaking(s) effective.
  - Fee(s) take effect January 1, 2017

## Timeline for Rulemaking – Permits Tentative

- May/June: Finalize Fee Stakeholder Discussions
- June 2015: Present proposed fee structure to Missouri Air Conservation Commission (MACC)
- June/July 2015: MACC approve department to start rulemaking.
- July 2015: File proposed rulemaking

## Timeline for Rulemaking – Permits continued (Tentative)

- September 24, 2015 – Rule Public hearing(s)
- October 29, 2015 – MACC adoption of rules
- December 1, 2015 – File order of Rulemaking
- January **2017** - Rulemaking(s) effective.  
– Fee(s) take effect January 1, 2017

Division of Environmental Quality Director: Leanne Tippett Mosby

Date: May 28, 2015

Nothing in this document may be used to implement any enforcement action or levy any penalty unless promulgated by rule under chapter 536 or authorized by statute.