



**MINUTES**  
**MISSOURI AIR CONSERVATION COMMISSION**  
**St. Louis Regional Office**  
**7545 South Lindbergh, Suite 220**  
**DESE Conference Room**  
**St. Louis, MO 63125**  
**May 29, 2014**  
**9:00 a.m.**

**Commissioners Present**

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

**Staff Members Present**

Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)  
Darcy Bybee, Compliance/Enforcement Section Chief, APCP  
Dorothy Franklin, Department of Natural Resources, St. Louis Regional Office  
Wayne Graf, Air Quality Planning Section, APCP  
Kendall Hale, Permits Section Chief, APCP  
Hani Hamzeh, Department of Natural Resources, St. Louis Regional Office  
Jeffrey Hillis, Department of Natural Resources, St. Louis Regional Office  
Julia Katich, Department of Natural Resources  
Victoria Lovejoy, Public Information Specialist, APCP  
Christopher Maher, Department of Natural Resources, St. Louis Regional Office  
Tom Markowski, Department of Natural Resources, St. Louis Regional Office  
Kyra Moore, Director, APCP  
Ethel Myers, Department of Natural Resources, St. Louis Regional Office  
Stan Payne, Air Quality Planning Section, APCP  
Antwane President, Inspection/Maintenance Section, APCP  
Aarick Roberto, Commission Secretary, APCP  
Tom Sims, Department of Natural Resources, St. Louis Regional Office  
Richard Swartz, Compliance/Enforcement Section, APCP  
Wendy Vit, Air Quality Planning Section Chief, APCP  
Emily Wilbur, Air Quality Planning Section, APCP  
Joe Winkelmann, Air Quality Planning Section, APCP  
Shirley Wolverson, Department of Natural Resources, St. Louis Regional Office

**Others Present by Attendance Record**

Kimberly Bauman, Mississippi Lime Company  
Mike Coulson, East-West Gateway Council of Governments  
Kathrina Donegan, St. Louis County, Air Pollution Control Program  
Casey Donahoe, Washington University  
Tim Duggan, Attorney General's Office  
Sara Edgar, Sierra Club

Chad Fisher, Anheuser-Busch Companies, LLC  
Donnie Greenwalt, Wallis Companies  
Brian Gregory, Dyno Nobel  
Bret Gustafson, Washington University  
Hal Harris  
Brian Higgins, Trinity Consultants  
Jason Hrdlicka, St. Louis County, Air Pollution Control Program  
John Kissel, Sierra Club  
Andy Knott, Sierra Club  
John Kunkel, Inquest Environmental, Inc.  
Jim Lanzafame, The Doe Run Company  
Jocelyn Lee, Washington University  
Andrew Lemmons, Washington University  
Mike Liebert, Trinity Consultants  
Maxine Lipeles, Washington University  
Ken Miller, Washington University  
Libby Mohr, Washington University  
Natalie Moore, Sierra Club  
Caroline Pufalt  
Jeremy Rogus, St. Louis County, Air Pollution Control Program  
David Shanks, Boeing  
Meredith Springs, Civil and Environmental Consultants, Inc.  
Roger Walker, Regulatory Environmental Group for Missouri  
Steve Whitworth, Ameren  
Midge Winkler, General Motors  
Paulette Zimmerman

**A. Call to Order**

Chairman Gary Pendergrass called the May 29, 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 April 24, 2014, Meeting**

Vice Chairman Mark Garnett moved to approve the April 24, 2014, minutes as written. Commissioner Jack Baker seconded the motion, and all commissioners voted to approve the minutes.

**C. Public Hearing**

Chairman Pendergrass called the public hearing to order.

Mr. Stan Payne presented 10 CSR 10-5.220, *Control of Petroleum Liquid Storage, Loading and Transfer*. Information on the proposed amendment begins on page 63 of the briefing document.

Mr. Roger Walker presented comments in regards to the proposed amendment.

Ms. Emily Wilbur presented a Missouri State Implementation Plan Revision – Regional Haze Plan 5-Year Progress Report. Information on the proposed plan revision begins on page 97 of the briefing document.

Mr. Joe Winkelmann presented Missouri State Implementation Plan Revision – Marginal Area Plan for the Missouri Portion of the St. Louis Nonattainment Area for the 2008 8-Hour Ground Level Ozone National Ambient Air Quality Standard. Information on the plan revision begins on page 99 of the briefing document.

Mr. Brett Gustafson, representing Washington University, presented comments in regards to the plan revision.

Mr. John Kissel, representing the Sierra Club, presented comments in regards to the plan revision.

Mr. Andy Knott, representing the Sierra Club, presented comments in regards to the plan revision.

Mr. Aaron Basham presented 10 CSR 10-6.040, *Reference Methods*. Information on the proposed amendment begins on page 111 of the briefing document.

To obtain a copy of the public hearing transcript, please contact Ms. Rebecca Brewer by writing to Midwest Litigation Services at 711 North Eleventh Street, St. Louis, MO 63101, or by phone at 800-280-3376.

**D. Recommended for Adoption and Actions to be Voted On**

Mr. Wayne Graf presented 10 CSR 10-6.165, *Restriction of Emission of Odors*. Information on the proposed amendment can be found beginning on page 117.

Commissioner Jack Baker moved to adopt 10 CSR 10-6.165, *Restriction of Emission of Odors*. Vice Chairman Mark Garnett seconded the motion. All of the commissioners voted to adopt 10 CSR 10-6.165, *Restriction of Emission of Odors* as proposed.

**E. New Business**

None.

**F. Unfinished Business**

None.

**G. Appeals and Variance Requests**

None.

**H. Reports - The following referenced reports are in the May 29, 2014, 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 13 with the Concern Report. There were a total of 63 concerns received from April 1, 2014 through April 30, 2014. During this time period, there were 29 investigations completed.

The Ongoing Negotiations Report can be found on pages 29 and 30. There are 53 enforcement actions in the negotiation process at this time.

The Finalized Agreement Report is on page 31. For the month of April 2014, the department finalized six agreements for a total penalty of \$25,000. Of that amount, \$8,000 was paid to the school fund of the county in which the violation occurred, and the remaining \$17,000 was suspended.

The Pending Referrals Report can be found on page 32. At this time, there are 15 active referrals. There are a few cases that are being evaluating for referral; both fit into the criteria for direct referral. One is a multimedia open burning case where the individual has a history of noncompliance with air pollution regulations. The other is a multimedia case where the facility has not returned to compliance at this time. The final decision on the steps for resolution of those cases is still pending. Ms. Bybee said she would keep the commission updated on the progress of these two cases.

Ms. Bybee reiterated that over 60% of the facilities in the St. Louis area have completed decommissioning, tested and have received a Stage I vapor recovery operating permit.

Ms. Bybee also touched on the background and information on the usage of the department's administrative penalty authority. The department has been issuing administrative penalties under the authority granted in 10 CSR 10-6.230. Approximately 20 administrative penalties have been issued over the past several months, mainly asbestos and open burning. One of the administrative penalties was issued in January to Mr. Rae Sanborn for a violation of state and federal asbestos regulations. As allowed under the rule, Mr. Sanborn appealed the administrative penalty order and the Administrative Hearing Commission (AHC) heard the matter on April 22, 2014. A recommendation from the AHC is expected around the beginning of June, and then it will be brought before the commission for a final determination.

Ms. Bybee then gave a general overview of the administrative penalty order process to the commission.

Chairman Pendergrass said the Air Program has a nice summary of the direct referral process in the minutes of the May Commission meeting and he appreciated the documentation of all the steps.

## **2) PERMITS REPORT**

Mr. Kendall Hale stated that the Permits Report begins on page 33 of the briefing document with the Permit Applications Received Report. There were a total of 38 construction permits and 25 operating permits received for the month of April 2014. The Permits Applications Received Report for the month of April 2014 is located on pages 34 through 39 of the briefing document.

Beginning on page 41 is the Permit Applications Completed Report. There were 33 construction permit projects and 19 operating permits completed for the month of April 2014. The Permit Applications Completed Report for the month of April 2014 is located on pages 42 through 47 of the briefing document. There are currently five operating permits on public notice; two have just come off public notice and there are three currently taking public comments.

On page 48 of the briefing document is the Open Permits Report. This report details the types of projects currently in the Permit Section.

Mr. Hale said the Permit Section is working to overhaul the permit application forms. The Permit Section should have new construction and operating permit forms by the end of the year. Over the last two years the Permit Section has posted guidance on the department's webpage for construction permits and permit modeling. The goal this year is to complete guidance documents for operating permits.

Permit staff are also reviewing the Basic operating permit application process in an attempt to streamline the process while gathering better data and making it faster.

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

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

There are no rule or SIP items scheduled for public hearing at the July 30, 2014 Missouri Air Conservation Commission meeting.

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

EPA's proposed data requirements rule was published in the Federal Register on May 13, 2014, and the comment period closes July 14, 2014. This is the rule that determines which large SO<sub>2</sub> sources will need to be evaluated in future implementation phases of the 1-hour SO<sub>2</sub> NAAQS.

EPA reached a proposed consent decree with Sierra Club and NRDC resolving litigation regarding completion of initial area designations for

the 1-hour SO<sub>2</sub> NAAQS. Under the proposed consent decree, EPA would conduct an additional round of designations for certain coal-fired power plants, on an earlier schedule than the proposed data requirements rule. After the proposed consent decree is published in the Federal Register, EPA will accept comments for 30 days.

The department's Air Pollution Control Program has scheduled a stakeholder meeting on Thursday, June 26, 2014 to discuss 1-hour SO<sub>2</sub> NAAQS implementation issues. It will be held from 10:00 a.m. to noon in the Bennett Springs Conference Room in Jefferson City. An agenda and other meeting details will be communicated through the Air Program Advisory Forum email distribution list.

**c) Cross State Air Pollution Rule**

The Supreme Court reversed the D.C. Circuit vacatur of the federal Cross State Air Pollution Rule (CSAPR). The D.C. Circuit has remaining issues to decide that were not part of Supreme Court decision. EPA is working on a path forward, but it may be some time before there is clarification regarding implementation of CSAPR. In the meantime, the stay of CSAPR continues and Clean Air Interstate Rule (CAIR) remains in place.

**d) Ozone Update**

At this early point in the 2014 ozone season (through May 28, 2014), there has been one exceedance of the 2008 ozone standard (75 parts per billion) in the Kansas City area.

EPA is well underway in its review of the ozone standard. EPA now has a court-ordered deadline of December 1, 2014 to propose a rule and finalize by October 1, 2015. EPA is expected to lower the standard in the range of 60-70 parts per billion.

**4) DIRECTOR'S REPORT**

**a) St. Louis Regional Office**

Ms. Kyra Moore introduced Ms. Dorothy Franklin, the St. Louis Regional Office Director, and Mr. Tom Markowski, the unit chief of the Source Air Unit in the St. Louis Regional Office. Ms. Moore thanked the regional office staff for their assistance in setting up the commission meeting room.

**b) Monitoring Network Plan**

Ms. Moore mentioned the annual Monitoring Network Plan is open for public inspection. The program will submit the plan, which details all air monitors in the state to EPA by July 1, 2014 for approval.

**c) Carbon Pollution Standards**

Ms. Moore updated the commission on EPA's Carbon Pollution Standards for new and existing power plants. The comment period for EPA's proposed rule for new plants ended on May 9, 2014. EPA's proposal for existing plants is expected on June 2, 2014.

The program is hosting a stakeholder meeting in regards to the proposal for existing plants on July 14, 2014 in Jefferson City. The intent of this meeting is to have EPA and department staff provide an overview of the June 2, 2014 proposal. Anyone with an interest in this topic is welcome to attend.

**d) Legislative Session**

Ms. Moore stated the legislative session ended on May 16, 2014. The department's omnibus bill, Senate Bill 642 passed. One piece of this bill would allow, when signed, the program to work with stakeholders on increasing fees other than emission fees, including permitting and asbestos fees.

**e) Air Fee Stakeholder Process**

The program has held two fee stakeholder meetings so far to discuss emission, permit and asbestos fees to provide revenue for the program activities. Current projections show an insolvency date for the program of October 2016.

The next fee stakeholder meeting is June 16, 2014 and it is the intention to finalize a proposal at this meeting with interested stakeholders. The program would then need to provide this proposal to the commission for review, and then the commission would need to vote at a separate meeting to recommend moving forward with rulemaking for the applicable fee rules.

**I. Open Session**

None.

**J. Future Meeting Dates**

**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 May 29, 2014, Missouri Air Conservation Commission meeting. Commissioner Baker seconded the motion, and all commissioners voted to adjourn the meeting.

Chairman Pendergrass adjourned the May 29, 2014, Missouri Air Conservation Commission meeting.

Respectfully submitted,

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Kyra L. Moore, Director  
Air Pollution Control Program

Approved:

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Gary Pendergrass, Chairman  
Missouri Air Conservation Commission