



MINUTES
MISSOURI AIR CONSERVATION COMMISSION
Elm Street Conference Center
1730 East Elm Street – Lower Level
Bennett Springs Conference Room
Jefferson City, MO 65101
May 30, 2013
9:00 a.m.

Commissioners Present

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

Staff Members Present

Aaron Basham, Air Quality Planning Section, Air Pollution Control Program (APCP)
Darcy Bybee, Compliance/Enforcement Section Chief, APCP
David Gilmore, Program Secretary, APCP
Wayne Graf, Air Quality Planning Section, APCP
Kendall Hale, Permits Section Chief, APCP
Ashley Jurgensmeyer, Air Quality Planning Section, APCP
Victoria Lovejoy, Public Information Specialist, APCP
Kyra Moore, Director, APCP
Paul Myers, Air Quality Planning Section, APCP
Shelly Reimer, Air Quality Planning Section, APCP
Aarick Roberto, Commission Secretary, APCP
Seanmichael Stanley, Air Quality Planning Section, APCP
Wendy Vit, Air Quality Planning Section Chief, APCP
Emily Wilbur, Permits Section, APCP

Others Present by Attendance Record

Mike Alesandrini, URS Corp
Robert Brundage, Newman, Comley and Ruth P.C.
Jeff Burkett, Empire District Electric
Kathrina Donegan, St. Louis County, Air Pollution Control Program
Kristine Davies, Trinity Consultants
Tim Duggan, Attorney General's Office
Steven Hughes, Ameren
Dave Fraley, City Utilities of Springfield
Buffy Santel, Metropolitan St. Louis Sewer District
Roger Walker, Regulatory Environmental Group for Missouri

A. Call to Order

Chairman Jack Baker called the May 30, 2013, 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 25, 2013, Meeting

Commissioner Mark Garnett moved to approve the April 25, 2013, minutes as written. Commissioner Gary Pendergrass seconded the motion and all commissioners voted to approve the minutes.

C. Reports - The following referenced reports are in the May 30, 2013, Missouri Air Conservation Commission Briefing Document and available online at dnr.mo.gov/env/apcp/macc.htm.

1) COMPLIANCE/ENFORCEMENT

Ms. Darcy Bybee said the Compliance/Enforcement Report begins on page 21 with the Complaint or Concern Report. There were a total of 56 concerns received from March 16, 2013 through April 15, 2013, with 43 investigations completed and no violations issued.

The Ongoing Negotiations Report is on pages 37 and 38, with 64 enforcement actions in the negotiation process at this time. Due to the passage of the deadlines for Emission Inventory Questionnaires and Annual Compliance Certification reports, a large number of facilities may be added to this report for follow up. The Pending Referrals Report is on page 39. At this time, there are 18 active referrals, with one referral on the agenda for today.

The Finalized Agreement Report is on page 40. For the time period from March 16, 2013 through April 15, 2013, the department finalized agreements for a total penalty of \$25, 000. \$20,000 of that amount is suspended, with the remaining \$5,000 paid to the school fund in the county in which the violation occurred.

2) PERMITS REPORT

Mr. Kendall Hale said the Permits Report begins on page 41 of the briefing document. For the month of April 2013, the Permits Section received 54 construction permits projects, and 39 operating permits projects, for a total of 297 permits projects received for the year.

The Permit Applications Received Report is located on pages 42 through 51, where there is detail of the projects received.

Beginning on page 53 is the Permits Applications Completed Report. There were 41 construction permits and 27 operating permits completed for the month of April, for a total of 258 projects completed for the year. The Permit Applications Completed Report is located on pages 54 through 61.

On page 62 of the briefing document is the Open Permits Report. There are currently 529 projects open, and 17 operating permits on public notice that are not mentioned in the briefing document.

3) **AIR QUALITY PLANNING REPORT**

a) **Rule and State Implementation Plan Agenda and Rules in Progress Schedule**

Ms. Wendy Vit said the following proposed rulemaking is scheduled to go to public hearing on June 27, 2013: 10 CSR 10-6.040, *Reference Methods*. This is a proposed revision to update several ambient monitoring and laboratory analysis methods. In addition, a minor revision to the attainment demonstration for the 2008 lead National Ambient Air Quality Standard (NAAQS) for the Buick/Viburnum Trend lead nonattainment area is proposed. It removes a requirement for a new stack that is not yet constructed and will not result in an increase in emissions or any other requirement of the consent judgment. Both the proposed rulemaking and State Implementation Plan (SIP) revision are available for public review and comment through July 5, 2013.

At the July 24, 2013, commission meeting, annual updates to 10 CSR 10-6.070, *New Source Performance Regulations*, 10 CSR 10-6.075, *Maximum Achievable Control Technology Regulations*, and 10 CSR 10-6.080, *Emission Standards for Hazardous Air Pollutants*, are scheduled for public hearing. These updates will incorporate by reference changes to these federal regulations that were issued from February 17, 2012 to December 13, 2012. In addition, proposed revisions to 10 CSR 10-6.130, *Controlling Emissions During Episodes of High Air Pollution Potential* will be presented at the July 24, 2013, public hearing. These revisions would remove pollutant-specific breakpoints for the Air Quality Index that become inaccurate when a NAAQS is revised, and make other formatting changes in order to make the rule more user-friendly. These proposed rulemakings will be published in the Missouri Register on June 17, 2013, and available for public review and comment through July 31, 2013.

b) **2010 1-Hour Sulfur Dioxide National Ambient Air Quality Standard**

June 3, 2013, is the Environmental Protection Agency's (EPA) deadline for finalizing the initial round of nonattainment area designations for the 1-hour SO₂ NAAQS. We expect two nonattainment areas in the state - portions of both Jackson County and Jefferson County. Once these areas are final, we have 18 months to develop and submit plans to bring them into attainment.

As outlined in a strategy document released in February 2013, EPA will conduct additional rounds of designations for this NAAQS based on modeling and monitoring in 2017 and 2020, respectively. EPA is expected to propose a "data requirements" rule later this year (final in 2014) to establish the process states will use to characterize air quality around the largest SO₂ sources for these future rounds of designations. In the meantime, EPA released two technical assistance documents on modeling and monitoring for the next rounds of designations. Comments on both draft documents are due on July 22, 2013.

c) Interstate Transport Issues

The EPA has made available high-level summaries of the meetings held with state air agencies in April 2013 to discuss how to move forward with addressing interstate transport issues in light of court decision vacating the Cross State Air Pollution Rule. At this point, there are more questions than answers. Issues include whether to express states' obligations in terms of air quality (parts per billion) or emissions (tons) reduction targets, how to appropriately account for cost of control options, and what the role of EPA versus states should be. The program intends to stay involved in the discussions with EPA and other states, but will wait for EPA to make decisions before proceeding with any action to address transport at the state level.

d) Ozone National Ambient Air Quality Standard

2013 has been a mild ozone season so far. No exceedances of the 75 part per billion (ppb) standard have been recorded at any of the monitors in the state. However, two of the St. Louis monitors continue to violate the 75 ppb standard for the 2011-2013 period – West Alton and Maryland Heights.

St. Louis is the only area in the state designated nonattainment for the 2008 ozone standard. We will need to develop a SIP for this marginal nonattainment area, and it is due in early 2015. EPA's proposed implementation rule outlining what will be required in the SIP submission was signed and released on May 29, 2013. There will be a 60-day public comment period once it has been published in the Federal Register.

The program continues to hold discussions with EPA on addressing the violation of the 1997 ozone NAAQs of 80 ppb. We hope to have clarity on this issue soon.

4) DIRECTOR'S REPORT

a) Legislative Session

Ms. Kyra Moore informed the commission that House Bill 28, the Department of Natural Resources omnibus bill was approved by the legislature, whose session ended May 17, 2013. The governor has not signed the bill, so it is not yet final. Some of the items of the bill include an extension to the the clean water fees, hazardous waste fees and battery fees. In addition, there is a new subsection proposed for 643.079, the statute that governs air emission fees. This subsection details a procedure the department can utilize to form a stakeholder group to review fees, propose a change and with consensus of the stakeholder group, submit the proposal of a fee change, via a rulemaking effort, to the commission. The program will keep the commission updated when this process starts.

The bill also transfers the the Land Survey Program that is currently located in the Division of Geology to the Department of Agriculture. Other items of note for this legislative session include the Executive Order that transfers the

Division of Energy from the Department of Natural Resources to the Department of Economic Development. This transfer will occur in August of this year.

b) National Association of Clean Air Agencies

The National Association of Clean Air Agencies (NACAA) Director's Meeting took place on May 6, 2013, in St. Louis this year. There were about 35 states present at this meeting, with many of the local agencies present, as well as EPA headquarter staff.

c) Monitoring Plan

The 2013 monitoring network plan is now open for public inspection. This plan details all of the monitors throughout the state and is available on the department's website until the end of June.

d) Staff Updates

Mr. Paul McConnell, who is currently in the Air Quality Analysis Section, is retiring at the end of May, while Mr. Peter Yronwode, who is in the Enforcement Section, is retiring at the end of July. Finally, Ms. Emily Wilbur, who is in the Permits Section at this time, will be officially starting as the SIP unit chief on July 1, 2013.

D. Public Hearing

Chairman Baker called the public hearing to order.

Mr. Aaron Basham presented 10 CSR 10-6.060, *Construction Permits Required*. Information on the proposed rule amendment begins on page 81.

Mr. Seanmichael Stanley presented 10 CSR 10-5.570, *Control of Sulfur Emissions From Stationary Boilers*. Information on the proposed rule amendment begins on page 121.

Ms. Shelly Reimer presented 10 CSR 10-6.345, *Control of NO_x Emissions From Upwind Sources*. Information on the proposed rule rescission begins on page 131.

Mr. Seanmichael Stanley presented 10 CSR 10-6.400, *Restriction of Emission of Particulate Matter From Industrial Processes*. Information on the proposed rule amendment begins on page 137.

Mr. Aaron Basham presented 10 CSR 10-6.110, *Reporting Emission Data, Emission Fees and Process Information*. Information on the proposed rule amendment begins on page 143.

Mr. Paul Myers presented 10 CSR 10-6.390, *Control of NO_x Emissions From Large Stationary Internal Combustion Engines*. Information on the proposed rule amendment begins on page 155.

Ms. Ashley Jurgensmeyer presented Missouri SIP – Section 110 Infrastructure Requirements for the 2008 Ozone National Ambient Air Quality Standard and the 2010 SO₂ National

Ambient Air Quality Standard. Information for the proposed SIP can be found on pages 163 and 167 respectively.

To obtain a copy of the public hearing transcript, please contact Ms. Melissa Bennett by writing to Midwest Litigation Services at 3432 West Truman Boulevard, Suite 207, Jefferson City, MO 65109, or by phone at 800-280-3376.

E. Recommended for Adoption and Actions to be Voted On

None.

F. New Business

1) Attorney General's Office Referrals

Ms. Bybee presented the referral case for Ishree, Incorporated. Information on the proposed referral begins on page 171 of the briefing document.

Chairman Baker asked if anyone representing Ishree, Incorporated was present for the commission meeting.

No one answered.

Commissioner Pendergrass noted to Ms. Bybee that this enforcement action was started in 2008. He encouraged the Air Pollution Control Program to refer cases earlier in the process to avoid additional time and effort spent when an entity fails to comply after substantial outreach. Ms. Bybee responded that the Air Pollution Control Program is making every effort to refer cases to the Attorney General's Office in a timely manner.

Commissioner Pendergrass moved to refer Ishree, Incorporated to the Attorney General's Office (AGO). Commissioner David Zimmermann seconded the motion. All commissioners moved to refer Ishree, Incorporated to the AGO.

2) Necessity Findings

Mr. Wayne Graf presented two Necessity Findings to the commission for adoption: 10 CSR 10-6.020, *Definitions and Common Reference Tables*, and 10 CSR 10-6.161, *Commercial and Industrial Solid Waste Incinerators*. Information on the Necessity Findings begins on page 175 of the briefing document.

Commissioner Garnett moved to adopt 10 CSR 10-6.020, *Definitions and Common Reference Tables*. Commissioner Zimmermann seconded the motion. All commissioners voted to approve 10 CSR 10-6.020, *Definitions and Common Reference Tables*, as presented by Mr. Graf.

Commissioner Pendergrass moved to adopt 10 CSR 10-6.161, *Commercial and Industrial Solid Waste Incinerators*. Commissioner Garnett seconded the motion. All commissioners voted to approve 10 CSR 10-6.161, *Definitions and Common Reference Tables*, as presented by Mr. Graf.

G. Unfinished Business

Commission Operating Policies

Per the discussion at the previous meeting, Air Pollution Control Program staff made appropriate changes to the policy document. Commissioner Zimmermann moved to approve the final draft of the Missouri Air Conservation Commission Operating Policies document. Commissioner Pendergrass seconded the motion. All commissioners voted to approve the Missouri Air Conservation Commission Operating Policies document.

The final copy of the operating policies can be found at the end of the May 30, 2013, meeting minutes as Attachment A, as well as online at <http://www.dnr.mo.gov/env/apcp/macc.htm>.

H. Appeals and Variance Requests

None.

I. Open Session

Mr. Roger Walker, representing the Regulatory Environmental Group for Missouri, thanked and recognized Air Pollution Control Program staff for all of their hard work.

Mr. Robert Brundage, with the law firm Newman, Comley and Ruth, showed his appreciation of the Air Conservation Commission for the work they do, and hopes that the good work continues.

J. Future Meeting Dates

June 27, 2013 – St. Louis

Sheraton St. Louis City Center
314-613-5430
Colonnade Salon D
400 South 14th Street
St. Louis, MO 63103

July 24, 2013 (Wednesday) – Jefferson City

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

August 29, 2013 – Jefferson City

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

September 26, 2013 – Kansas City

Holiday Inn Southeast
816-737-0200
Grand BC
9103 East 39th Street
Kansas City, MO 64133

October 31, 2013 – Jefferson City

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

December 5, 2013 – 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 Garnett moved to adjourn the May 30, 2013, Missouri Air Conservation Commission meeting. Commissioner Zimmermann seconded the motion and all commissioners voted to adjourn the meeting.

Chairman Baker adjourned the May 30, 2013, Missouri Air Conservation Commission meeting.

Respectfully submitted,

Kyra L. Moore, Director
Air Pollution Control Program

Approved:

Jack Baker, Chairman
Missouri Air Conservation Commission